

the national archives

(c) crown copyright

MADDEN & FINUCANE CLOSING SUBMISSIONS
22 MARCH 2004

CONTENTS

	Section	Livenote Reference (where applicable)
Section One **Introduction**	**1**	
Foreword	1.1	
Preliminary Observations	1.2	
Review of the Soldiers' Evidence in the Sectors	1.3	
Initial Response to the Position Statement	1.4	
The Search for the Truth	1.5	
Justification for Firing	1.6	
Self Defence	1.7	
Military and Political Responsibility	1.8	
Summary Conclusions	1.9	
Section Two **Structure of submissions and specific allegations**	**2**	
Structure of submissions	2.1	
Allegations	2.2	
Section Three **Legal and procedural framework within which Inquiry operate**	**3**	
General introduction	3.1	
Summary of submissions	3.2	
Background to establishment of the inquiry	3.3	
Relevant International Law and practice	3.4	
European Convention – Article 2	3.5	
Inquiry Rulings on Anonymity & Venues	3.6	
Impact of Rulings	3.7	
Other Rulings	3.8	
Appendices		
Section Four **Role of the Government in the provision of evidence to the Inquiry**	**4**	Computer
Introduction and summary of submissions / allegations	4.1	
Information Policy Unit and PsyOps	4.2	
Missing Army photographs and cine-film	4.3	

Role of the MoD	4.4	
Role of the Security and Intelligence Services	4.5	
Role of the RUC / PSNI	4.6	
Conclusion	4.7	
Section Five **General observations on categories of evidence before the Inquiry**	**5**	
Soldiers	5.1	Hard Copy
RUC	5.2	Hard Copy
Scientific / forensic evidence	5.3	
Photographers and photographs	5.4	Hard Copy
Journalists	5.5	Hard Copy
Civilians	5.6	Computer
Priests	5.7	Computer
IRA	5.8	Computer
Appendices		
Section Six **Historical background**	**6**	Hard Copy
Introduction and summary of submissions	6.1	
The Experts	6.2	
Historical Background	6.3	
The Civil Rights Movement	6.4	
1968	6.5	
1969	6.6	
1970	6.7	
1971	6.8	
Appendices		
Section Seven **Political context**	**7**	Hard Copy
Introduction and summary of submissions	7.1	
The objectives of the British Government	7.2	
Protestant Backlash?	7.3	
The proposed political initiative	7.4	
The Governmental Structure	7.5	
The Joint Security Committee	7.6	
Pressures on Brian Faulkner	7.7	
Pressure on the Army from the Northern Ireland Government	7.8	
British appeasement of the Northern Ireland Government	7.9	
Lack of political direction from Westminster	7.10	
The Rule of Law	7.11	
Conclusion	7.12	
Section Eight **Legal and constitutional considerations in 1972**	**8**	
General introduction	8.1	
Summary of Submissions	8.2	
The Government of Ireland Act 1920	8.3	
Domestic Law on the Banning of Marches	8.4	
Article 11 of the Convention of the banning of marches	8.5	

FS 1 . 2

General Introduction & Summary of Submissions	8.6	
Internment	8.7	
Role of the Army in Support of the Civil Power	8.8	
Army's Powers of Arrest and Detention	8.9	
Investigation of the Army in relation to offences against the ordinary criminal law	8.10	
Relevant Domestic Law on use of force	8.11	
Article 2 of the European Convention	8.12	
Section Nine **Criminal conduct and non accountability of Soldiers in the north of Ireland**	**9**	
General introduction and summary of submissions / allegations	9.1	
1972 RUC / RMP agreement	9.2	Hard Copy
General lawlessness of soldiers (Praxis)	9.3	Hard Copy
Modification of rubber bullets	9.4	Hard Copy
Private supplies of ammunition	9.5	Hard Copy
Breaches of the Yellow Card (including fact that it was considered a 'politician's card')	9.6	Hard Copy
Reputation of the Paras (dealing with 1 Para in particular, and involvement in previous / subsequent incidents)	9.7	Computer
Appendix		
Section Ten **Background to the day**	**10**	Computer
General introduction and summary of submissions / allegations	10.1	
Subversion of the role of the Police by the Army	10.2	
Military and political culture	10.3	
Ban on Marches	10.4	
Military policy in Derry	10.5	
Conclusions	10.6	
Section Eleven **Concept of a Military Plan**	**11**	Computer
Introduction	11.1	
Decision to Prevent the march reaching the Guildhall	11.2	
Decision that the Army should police the march	11.3	
Decision to provide for an arrest operation	11.4	
Decision to use 1 Para	11.5	
Conclusion	11.6	
Section Twelve **Sanction of plans by Stormont / Westminster**	**12**	Hard Copy
Introduction and summary of submissions / allegations	12.1	
Role of Stormont Government and JSC	12.2	
Role of Westminster Government	12.3	
Conclusion	12.4	
Section Thirteen	**13**	Hard Copy

Military and Police Intelligence before the March

Introduction and summary of submissions / allegations	13.1	
The intelligence network in Northern Ireland in 1972	13.2	
The evidence that the Army expected no IRA action	13.3	
The evidence that the Army did	13.4	
Observers B and C and the signal from David	13.5	
Observer B	13.6	
Observer C	13.7	
The Signal from David	13.8	
Appendix		

Section Fourteen **14** Computer
Operation Forecast

Introduction	14.1	
Launch of arrest operation	14.2	
Separation	14.3	
Command and control re 1 para	14.4	
Briefing 1 para	14.5	
Contemplation of use of lethal force	14.6	

Section Fifteen **15** Computer
Military operation on the day

General introduction and summary of submissions / allegations	15.1	
Order 'given'	15.2	
Should the order have been given?	15.3	
Nature of the Order given	15.4	
Lack of liaison between visits & no semblance of pincer movement	15.5	
Lack of control over operations	15.6	
Level of control retained by 8 Brigade over arrest operation	15.7	
Role and Responsibility of Wilford and Loden	15.8	
Appendix		

Section Sixteen **16**
Sector 1

General introduction and summary of submissions/allegations	16.1	
Personal background & details of Damien Donaghy & John Johnston	16.2	
Injuries sustained	16.3	Both
Sequence of photographs/video	16.4	
Civilian Evidence	16.5	Hard Copy
Civilian Gunmen and Gunfire	16.6	Computer
Overview of military evidence	16.7	Hard Copy
Conclusions	16.8	
Appendices		

Section Seventeen **17**
Sector 2

Introduction and summary of submissions / allegations	17.1	Hard Copy
Overview of civilian evidence	17.2	Hard Copy

Sequence of photographs / video	17.3	Hard Copy
Alana Burke	17.4	Computer
Peggy Deery	17.5	Computer
Jackie Duddy	17.6	Hard Copy
Patsy McDaid	17.7	Hard Copy
Soldiers' evidence (Mortar Platoon and C Company)	17.8	Hard Copy
Para brutality / recklessness	17.9	Hard Copy
Civilian gunmen / bombers	17.10	Hard Copy
Missing casualties	17.11	Hard Copy
Conclusion	17.12	Hard Copy
Appendices		

Section Eighteen **18**
Sector 3

General introduction and summary of submissions allegations	18.1	
Overview of civilian (incl. priests and journalists) evidence re shootings in Rossville Street	18.2	Computer
Michael Kelly	18.3	Hard Copy
Hugh Gilmore	18.4	Computer
Michael McDaid & John Young	18.5	Both
Kevin McElhinney	18.6	Computer
Military evidence	18.7	Both
Civilian gunmen / bombers	18.8	Hard Copy
Missing casualties	18.9	Hard Copy
Conclusion	18.10	Hard Copy
Appendices		

Section Nineteen **19**
Sector 4

Introduction and summary of submissions/allegations	19.1	Hard Copy
Glenfada Park	19.2	Hard Copy
Civilian Evidence	19.3	Hard Copy
Photographic Materials	19.4	Hard Copy
William McKinney	19.5	Hard Copy
Joe Mahon	19.6	Hard Copy
Joe Friel	19.7	Hard Copy
Patrick O'Donnell	19.8	Computer
Military Evidence	19.9	Hard Copy
Abbey Park	19.10	Hard Copy
Civilian Evidence	19.11	Hard Copy
The "Shoot-Through" Theory	19.12	Hard Copy
Gerard McKinney	19.13	Hard Copy
Gerard Donaghey	19.14	Hard Copy
Military Evidence	19.15	Hard Copy
Observation Posts	19.16	Hard Copy
Civilian gunmen/bombers	19.17	Hard Copy
Missing casualties	19.18	Hard Copy
Specific allegations	19.19	Hard Copy
Nature and character of anti-tank platoon	19.20	Hard Copy
Conclusions	19.21	Hard Copy

Section Twenty **Sector 5**	**20**	Hard Copy
General overview and summary of submissions / allegation	20.1	
Overview of civilian evidence	20.2	
Photographs	20.3	
Patrick Campbell	20.4	
Daniel Magowan	20.5	
Military evidence	20.6	
Civilian gunmen / bombers	20.7	
Missing casualties	20.8	
Conclusions	20.9	
Section Twenty-One **Arrests**	**21**	Hard Copy
Introduction and summary of submissions / allegations	21.1	
General	21.2	
Documentation	21.3	
Civilian evidence	21.4	
Police at Fort George	21.5	
Soldiers' evidence	21.6	
Conclusion	21.7	
Appendices		
Section Twenty-Two **Civilian gunmen and Fire**	**22**	Computer
Introduction	22.1	
Derry Noise	22.2	
Blade Slap	22.3	
Examples of civilian and military evidence	22.4	
Section Twenty-Three **Missing casualties**	**23**	
Missing Casualties	23.1	Computer
Diverting Responsibility	23.2	Computer
Thirty-two year conspiracy of silence	23.3	Computer
Contrary to Republican ideology	23.4	Computer
'Disappeared' as punishment for disobeying orders	23.5	Computer
Treatment of Bloody Sunday casualties in hospitals in the Republic	23.6	Computer
Additional casualties	23.7	Computer
'Red' Mickey Doherty	23.8	Hard Copy
Table of 'missing casualties'	23.9	Hard Copy
Aitken Document	23.10	Hard Copy
Injured Gunman by Bogside Inn/Meenan Square	23.11	Hard Copy
Conclusions	23.12	Hard Copy
Section Twenty-Four **Intelligence after the March**	**24**	Hard Copy
Introduction and summary of Submissions	24.1	
Infliction	24.2	

FS 1 · 6

Witness X 24.3

Section Twenty-Five **25**
Legal framework against which responsibilities must be judged

Introduction 25.1
Relevant Domestic Law 25.2
The Right to Life 25.3
The Right to be free from torture, inhuman or degrading treatment 25.4
Conclusion 25.5

Section Twenty-Six **26**
Allegations against Soldiers in 1 Para

Corporal A 26.1
Private B 26.2
Private C 26.3
Lance Corporal D 26.4
Corporal E 26.5
Lance Corporal F 26.6
Private G 26.7
Private H 26.8
Lance Corporal J 26.9
Sergeant K 26.10
Private L 26.11
Private M 26.12
Lieutenant N 26.13
Sergeant O 26.14
Corporal P 26.15
Private Q 26.16
Private R 26.17
Private S 26.18
Private T 26.19
Private U 26.20
Lance Corporal V 26.21
Colour Sergeant 002 26.22
Lieutenant 119 26.23

Section Twenty Seven **27**
Allegations against senior officers

Allegations 27.1

Section Twenty-Eight **28**
Allegations against The Government

Allegations 28.1

FS 1 · 7

MADDEN & FINUCANE CLOSING SUBMISSIONS
22 MARCH 2004

		Pages	Appendices	**Total**
Volume 1	Section 1	25		**25**
	Section 2	3		**3**
	Section 3	12	33	**78**
	Section 4	60		**60**
	Section 5	68	1	**70**
	Section 6	33	205	**443**
		201	**239**	**679**
Volume 2	Section 7	61		**61**
	Section 8	23		**23**
	Section 9	93	7	**107**
	Section 10	67		**67**
	Section 11	50		**50**
	Section 12	26		**26**
	Section 13	32	1	**34**
	Section 14	76		**76**
		428	**8**	**444**
Volume 3	Section 15	61		**61**
	Section 16	122	6	**134**
	Section 17	317	10	**337**
		500	**16**	**532**
Volume 4/5/6	Section 18	769	42	**853**
Volume 7	Section 19	423		**423**
Volume 8	Section 20	74		**74**
	Section 21	32	9	**50**
	Section 22	12		**12**
	Section 23	24		**24**
	Section 24	7		**7**
	Section 25	17		**17**
	Section 26	18		**18**
	Section 27	6		**6**
	Section 28	4		**4**
		1386	**51**	**1488**
	Total	**2515**	**314**	**3143**

FS 1 · 8

INTRODUCTION

1.1 Foreword

Bloody Sunday was improbable, unthinkable, avoidable and yet inevitable.

That the British Army would open fire on an unarmed group of civilians was improbable to the citizens of Derry and to those who organised the Civil rights march for 30th January 1972.

That the British Army would open fire and kill 13 and wound 14 unarmed and innocent people was unthinkable even to those in the midst of the slaughter.

That the whole incident was avoidable was known to the chief police officers in Derry and to Brigadier MacLellan and the senior officers of 8th Brigade.

That it was inevitable was the consequence of a combination of events, values, personalities and factors, notable among which were the hopelessly and irretrievably flawed planning, the intervention of the CLF, the lack of checks and balances in the military decision making process, the unconstitutional position of the army, the use of the 1st Battalion of the Parachute Regiment, the command structure and communications on the day, political expediency, and the absence of any political control which had been devolved to the military by the blurring of the line between instrument and principal, whether deliberate or otherwise.

The mere mention of Bloody Sunday has the capacity to excite the most diverse of reactions, often at an emotional level. This Inquiry provides an opportunity to establish a solid basis of fact to inform such reactions. Hindsight can be a difficult tool. It can obscure the all-pervasive sense of

contingency as well as the problematic nature of the choices facing the principal actors in historical events. On the other hand it can provide a useful panoramic perspective in which to frame issues in their full context, which may have been obscured from those trapped in the crucible of the moment, by allowing for the interplay of all the factors contributing to the outcome and its consequences. With it there is the opportunity to form an overview of what otherwise might appear to be a patternless swirl of unconnected events which in truth are so intricately woven as to be seamless.

1.2 PRELIMINARY OBSERVATIONS

1.2.1 The Starting Point

That the deceased and injured were innocent is a convenient starting point for any analysis of Bloody Sunday, what happened, why it happened and how it happened.

The Synopsis of the Proposed Opening Statement by the Lawton team **OS7.1** dated 24th July 2000 sets out the basic position of the soldiers they represent:

> "Those clients who fired live rounds aimed and shot at, and only at, those whom they believed to be gunmen or nail bombers threatening lethal violence to them or to others. However, it does not follow that those who have been identified as having been killed or wounded on 30th January 1972 were themselves gunmen or nail bombers." (**OS7.2**)

Mr. Glasgow QC further refined this position. **Day 51/21/14 to Day 51/21/25** when he said:

"I accept that none of the soldiers whom were represent has ever said that he was able to recognise as having been a person at whom he fired any of the individuals who have been publicly identified and named, and accordingly, we are not instructed to contend, and we will not contend, unless of course some new evidence that you produce alters the position, that those persons who have been identified were armed with lethal weapons. It follows, as has been rightly accepted for a long time, that innocent people were killed on Bloody Sunday."

That the deceased and injured were innocent is so obvious and elemental that it is at risk of being overlooked or becoming invisible in the assessment of what occurred on Bloody Sunday. It is the one crucial fact, which provides an invaluable tool for the appraisal of other evidence.

The position statement as set out on behalf of the soldiers gives rise to the following propositions:

(1) That the soldiers have no specific evidence to give as to how each of the deceased and injured came to be shot, and rely simply on the general assertion that on each occasion when they did open fire they were justified in doing so;

(2) That as the soldiers who admit to opening fire claim to have shot 27 people there are up to 27 missing casualties;

(3) In the absence of any explanation from the soldiers it is a reasonable probability that there was no justifiable excuse for the killing or wounding of those who are identified and known to have been shot;

(4) That there has been a massive conspiracy by substantial numbers of those present on the day, friends and relations, medical personnel, religious and other prominent figures to spirit away, treat and bury up to 22 youths and men, and conceal this conspiracy from the community, the media, the police, special branch, the army, the intelligence services and rival political opponents, and this has been conducted successfully for 31years;

(5) That those present at the scenes of the shootings have for 31 years deliberately withheld evidence which would have exonerated the deceased and injured;

(6) That evidence of the innocence of the deceased and injured has been deliberately suppressed by significant numbers of persons who had both direct and indirect knowledge of the subsequent actions connected to those the army allegedly did shoot other than those identified;

(7) That up to 54 people were shot by the soldiers of Support Company on Bloody Sunday;

(8) That on up to each of 27 occasions when the soldiers opened fire at specific targets they missed their intended victim and shot accidentally an innocent bystander;

(9) That while each of the deceased and injured was innocent each of their deaths and injuries were legally justified;

(10) That the IRA or civilian gunmen engaged the members of Support Company in a concerted, intense and organised manner using a variety of weaponry and tactics;

(11) That as there is no way of telling from the evidence of the soldiers either individually or collectively how they could have mistakenly or accidentally shot innocent bystanders it leaves open the possibility that some or all of the deceased or injured may in fact and in truth have been engaging the troops with lethal weapons;

(12) That the personal integrity of the soldiers is the touchstone of the truth of what occurred to justify their shooting;

(13) That the position statement is predicated upon the absence of evidence to implicate the deceased and injured in engaging the troops with lethal weapons, and the inability of the soldiers of Support Company to provide any account whatsoever as to the circumstances in which they came to kill and injure the 27 persons that have been identified as their victims;

(14) That those soldiers of Support Company who killed and maimed on Bloody Sunday are victims of a conspiracy to conceal the truth, and groundless accusations.

1.2.3 The position statement is, therefore, no more than a factual acknowledgment, namely, that there is absolutely no evidence to connect any one of the deceased or wounded with the use of or involvement in the use of lethal force against the soldiers of 1Para, or indeed with any activity which would have justified a soldier in opening fire. It is simultaneously an undiluted declaration that the soldiers are innocent of any wrongdoing and an avowal that "for an innocent person, even one, to be falsely accused of murder or of conspiracy to murder where what he was doing or attempting to do was nothing more or less than his duty in those same horrific circumstances is almost equally abhorrent." **Day 051** This is, therefore, to equate the plight of the shooters with that of their victims. The case the soldiers have made is that on at least 37 occasions they opened fire at 32 gunmen and bombers [12 nail bombers, 9 riflemen, 9 other assorted gunmen, 1 acid bomber and 1 petrol bomber]. A brief review of the soldiers' evidence in the sectors demonstrates the untenable nature of the propositions contained in their Position Statement.

1.3 Review Of The Soldiers' Evidence In The Sectors

1.3.1. On the 30th of January 1972 at least 22 soldiers of the 1st Battalion of the Parachute Regiment opened fire with ball ammunition in an area of Derry, approximately 125 yards east to west and 75 yards north to south, situated in the Bogside bordered on the east by Chamberlain Street, on the west by Abbey Park, on the north by William Street and on the south by the rear of Rossville Flats. They opened fire on at least 44 occasions. They killed 13 citizens of Derry and wounded a further 14. They fired at least 108 7.62m rounds and 64 baton rounds. The 7.62m.rounds were fired from SLR rifles and travelled at approximately 2,600 feet per second. All those who fired were within a short distance of those who died or were injured. All but 5 of these shots were fired within a period of some 6 minutes between 4.10pm and 4.18pm. 5 people were shot in the car park of Rossville Flats, 1 fatally; 7 were shot at or near a rubble barricade in Rossville Street, 6

fatally; 7 were shot in Glenfada Park North, 2 fatally; 2 were shot in Abbey Park, both fatally; 4 were shot behind Rossville Flats, 2 fatally; and 2 were shot on waste ground on the southern side of William Street.

1.3.2 John Johnston and Damien Donaghy were the first persons shot on Bloody Sunday. They were shot on an area of open ground to the south of William Street. They were shot from a derelict building known as Abbey Taxis and occupied by members of Machinegun Platoon. They were undoubtedly shot by either A or B.

1.3.2.1 Neither A nor B admits to having shot either of them. Both claim to have shot the same person who was, however, a completely different person from either Donaghy or Johnston. Neither A nor B admit the chance of mistakenly shooting either Damien Donaghy or John Johnston. Neither admits to having seen either Donaghy or Johnston being struck by their bullets or falling to the ground. These shootings occurred at approximately 3.50pm. There is no record on the Brigade Log, the Porter tape or the 1 Para log of these shootings. 8th Brigade was not informed of these shootings or the circumstances in which they took place. Neither A nor B claim to have seen Donaghy or Johnston being assisted from the scene. Donaghy and Johnston must have within the sights of A and B, been struck by their bullets. Both A and B claim to have seen the man they shot being assisted from the area.

1.3.3 Of the 5 persons shot in the Rossville Flats courtyard no soldier admits responsibility for any of their injuries. No soldier admits to seeing any of these persons shot. No soldier admits to witnessing the circumstances in which these persons were shot. No soldier admits to witnessing the circumstances in which civilians gave assistance to any of those shot other than Jackie Duddy. No soldier acknowledges the existence of Margaret Deery or Michael Bridge, let alone witnessing them being carried in front of their eyes to 33 Chamberlain Street. Those soldiers who admit firing were within 50 yards and more realistically 25 yards of all these events. While denying responsibility for the death and injury of those who were in

fact shot by army ammunition and weapons they claim to have shot at least 9 unaccounted for gunmen and bombers, having fired 32 rounds on 14 separate occasions.

1.3.4 Of the 7 persons who were shot at the rubble barricade there is no explanation from any soldier present on Rossville Street which can account for the death of 4 of those killed, namely Michael McDaid, John Young, William Nash, or Hugh Gilmore. Soldier F undoubtedly killed Michael Kelly but never claimed to have fired across the barricade until the 17th February, although he had made 3 previous statements in which he had completely omitted any account of such an incident. Soldiers K, L and M all provide explanations for firing, which could account for one of them being responsible for the death of Kevin McElhinney. Soldier P claims to have fired 9 rounds in the general direction and area of the rubble barricade and to have fired 4 of those shots at a pistol man behind the barricade, 3 of which struck the man in the chest. This is inconsistent with the forensic medical evidence available on all those who were shot at this location. Further, no other soldier admits to seeing or witnessing the shots fired by P across the barricade, or circumstances which would have justified him firing when he claims to have done so at a pistol man and subsequently above the heads of a threatening crowd. 3 soldiers claim to provide an account which could explain the injury to Alex Nash and potentially for the death of his son William, namely that a pistol man fired from the doorway of the Rossville Flats at the south west corner. This is inconsistent with the forensic evidence, which proves that William Nash was shot once with a 7.62mm bullet fired from an army rifle.

1.3.5 In all 11 soldiers claim to have fired a total of 36 shots in Rossville Street. Of the soldiers 5 were from Composite Platoon and therefore must have fired at a relatively late stage and probably when all had been killed at the barricade with the exception of Kevin McElhinney; 2 were from Mortar Platoon; and 4 were from Anti-tank Platoon.

Of the 36 shots it is claimed that 16 were fired at the windows of block 1 of Rossville Flats and these shots resulted in 2 casualties. The remaining 20 shots were fired in the direction of and over the barricade resulting in 5 casualties. Of the 5 casualties those claimed by C, P and U do not correspond with any of the known facts concerning any of those who were shot at the barricade. C, P and U account for 12 of the 20 shots allegedly fired in this area. Hugh Gilmore was shot while moving on the east side of Rossville Street and making his way south towards the south west corner of Block 1. No soldier of Support Company claims to have fired at anyone in the vicinity where he was killed or to have seen him shot.

SOLDIERS	SHOTS	LOCATION	CASUALTIES
C Composite	5	3-Flats: 2-SW Block 1	2 - 1 in each location
D "	3	3 –Flats	1 same as C
K "	1	Across Barricade	
L "	2	" "	2 riflemen
M "	2	" "	Same as L
P Mortar	9	To the north and south of the barricade	2 - Nail bomber north of barricade and pistol man on the barricade
U "	1	To the south of Rossville Flats	1 a pistol man
E Anti-Tank	1	Into Flats	
J "	2	1, across barricade-1 sw corner block 1	
G "	1	Into Flats	
F "	9	8 into Flats – 1 across barricade	1 – Michael Kelly

1.3.6 Glenfada Park North is approximately 30 metres wide by 50 metres long. All 7 of those shot in this confined square were shot in a narrow corridor running from east to west at its southern end. 5 were shot in the southwest corner, which also contained the exit into Abbey Park. 1, Patrick O'Donnell, was shot at the southeast gable and 1, Daniel Gillespie, was shot while making his way to the southeast corner. The injuries sustained by the last mentioned 2 do not correspond with the injuries inflicted by E who is the only soldier who has claimed to fire in this direction. Indeed no soldier claims to have fired at a person positioned within Glenfada Park North as occupied by Daniel Gillespie. The injuries sustained by William McKinney, Joe Mahon, James Wray, Michael Quinn and Joe Friel do not correspond to those claimed to have been inflicted by soldiers F, G and H. All of their injuries are consistent with the actions of persons in flight moving from east to west across Glenfada Park North and seeking to make good their escape into Abbey Park.

SOLDIER	SHOTS-LOCATION	CASUALTIES
E	2 at nail bomber who fell, nail bomb exploded SE corner	1
F	2 at nail bomber, SW corner,	1, hit in the arm and chest
G	3 at 2 gunmen with short rifles	1 and possibly 2 shot to the front torso, or side
H	22 in total; 2 at man with coca-cola type tin, 1 at 2nd. man who picked object up, 19 through a window	3. First man, and Second youth in denim jacket in arm or shoulder. Third man behind window
TOTALS	29	6 possibly 7

No soldier claims to have heard or seen H fire 19 consecutive rounds at a window or to have observed a person behind a window, even in silhouette, attempting to fire a weapon. Indeed none of the soldiers claims to have had his attention distracted by an unusual number of shots fired consecutively by anyone in this restricted area.

Video 48 clearly shows the Anti-Tank soldiers going forward in platoon force yet only 6 admit to being in Glenfada Park North.

This sector is one in which the credibility of the soldiers is critical. Once again what is apparent is the admission by 4 of those soldiers who fired shots to having killed does not relate to having killed or injured any of those actually known to have been shot.

1.3.6 Gerard McKinney and Gerard Donaghey were both killed in Abbey Park. The bullet recovered from the body of Gerard Donaghey was proven forensically to have come from the rifle of G. G never at any time claimed to have killed or shot anyone in Abbey Park. In his oral evidence before the Widgery Inquiry he fleetingly referred to having fired into the alleyway at the southwest corner of Glenfada Park. This means (a) that the round count he provided is incomplete or (b) that he has lied about the circumstances in which he fired the rounds accounted for or (c) he has lied about both.

1.3.7 No other soldier admits to seeing or hearing G shoot anyone in Abbey Park, or going into the alleyway at the south west corner or witnessing any event, incident or action that would have justified the killing of anyone in that location.

1.3.8 To the rear of Rossville Flats 4 people were shot. These were Paddy Doherty, Barney McGuigan, both killed, Patrick Campbell and Danny McGowan.

1.3.9 Only 1 soldier, F, admits to having fired shots, which could account for any of the deaths or injuries. However as he only claims to have fired 2 shots at 1 man with a pistol who would have been in the vicinity of the position of Paddy Doherty it means that there is no explanation forth coming from any of the soldiers to account for the death of Barney McGuigan, or the injuries to Patrick Campbell and Danny McGowan. Furthermore a remarkable series of photographs of Paddy Doherty both before and after his death demonstrate conclusively that he was crawling to safety at the time he was shot and was not in possession of a firearm.
No other soldier claims to having seen or witnessed anything in this area, which would have justified the shooting of 1 let alone 4 people in this sector.

1.3.10 The photographic evidence establishes the movements of both Barney McGuigan and Danny McGowan immediately before they were shot and clearly shows their attempts to provide assistance to the dying Hugh Gilmore at the southwest corner of Block 1 of Rossville.

1.4 Initial Response To The Position Statement

1.4.1 This brief outline of the evidence in the sectors establishes that the current contentions set out in the Position Statement are wholly incompatible with the facts as attested to by the soldiers. Although each shooter does not profess to be able to identify a target as a known individual, nonetheless, each provides specific detail as to the location and the activity that the alleged gunman or bomber was engaged in prior to, or at the time he was shot. Each shooter claims to have had a particular target in his sights when he fired. Each shooter claims to have hit only an identified target, with the possible exception of U who claims that after he shot a pistol man in the vicinity of Joseph Place a man behind the gunman clutched his head. No soldier claims to have witnessed any person other than the specific target at whom he aimed being struck. No soldier claims to have seen any person being assisted from the scene other than the specific target who had been

hit. Each soldier accounts for each round fired, and none describes any circumstances that allow for the possibility of innocent bystanders being shot.

1.4.2 Further, and most tellingly, a number of those indisputably shot by members of Support Company were shot at locations and at times when the number of shots fired cannot accommodate their injuries and deaths.

On its own the soldiers' evidence does not permit the concession made in the Position Statement, except in the most theoretical, and therefore in the present context most worthless sense. The concession is no more than a stratagem to enable the shooters to claim that they are victims rather than perpetrators, and consequently avoid the moral, ethical and legal consequences of their actions. It also is designed to ensure that the civilian witnesses were denied the opportunity to face examination on behalf of the shooters on the basis that the deceased and injured were using lethal force and therefore deliberately and intentionally shot by the members of Support Company.

1.4.3 Given the irrefutable independent body of evidence, the presentation of the actual case made by the individual soldiers would have posed enormous problems and its threadbare nature readily exposed. For example how could the deaths of Jackie Duddy, Hugh Gilmore, John Young, Michael McDaid, William Nash, Jim Wray, William McKinney, Gerard McKinney, Gerard Donaghey, Barney McGuigan, Kevin McElhinney, Michael Kelly and Paddy Doherty have been dealt with, considering that no soldier claims to have shot any one of them?

1.4.4 The Position Statement is not predicated upon the failure of the soldiers' ability to identify any of the deceased or injured as individuals, but rather their complete inability to truthfully account for the circumstances in which they came to shoot their actual victims.

1.4.5 The contention that the soldiers only fired at those whom they believed to be gunmen or nail bombers threatening lethal force which is then modified by the qualification that "it does not follow that those who have been identified as having been killed or wounded on 30th January 1972 were themselves gunmen or nail bombers" falls far short of accepting that they were in truth and in fact innocent. The further gloss on Day **51/22/24** that "It follows, as has rightly been accepted for a long time, that innocent people were killed on Bloody Sunday" falls a long way short of accepting that all those shot and injured were innocent, and is a formula which avoids the necessity of identifying those who the soldiers now accept were innocent and those whom they do not.

1.4.6 The families utterly reject the thesis that the soldiers are victims who were, in the execution of their unpleasant but necessary duty, justified in killing and wounding those who were identified and known to have been shot by them.

An expression of regret which is unaccompanied by an acceptance of responsibility is vacuous. An expression of regret accompanied by a claim of justification is a further injury.

1.5 The Search For The Truth

1.5.1 In opening this Inquiry on **Day 001/13/15 to Day 001/13/18** Mr Clarke stated, "the truth has a light of its own, although it may be the first casualty of hostility, it has formidable powers of recovery, even after a long interval". The conscientious search for the truth is all that the families of the deceased and injured have sought, convinced that in the truth lies the vindication of their relatives, whatever the repercussions for others whether military, paramilitary or politician. Their commitment to this Tribunal's work is total. They recognise that it is through this Tribunal alone that the facts can be established and judgments made. There may be unpalatable facts and judgments but these cannot, and will not, impact

upon the primary fact that the deceased and injured were innocent of any wrongdoing and shot without justification.

1.5.2 The families have repeatedly called upon all those with information about the events of Bloody Sunday to provide it to the inquiry. To this end they have worked with public representatives, lawyers, individuals and the Tribunal staff responsible for tracing witnesses. They remain conscious of and pained by the deficit in information imposed upon them at the Widgery Tribunal. The deliberate withholding of the initial statements of the soldiers and other vital material by the army and the lawyers to that Tribunal led to structural, substantive and procedural defects, which delivered an irrecoverable blow to the search for the truth. Their determination is that these proceedings should not suffer similarly. Their campaign for the establishment of this Tribunal was founded on their commitment to the truth. A full investigation is not merely desirable but achievable. "The deliberate killing of individuals.....by agents of the state is something that one associates with lawless totalitarian regimes. That is not to say that in liberal democracies such events cannot occur. The difference between totalitarian states and democracies lie in their response to a serious allegation that such targeted killings took place. It would be antithetical to the nature of a totalitarian state to permit such killings to be investigated. On the other hand, in modern times, liberal democracies have progressively become more ready to undertake investigations in such cases." McKerr v Secretary of State[2004] UKHL 12 para 36 Lord Steyn

1.5.3 The incontrovertible evidence establishes that members of Support Company shot the 13 deceased and 14 wounded. Even in controversial circumstances the truth will usually have a residual core of undisputed material, which provides a basis for moving forward with some assurance and as against which the areas of dispute may be narrowed and eventually resolved.

1.5.4 In this inquiry the common ground is that the deceased and injured are innocent. The area of contention is whether the soldiers of Support

Company were justified in shooting them. The civilian evidence provides no corroboration for the assertion that any soldier was justified in shooting to kill on Bloody Sunday. The forensic evidence upon which they formerly sought to rely has been completely discredited. The protection offered by the disciplined adherence to the terms of the Yellow Card by members of 1 Para has been shown to be largely illusory.

It, therefore, follows that those with the most relevant, significant and material evidence to give to this inquiry are those who actually fired shots. Their evidence, therefore, is the basic starting point. Their belief as to what they say justified them in shooting to kill is entirely within their knowledge. Their credibility is central to the case that they seek to make.

1.6 Justification For Firing

1.6.1 No soldier who shot to kill acknowledges making a mistake. Each, except U, claims to have hit and only to have hit a specific identified target. The evidence of justification upon which the shooters seek to rely is:

1. They aimed and shot at and only at, those whom they believed to be using firearms or to be threatening lethal violence to them or to others. They accept that they would not have been entitled to fire on any other basis;
2. That civilian gunmen were operating on Bloody Sunday;
3. There appear to have been many more casualties than have been accounted for;
4. That gunmen and bombers were killed on Bloody Sunday.

Mr.Glasgow QC's opening statement **Day 051/22/20 to Day 051/23/7** continues:

> " For the purposes of everything that I say today, we are wholly ignoring the military evidence, I wholly accept that if I were to engage in the same exercise and read out a lot of soldiers' statements

contradicting what has been said, that would be classic adversarial advocacy and it could not conceivably assist you.

We have restricted ourselves wholly to non-military evidence and ignored all the soldiers' statement at all levels and simply ask you to look at this stage at the civilian evidence that is available, largely upon the basis of what you have already been told and what has been opened to you."

1.6.2 The 4 propositions set out above represent a perfectly rational, but incomplete, approach to the question of justification. What cannot be done is to isolate, then disregard, the belief of the shooter from the specific material upon which, at the time of firing, he formed that belief. These are interdependent elements of the law of justification and it is essential that a material correlation between the two is established. What is missing from the proposed approach is that link. Far from being a classic adversarial course it would have been of invaluable assistance to the families and to the Tribunal to have had identified each belief of each of the shooters', which was supported, confirmed or strengthened in its particulars by other testimony. General propositions are of little value in resolving issues that are event specific.

1.6.3 To read out a lot of soldiers' statements contradicting what had been said may have profited little. The same could not be said of the exercise of demonstrating the consistency between the actual belief held by a shooter at the time of fire and other evidence relevant to his decision to fire and its consequences. This is a fundamental forensic requirement particularly in an inquisitorial setting where the truth has precedence over sectional interest.

1.6.4 It has never been the case advanced by the families of the deceased and wounded represented by Madden & Finucane at this inquiry that there were no civilian gunmen who fired on Bloody Sunday. The statement by Mr.Glasgow on **Day 371/227/10 to Day 371/227/20** is simply wrong. The submission made on behalf of those who pressed for this inquiry is that

such civilian gunfire as was directed at the army on Bloody Sunday did not justify a single soldier firing at a single civilian in the circumstances that any of the deceased and wounded are known to have been shot.

1.6.5 It is simply wrong to suggest that the case made by the families is that there was no attempt to conceal civilian casualties. The case made is that any such attempt would if made have come to light, as occurred with Michael Doherty.

1.6.6 The case made is that it is simply offensive to allege that bodies were buried, without benefit of ceremony, in concealed unmarked graves and the identity of those so defiled kept secret. The case made is that there is not one shred of evidence to support such a claim by the shooters and their confederates. The case made is that this part of the shooters case is based upon the appreciation that as they cannot or will not account for those they actually shot and as the forensic evidence is regrettably deficient in identifying the soldier responsible for each victim they are safe to claim that they must have shot other unknown and unaccounted for persons of whom no conceivable trace has been left. Not simply the disappeared but the disappearance of the unidentified, unacknowledged and the unmourned. Army mythology that is based on a total misunderstanding of militant republican cultural reality.

1.6.7 The evidence relied on to claim that there were many more missing casualties than those accounted for is not derived from a principled comparison of the soldiers' accounts and that of the civilian and other evidence but rather a survey of the latter evidence specifically designed not to produce truth but some support for a general thesis which cannot be related to the specifics of the soldiers' versions of events. The evidence relied on lacks clarity and in many cases sufficient detail to determine whether it could be connected to persons hit by gunshot. While much of it can be related to a distorted recollection of those who were killed and wounded, much of it is simply confused and unreliable.

1.6.8 The validity of the case now made can be tested as against that advanced at the time.

(i) General Ford, when interviewed by John Bierman, claimed that his information was that the Para Battalion had fired only 3 shots in response to between 10 and 20 shots being fired at them. When the reporter pointed out that he had seen more than 3 casualties the General responded that these need not necessarily have been caused by the Paras. **V1/9.40 to 13.00**

(ii) Colonel Wilford when interviewed by Gerald Seymour claimed that 3 gunmen had been hit. **V 3/7.10 to 8.40**

(iii) The Loden shot plot, **OS1.807**, which has been constructed from information which he obtained that evening from those who fired, see **B2259 paragraph D**, does not account for the numbers of those who were killed and injured.

(iv) The Sit-rep transmitted at 23.59 pm that night claimed that there were 3 possible reasons for the discrepancy between the 13 civilians killed and the 5+ claimed by the Paras, namely indiscriminate fire from the gunmen, ricochets and two deaths caused by the same high velocity bullet. See Sit Rep **G99.600**.

(v) The case advanced at Widgery was the rather uncomplicated one, namely, as Paras only fired aimed shots at identified targets, which they hit it followed that the deceased and wounded were those targets.

1.6.9 The fundamental discrepancy is not that there are missing casualties but the evolution of the shooters case from that of too many casualties to too few. This has to be seen in the context of a failure of:

(i) Any member of Anti-Tank Platoon to admit to firing even a single shot across the Barricade in Rossville Street when questioned by Colonel Loden;

(ii) A plausible explanation to account for the extra casualties now represented by the known deceased and wounded;

(iii) A single journalist or photographer to witness and record bodies being spirited away from the very heart of the action;

(iv) The soldiers of the resident battalions who were manning the check points at the inner and outer cordons to prevent the removal;

(v) The professed failure of the officers of 1 Para to appreciate at the time that their soldiers must have killed and injured many more than the numbers admitted.

1.7 Self-Defence

Self-defence is generally regarded as a matter of justification rather than excuse. A person can rely on justification if he mistakenly believes he is under attack if there is evidence to support such a defence.Traditionally, the person's belief had to be based on reasonable grounds. The Privy Council in **Beckford v The Queen (1988) AC 130** accepted the approach of the Criminal Law Revision Committee that a person may use such force as is reasonable in the circumstances as he believes them to be. However under Article 2 of the European Convention on Human Rights, a more demanding standard of honest belief for "good reasons" may be required certainly as far as trained law enforcement officers are concerned (see **Andronicou v Cyprus (1998) 25 EHRR 491**).

1.7.1 The claim of mistaken belief in each of 27 cases of deliberate firing by the soldiers of Support Company fails on the fundamental requirement of honesty. The recitation of the mantra that "I genuinely believed my life and that of my comrades to be in danger and I therefore opened fire" is a simple concept understood by any soldier even one to whom the strictures of the Yellow Card remain sealed. The belief and its genuineness are tested by the facts upon which it is based. A test, which in each instance, the shooters fail.

1.8 Military And Political Responsibility

1.8.1 In a democratic society the sustained use of the military in aid of the Civil Power is a testament to the failure of the political system. The military

functions in necessarily but radically different ways from other law enforcement agencies. The most obvious being;
(i) That its personnel are armed with lethal weapons which they are trained to use only with the intended purpose of causing death;
(ii) That its personnel receive insufficient specialised training for their role in policing;
(iii)That the deployment of its men may be in areas and among communities that they are not part of and of which they have very little understanding;
(iv)That there are distinctions in approach by different regiments to similar problems;
(v) That policing can be seen as an opportunity to maintain an aggressive spirit by engaging the enemy;
(vi)That the investigation of complaints concerning the use of excessive force against the army was, by design, considerably less rigorous than that for civilians.

1.8.2 The Political control of a military operation in which the use of lethal force may occur is, therefore, critical. The fact that the 1st Battalion of the Parachute Regiment was the immediate and direct instrument for the use of lethal force on Bloody Sunday does not mean that the sole responsibility for what happened lies with those who fired and their officers.

1.8.3 Why Bloody Sunday happened extends far beyond the events of the day. Westminster, as the sovereign Parliament, had devolved power for the peace,order and good Government of Northern Ireland to Stormont. In doing so it sanctioned a political system that was fossilized from the moment of its inception. In effect all the organs of the State were in the control of one Political Party, which had a permanent in-built majority and little incentive to initiate accommodative change to secure the allegiance of its nationalist minority.

1.8.4 By 1969 the Political system had collapsed under the weight of its own out dated and unrepresentative political structures. This was rather

simplistically presented as a breakdown in law and order, thus presenting the symptom as the disease. The Westminster Government, which had remained detached and aloof from the political process and problems of Northern Ireland, was compelled to address the crisis in law and order on the streets. It was unwilling, however, to commit the enormous resources required for confronting the fundamental changes necessary to democratise the political and social order within the State. The commitment of the army was an essential initial step but while the sovereign Government knew that stability and order are the product of sound political institutions commanding the general respect of its citizens it chose the path of its own self interest in attempting to confine the problem within the context of the existing political framework of Northern Ireland.

1.8.5 The failure to address the root problems which led to social unrest, division and conflict left the Unionist Government in power sustained by a substantial military presence. Stormont thus found itself dependent upon the military, over which it had no legitimate control, for that area of government that most exercised the attention of its supporters, namely law and order. The Joint Security Committee sought to address the inherent tensions and irreconcilable anomalies this created. The military by its very nature, as the instrument of the implementation of policy devised and refined within a political framework, was ill-suited to formulating judgments on the political dynamics of complex social and historical issues. Its function was to deal with consequences not resolve their political causes. The Westminster judgment was that its best option was the continuation of a devolved parliament in Northern Ireland with Brian Faulkner as Prime Minister of a Unionist Government. To this end he had to be supported in office and his programme accepted in large measure. As his survival was dependent upon his power to establish stability, stability became the prime objective, seen as the price and not the product of political change.

1.8.6 The military solution was elevated to the primary strategic approach on the political agenda of both Westminster and Stormont with the result that senior military figures in Northern Ireland, particularly General Ford,

gradually began to accept the Unionist perspective of both the problem and its solution. The deteriorating security situation, including the failure of internment, tarnished the reputation of the army, which was identified with the inability of the Executive to govern effectively. If a military solution was the preferred option then clearly stronger measures were required to achieve it. The attendant increased risk to civilian life had simply to be accepted. It was against this background and the ban on marches that the Civil Rights March of 30th January 1972 took place. If it was a challenge it was also an opportunity. The army which would have been restricted by tight political control had it been operating in Britain was largely autonomous in Northern Ireland, therefore, largely free to determine its own response.

1.9 SUMMARY CONCLUSIONS

1.9.1 General Ford's profound lack of understanding of the unique problems of Derry, given his position as the Commander of Land Forces, led to many of the disastrous decisions, which when combined with the political failure to define clear constitutional legitimacy for and control over the operational deployment of the army in Northern Ireland, culminated in the events of Bloody Sunday. Bloody Sunday did not happen simply because Support Company of 1 Para used unjustified lethal force against an unarmed civilian crowd. It occurred because the use of that force was made possible by the following:

(i) The unlawful usurpation by the army of the statutory role of the Police;

(ii) The supremacy of the army over the RUC in critical areas of law enforcement;

(iii) The willingness of the Chief Constable to accept for the RUC a role subordinate to that of the army;

(iv) General Ford's determination to establish that 8th Brigade's structural approach to law enforcement was responsible for or a substantial contributing factor in the continuance of disorder on the streets;

(v) General Ford's belief that Chief Superintendent Lagan had a corrupting affect on Brigadier MacLellan's military resolve;

(vi) General Ford's belief that it could be demonstrated to 8th Brigade, Northern Ireland H.Q., Stormont, Westminster and the local Unionist and nationalist populations that given the proper resolve and the use of stronger measures a military solution similar to that in Belfast was immediately achievable.

(vii) The wholly unlawful concept of a scoop up operation to detain and falsely imprison upwards of some 300 people.

(viii) The preparedness to countenance the use of wholesale perjury to make effective the product of the arrest operation;

(ix) The failure of the Government to address the constitutional legality of using the army for the purposes of such a scoop up operation;

(x) The demotion of the resident battalions of 8th Brigade to that of a peripheral role in potentially the most difficult aspect of the plans for the day and that which posed the greatest risk to civilian life;

(xi) The imposition of 1 Para as the arrest force by General Ford;

(xii) The use of 1 Para at Battalion strength under the command of its own officers;

(xiii) The delegation to 1 Para of complete control over the arrest operation once launched;

(xiv) There was no detailed arrest plan submitted to either 8th Brigade or General Ford who had oversight of the operational order prepared by MacLellan and his staff.

(xv) There was no detailed plan prepared by Colonel Wilford and his staff;

(xvi) 8th Brigade was effectively excluded from the decision making process as to the advisability and practicalities of a scoop up operation which was notionally under its command;

(xvii) The formality and protocol of the channels of communication, within the army, for questioning decisions made by higher authority were such as to eliminate productive input and discourage dissent;

(xviii) The failure of Brigadier MacLellan and his staff to adequately deal with the obvious deficiencies in the detail of the scoop up operation, its execution and the knowledge of 1 Para of the local conditions and geography of Derry either at the co-ordinating conference or before the day;

(xix) The detached view that 8th Brigade and 1 Para took of each other as represented in the fact that the sum total of their communication on such a vital issue as the scoop up operation was the short co-ordinating conference;

(xx) The failure to address the issue of separation with 1 Para and how this was to be achieved before any arrest scoop up operation was launched;

(xxi) The failure to address the precise area in which the scoop up was to take place and the limits of exploitation;

(xxii) The determination by Colonel Wilford and indeed General Ford that a scoop up operation should be launched created irresistible pressure on Brigade;

(xxiii) The failure of 1 Para to obey the Order for the launch of the scoop up operation as given;

(xxiv) The failure to convey Brigade's order in the terms it was given to the 3 Companies of 1 Para;

(xxv) The failure to co-ordinate the activities of the 3 Companies;

(xxvi) The haphazard entry into the Bogside in vehicles when no orders had been issued to any of the soldiers as to how far they were to go, or where the different Platoons were to deploy.

(xxvii) The total failure of leadership by the officers of Support Company.

(xxviii) The failure of Colonel Wilford to remain in his command post and control the operation once he had launched it.

(xxix) The failure of Wilford and the staff in the Gin Palace to obtain sufficient reliable information from each Company and pass that information back to Brigade;

(xxx) The failure to pass vital information back to Brigade, namely that members of Machine-Gun Platoon had claimed to have killed a nail bomber and a shot had been fired at members of the wire cutting party from Mortar Platoon, which could have had a decisive affect upon Brigade's decision whether it was appropriate to launch a scoop up operation given the risk to civilian life;

(xxxi) The provision of information to Brigade which was patently false as to how Support company had entered the Bogside;

(xxxii) The provision of information to Brigade that was totally inaccurate and false as to the consequences of the actions of Support Company.

The Submissions of Madden & Finucane seek to address these issues.

It would, however, be fatal to regard any of the soldiers' evidence as a foundation for even the most basic of facts of what happened on Bloody Sunday. The practical convenience of having an incontrovertible body of evidence from the shooters, against which other testimony could be assessed, has been lost by their individual and systematic failure to tell the truth. Their evidence has been deliberately fashioned to mask the plainest truth, namely that their firing was unjustified and their conduct criminal.

2. Structure of Submissions and Specific Allegations

2.1. Structure of Submissions

2.1.1. The following submissions represent the case of those individuals represented by Madden & Finucane before this Tribunal.

2.1.2. They address

a) the legal framework within which we submit the Tribunal should conduct its task, the provision of evidence to the Inquiry and the categories of evidence before the Tribunal;

b) the historical background to and political context within which the events of Bloody Sunday took place and the legal and constitutional considerations that prevailed in 1972;

c) the actions of the military in Northern Ireland;

d) the security background to the events of Bloody Sunday;

e) the planning of Operation Forecast and the sanction of those plans by the Stormont and Westminster governments;

f) the intelligence material available in advance of the march planned for 30th January 1972;

g) Operation Forecast, the plan and its implementation;

h) the evidence in respect of each of the five sectors identified by the Inquiry;

i) the arrests made by the army on Bloody Sunday;

j) evidence of civilian gunmen or IRA activity;

k) the theory that there were so-called "missing casualties" on Bloody Sunday;

l) Intelligence material that has emerged since Bloody Sunday

m) the framework against which responsibility for what happened on Bloody Sunday should be judged;

2.1.3. Finally we make allegations against the following:

a) Soldiers on the ground on Bloody Sunday;
b) The senior military officers and;
c) The two governments.

2.2. Allegations

2.2.1. We submit that the evidence before the Tribunal supports the following broad allegations

a) That the Northern Ireland and British governments and senior military officers tolerated, if not encouraged, in Northern Ireland, the use of unlawful violence including lethal force.
b) That in the planning, control, organisation, approval and conduct of the military operation on Bloody Sunday, the British Government, by acts or omissions of its servants or agents, violated domestic and international law standards protecting the right to life, including Article 2 of the European Convention.
c) That the Northern Ireland and British governments violated their obligation to protect the right to life of those who took part in the march on Bloody Sunday and others and failed to take all feasible measures to vindicate the right to life and to minimise to the greatest possible extent the risk to innocent lives.
d) That senior military officers violated their obligation to protect the right to life of the marchers and others and failed to take all feasible measures to vindicate the right to life and to minimise to the maximum possible extent the risk to innocent lives.
e) That by their acts and omissions in the planning, organisation, approval and conduct of the military operation on Bloody Sunday senior military officers violated domestic and international law standards protecting the right to life including Article 2 of the European Convention.

f) Members of Support Company, 1 Para, are guilty of the murders of Jackie Duddy, Michael Kelly, Michael McDaid, John Young, Hugh Gilmore, Kevin McElhinney, William McKinney, Gerard McKinney and Gerard Donaghey.

g) Members of Support Company, 1 Para, are guilty of the wounding and attempted murders of Damien Donaghy, John Johnston, Alana Burke, Peggy Deery, Patsy McDaid, Patsy O'Donnell, Joe Mahon, Joe Friel, Danny McGowan and Patrick Campbell.

2.2.2. These allegations are particularised in sections twenty six, twenty seven and twenty eight.

Legal and procedural framework within which Inquiry operates

3.1 General Introduction

We set out below the legal and procedural framework within which the Inquiry operates; analyse the impact in terms of Convention compliance of various Court decisions reversing key Inquiry rulings; and analyse the impact in terms of Convention compliance of further rulings of the Inquiry.

3.2 Summary of Submissions

3.2.1 The Tribunal was compelled to grant anonymity on a widespread basis to the soldiers and, particularly, in respect of those most centrally involved. It is submitted that this was incompatible with international law and practice and, in particular, with Article 2 of the Convention.

3.2.2 The Inquiry was compelled to change the venue for the hearing of the evidence of most of the soldiers, including those most centrally involved, from Derry to London. It is submitted that this was incompatible with international law and practice and, in particular, with Article 2 of the Convention.

3.2.3 The compulsion of the Tribunal to grant anonymity and change of venue resulted from the invocation and exercise of the supervisory jurisdiction of the British High Court. It is submitted that the subjection of the Tribunal to this jurisdiction was incompatible with international law and practice and, in particular, with Article 2 of the Convention.

3.2.4 The invocation by the soldiers of the jurisdiction of the British High Court was aided and abetted by the Ministry of Defence and the security agencies. It is submitted that this is part of a wider strategy to unpick the Inquiry, its processes and ultimately its results by challenges before Courts

which, in the circumstances of this Inquiry, do not command the necessary confidence and are not accepted as sufficiently independent.

3.2.5 The Inquiry's original rulings on anonymity and venue were, as a matter of international law and practice correct. The imposed requirements were not Article 2 compliant and accordingly the Tribunal has been coerced into conducting an Inquiry which fell short of the requirements, inter alia, of Article 2.

3.2.6 In breach of relevant international law and practice and, in particular, Principle 16 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions ("the UN Principles") (see APPENDIX 1) adopted on 24 May 1989 by the Economic and Social Council Resolution 1989/65) the families and the legal representatives did not have access to "all information relevant to the investigation".

3.3 Background to Establishment of the Inquiry

3.3.1 This Inquiry is one to which the provisions of the Tribunals of Inquiry (Evidence) Act 1921 applied. As is clear from Section 1(1) of the Act, such tribunals are only established by resolution of both Houses of Parliament "that it is expedient that a tribunal be established for enquiring into a definite matter described in the resolution as of urgent public importance".

3.3.2 In order to discharge its functions a tribunal of inquiry is given very wide powers, as is clear from Section 1(2) of the Act.

3.3.3 In 1966 a Royal Commission headed by Salmon LJ (as he then was) reported on Tribunals of Inquiry and justified their continued existed to deal with, amongst other things:

"... matters causing public concern which cannot be dealt with by ordinary civil or criminal processes but which require investigation in order to allay public anxiety".

3.3.4 In paras.27 and 28 of its report the Salmon Commission said:

"27. The exceptional inquisitorial powers conferred upon the Tribunal of Inquiry under the Act of 1921 necessarily expose the ordinary citizen to the risk of having aspects of his private life uncovered which would otherwise remain private, and to the risk of having baseless allegations made against him. This may cause distress and injury to reputation. For these reasons, we are strongly of the opinion that *the inquisitorial machinery set up under the Act of 1921 should never be used for matters of local or minor public importance but always be confined to matters of vital public importance concerning which there is something in the nature of a nation-wide crises of confidence.* In such cases we consider that no other method of investigation would be adequate.

28. Normally persons cannot be brought before a tribunal and questioned save in civil or criminal proceedings. Such proceedings are hedged around by long standing and effective safeguards to protect the individual. The inquisitorial procedure is alien to the concept of justice generally accepted in the United Kingdom. There are, however, exceptional cases in which such procedures must be used to preserve the purity and integrity of our public life without which a successful democracy is impossible. It is essential that on the very rare occasions when crises of public confidence occur, the evil, if it exists, shall be exposed so that it may be rooted out, or if it does not exist, the public shall be satisfied that in reality there is no substance in the prevalent rumours and suspicions by which they have been disturbed. We are satisfied that this would be difficult if not impossible without public investigation by an inquisitorial Tribunal possessing the powers conferred by the Act of 1921. Such a Tribunal is appointed by Parliament to inquire and report. The task of inquiring cannot be delegated by the Tribunal for it is the Tribunal which is appointed to inquire as well as to report. *The public reposes its confidence not in some other body or person but in the Tribunal* to make and direct all the necessary searching investigations and to produce the witnesses in order to arrive at the truth. *It is only thus that public confidence can be fully restored".*

3.4 Relevant International Law & Practice

3.4.1 Paragraph 9 of the UN Principles provides, *inter alia,* that:

"There shall be a thorough, prompt and impartial investigation of all suspected cases of extra legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances ..."

3.4.2 Paragraphs 10 to 17 of the UN Principles contain a series of detailed requirements that should be observed by investigative procedures into such deaths.

Paragraph 10 states, *inter alia:*

"The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the inquiry ... shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify ..."

Paragraph 11 specifies:

"In cases in which the established investigative procedures are inadequate because of a lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. *In particular, they shall be independent of <u>any</u> institution, agency or person that <u>may</u> be the subject of the inquiry.* The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided in these principles."

Paragraph 16 provides, *inter alia:*

"Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as *<u>all</u>* information relevant to the investigation and shall be entitled to present other evidence ..."

Paragraph 17 provides, *inter alia:*

"A written report shall be made within a reasonable time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures, methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law ..."

3.4.3 The "Minnesota Protocol" (Model Protocol for a legal investigation of extra-legal, arbitrary and summary executions, contained in the UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions) provides, *inter alia*, in Section B on the "Purposes of an inquiry":

> "As set out in paragraph 9 of the Principles, the broad purpose of an inquiry is to discover the truth about the events leading to the suspicious death of a victim. To fulfil that purpose, those conducting the inquiry shall, *at a minimum*, seek:
>
> **(a)** to identify the victim;
> **(b)** to recover and preserve evidentiary material related to the death to aid in any potential prosecution of those responsible;
> **(c)** to identify possible witnesses and obtain statements from them concerning the death;
> **(d)** to determine the cause, manner, location and time of death, as well as any pattern or practice that may have brought about the death;
> **(e)** to distinguish between natural death, accidental death, suicide and homicide;
> **(f)** to *identify* and apprehend *the person(s) involved in the death;*
> **(g)** to bring the suspected perpetrator(s) before a competent court established by law."

3.4.4 In section D, it is stated that:

> "In cases where government involvement is suspected, an objective an impartial investigation may not be possible unless a special commission of inquiry is established ..."

3.4.5 Para.13 of Section D entitled "Rights of Parties" states, so far as material, as follows:

> "As mentioned in Principle 16, families of the deceased and their legal representatives shall be informed of, and have access to, any hearing and to all information relevant to the investigation, and shall be entitled to present evidence. This particular emphasis on the role of the family as a party to the proceedings implies the specially important role the family's interests play in the conduct of the investigation. ..."

3.5 European Convention – Article 2

3.5.1 The special role of the next of kin has been repeatedly recognized by the European Court of Human Rights and recently restated in *Finucane v UK*[1] [see APPENDIX 2] where at para.71 it states:

> "In all cases, however, the next of kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Gulec v Turkey*, cited above, p.1733, 82; *Ogur v Turkey*, cited above, 92; *Gul v Turkey*, cited above, 93; and recent Northern Irish cases, for example, *McKerr v the United Kingdom*, cited above, 148).

3.5.2 The requirements for an Article 2 compliant investigation were recently summarised by the House of Lords in *Amin* where the House identified a number of important propositions derived from recent ECHR cases. They included the following:

"(7) For an investigation into alleged unlawful killing by state agents to be effective, it may generally be regarded as necessary (*Jordan*, paragraph 106)

> "for the persons responsible for and carrying out the investigation to be independent from those implicated in the events ... This means not only a lack of hierarchical or institutional connection but also a practical independence ..."

(8) While public scrutiny of police investigations cannot be regarded as an automatic requirement under article 2 (*Jordan*, paragraph 121), there must (*Jordan*, paragraph 109)

> "be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case."

(9) "In all cases", as the Court stipulated in *Jordan*, paragraph 109:

> "the next of kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests".

(10) The Court has not required that any particular procedure be adopted to examine the circumstances of a killing by state agents, nor is it necessary that there be a single unified procedure: *Jordan*, paragraph 143. But it is "indispensable" (*Jordan*, paragraph 144) that there be proper procedures for ensuring the accountability of agents of the

[1] [2003] 37 EHRR 29; See also the decision in *R v Secretary of State for the Home Department ex p Amin* [2003] UKHL 51 at para.20 of the Judgment of Lord Bingham

state so as to maintain public confidence and allay the legitimate concerns that arise from the use of lethal force.

3.6 Inquiry Rulings on Anonymity & Venue

3.6.1 (a) The Inquiry ruled that acceding to the soldiers application for anonymity would represent a "material derogation from the Tribunal's investigative function" and that in respect of the shooters "the very soldiers whose conduct lies at the centre of this Inquiry. To allow this group to remain entirely anonymous would be a step that we would find difficult to reconcile with our public duty to determine what happened on Bloody Sunday (see Inquiry Ruling - 17 December 1998 at paras.40, 44 and 46[2].

(b) The Tribunal subsequently ruled, after having considered the matter "with the greatest care that [they] can muster" that their "duty to carry out a public investigation" overrode the concerns of the soldiers and accordingly the soldiers' applications for anonymity again failed (see Inquiry Ruling - 5 May 1999 at paras.11, 12 and 23)[3].

---

[2] 40. We see the point of substance as being not the maintenance of public confidence as such, but rather *the proper fulfilment of our public duty to ascertain what happened on Bloody Sunday. An intrinsic part of that task is the investigation of the actions of individual soldiers on the day, which in our view encompasses not only what they did, but also who they were.* ... ... we are satisfied that, if anonymity in the strict sense were to be allowed on a widespread or blanket basis, that would represent *a material derogation from the Tribunal's public investigative function.*
44. ... For the reasons we have given, we have reached the view that it would be *wrong in principle* to give a general dispensation allowing all military witnesses to give evidence without revealing their names. Moreover we believe that this would, in the majority of cases, be going further than is justifiable or appropriate in circumstances where there is no concrete evidence of a specific threat. ...
46. ... it has to be recognised that these are the very soldiers whose conduct lies at the centre of this Inquiry. To allow this group to remain entirely anonymous would be a step that we would find *difficult to reconcile with our public duty* to determine what happened on Bloody Sunday.
See also para.50 where the Inquiry stated: "No risk exists to the personal safety of soldiers who have died since Bloody Sunday, and the prospect that the surviving relatives of a deceased soldier would be sought out and attacked by way of revenge for Bloody Sunday seems to us somewhat remote. ..." It is to be noted that notwithstanding this observation, even the shooters who are deceased, for example, "G" has still retained anonymity even in the absence of any application by any next of kin!

[3] 11. The Tribunal has as its fundamental objective the finding of the truth about Bloody Sunday. It regards itself as under a duty to carry out its public investigative function in a way that demonstrates to all concerned that it is engaged in a thorough, open and complete search for the truth about Bloody Sunday. ... All interested parties accept the existence of this duty, which to our minds stems not so much from the fact that Tribunals of the present kind are only established where Parliament considers that there is a matter of "urgent public importance", nor from the fact that section 2 of the Act of 1921 requires us to sit in public (unless the public interest otherwise requires) but rather from the more fundamental principle of open justice in a democratic society.

(c) In its Ruling on Venue they stated that "the chances of this Inquiry restoring public confidence in general and that of the people most affected in particular (which is the object of public inquiries of this kind) would be seriously diminished (if not destroyed) by holding the Inquiry or a major part of the Inquiry far away and across the Irish Sea, unless there were compelling reasons to do so" and that "it would be unreasonable and in breach of the Article 2 procedural requirements for the Tribunal to conduct a central part of the Inquiry at somewhere other than the natural and proper place for it" (see Inquiry Ruling - 2 August 2001 at paras.5, 26 and 47)[4].

---

12. In our view the existence of this duty entails that in the absence of compelling countervailing factors, those who give evidence to the Tribunal should do so under their proper names. This after all is an Inquiry into events in which people lost their lives and were wounded by British army gunfire on the streets of a city in the United Kingdom. *To withhold the names of those in the army who were concerned with that event must detract from an open search for the truth about what happened:* and must need justification of an overriding kind. It is of course correct to bear in mind (as we said in December) that it is unlikely that the Tribunal would be hampered in its objective of finding the truth about Bloody Sunday by granting anonymity (since the Tribunal is an inquisitorial body and would itself know the identity of the witnesses), but this does not really take the matter much further forward, since what is presently at issue is the question of the duty laid on the Tribunal as to the manner in which it should seek that objective. The Tribunal must conduct what Lord Justice Salmon described in his Report (1966 Cmnd 3121 at paragraph 28) as a "public investigation."
23. We undoubtedly have a very difficult judgment to make and we have considered with the greatest care that we can muster all the written and oral submissions made to us. ... After the most anxious consideration we have concluded that on the basis of the material presently before us our duty to carry out a public investigation overrides the concerns of the soldiers and does so even if the Widgery assurance continues to apply; and that accordingly the present applications of the soldiers must fail. ..."

[4] 5. We have no doubt that our preliminary view is correct. We are a tribunal comprised of members from three countries charged with seeking the truth about Bloody Sunday. On that day in a city in Northern citizens of the United Kingdom were killed and wounded by British troops. The events of that day, though of great national and international concern have undoubtedly had their most serious and lasting effects on the people of that city. It is there that the grief and outrage that the events occasioned are centered. It seems to us that the chances of this Inquiry restoring public confidence in general and that of the people most affected in particular (which is the object of public inquiries of this kind) would be very seriously diminished (if not destroyed) by holding the Inquiry or a major part of the Inquiry far away and across the Irish Sea, unless there were compelling reasons to do so. It is for similar reasons that public inquiries generally are held in or near to the place where the events to be investigated occurred.
26. In these circumstances we consider that it could not properly or reasonably be said that the Tribunal should remove itself from the Guildhall to Great Britain for the purpose of hearing the evidence of the soldiers, which forms, of course a central part of the inquiry. In this connection we draw attention to the fact that Article 2 of the European Convention on Human Rights has what has been described as procedural as well as substantive aspects. As to the former the jurisprudence establishes that there must be a proper procedure for reviewing the lawfulness of the use of lethal force by state authorities, for otherwise there would be no practical and effective means of protecting the rights afforded by the Article see: *Jordan v UK (Application No. 24746/94, 4th May 2001).* The present Inquiry is concerned with the use of lethal force by state authorities. For the reasons that we have already given, we consider that such an Inquiry should be conducted where the events in question occurred. We accept that this procedural requirement could not be used to override the substantive rights afforded by Article 2, but

3.6.2 Each of these Rulings were successfully challenged by the soldiers before the British High Court. Appeals in each case by the Inquiry failed[5].

3.6.3 The Tribunal was thus "ordered" by the Court of Appeal to grant anonymity to those soldiers who accepted that they fired live rounds on Bloody Sunday or who were alleged to have done so. In a further Ruling, 13 October 1999, the Tribunal concluded that it had "no option" but to accept the submission of the soldiers, that in the light of the Court of Appeal's ruling, soldiers other than those who fired were entitled to the benefit of anonymity.

3.7 Impact of the Rulings

3.7.1 The Inquiry's original Rulings were Convention compliant. We submit that the effect of the Orders relating to anonymity and venue which the Tribunal was compelled to submit to, were incompatible with the requirements of **Article 2**. The reasons why this is so are to be found in the detailed submissions previously advanced to the Tribunal by the families and in the reasons contained in the Rulings themselves. They include the following:

(a) The effect of the Court's Order was that the very soldiers whose conduct lay at the heart of the Inquiry were ordered by the Court to remain entirely anonymous. This was a material derogation from the Tribunal's public duty to determine what happened on Bloody Sunday. As the Tribunal itself recognized, an intrinsic part of that

---

since in our view those rights would not be infringed by requiring the soldiers to give their evidence at the Guildhall with the protection that can be given to them, it seems to us that it would be unreasonable and indeed in contravention of the Article 2 procedural requirements for the Tribunal to conduct a central part of the inquiry at somewhere other than the natural and proper place for it.
47. In conclusion therefore, in the light of the information presently available to us, we consider that none of the arguments put forward by those acting on behalf of the soldiers is sufficient to provide a compelling reason for not hearing the oral evidence of the soldiers at the Guildhall, which we regard as the proper place for this Inquiry. We accordingly rule that this is where that evidence should be given.

[5] Divisional Court Judgment, 16 March 1999 – Lord Justice Kennedy, Mr Justice Owen and Mr Justice Blofeld; Court of Appeal Judgment, 30 March 1999 – The Master of the Rolls (Lord Woolf), Lord Justice Otton, Lord Justice Ward; Divisional Court Judgment, 17 June 1999 – Lord Justice Roch, Mr Justice Maurice Kay, Mr Justice Hooper; Court of Appeal Judgment, 28 July 1999 – The Master of the Rolls (Lord Woolf), Lord Justice Robert Walker, Lord Justice Tukey.

task was the investigation of the actions of individual soldiers on the day which encompassed not only what they did but also who they were.

(b) The next of kin were not involved in the procedure to the extent necessary to safeguard their legitimate interests.

(c) Ordering London as the venue for the holding of a major part of the Inquiry and for the hearing of the evidence of those most centrally involved was, for the reasons identified by the Tribunal itself, unreasonable and a breach of Article 2 (see Inquiry Ruling – 2 August 2001 at paras. 26 – 35)

3.7.2 It is also submitted that the subjection of the Tribunal to the jurisdiction of the High Court was incompatible with international law and practice and, in particular, with Article 2 of the Convention.

3.7.3 To borrow the words of the Salmon Commission referred to above at para.3.3.4 the public reposes its confidence not in some other body or person but in the Tribunal ... and it is only thus that public confidence can be fully restored. In the present case, a body other than the Tribunal effectively took control of the Inquiry regarding key decisions such as anonymity and venue. Thus, the involvement of the British Courts in reversing such fundamentally important decisions has profound implications for the integrity and convention compliance of the overall process.

3.7.4 Moreover, the material upon which the decisions of the Courts were based emanated from the untested assertions of the soldiers themselves and material supplied by the MOD and the security agencies, none of whom could be regarded as having the requisite degree of independence.

3.7.5 The previous Inquiry conducted by the Lord Chief Justice of England and Wales is widely regarded as a whitewash.

3.7.6 A British Judge sitting alone or with other British Judges would not have been regarded as sufficient to command the requisite public confidence in a second inquiry. For that reason the present inquiry has a distinguished international dimension.

3.7.7 The invocation and exercise of the High Court supervisory jurisdiction of inferior tribunals is not only wholly inapposite in the context of the present distinguished tribunal but it is, we submit, incompatible with the UN Principles and Article 2.

3.7.8 Vital decisions of the tribunal cannot, in our submission, be legitimately overseen and reversed by British Judges particularly in the context of the present case.

3.7.9 What is the point in having a tribunal with a distinguished international membership if its vital rulings can be overseen and reversed by a solely British Court. A Court which itself lacks the international character which was recognized as a fundamental pre-requisite of the second inquiry.

3.7.10 Former state agents financed by the state and supported by other state agencies such as the MOD and the security services chose to invoke supervisory jurisdiction of the High Court. Their choice of forum was clearly deliberate and revealing. If it was appropriate to seek a judicial review the natural forum would have been the Courts in Northern Ireland since the Tribunal was based in Northern Ireland. They chose instead the High Court sitting in London rather than the High Court sitting in Belfast.

3.7.11 The invocation of the supervisory jurisdiction of the British Courts has served them well. Every challenge thus far mounted by the soldiers has been successful. By contrast the Tribunal's appeals against the various High Court judgments have been universally unsuccessful.

3.7.12 The involvement of the British Courts and the reversals of key decisions of the Tribunal have seriously undermined the confidence of, inter alia, the families.

3.7.13 The involvement of the British Courts and the collaboration of former state agents and state agencies is perceived to be part of a wider strategy which has now effectively received the green light from the British Courts.

3.7.14 This wider strategy seeks to unpick the Tribunal, its processes and ultimately its results by challenges before Courts which, in the circumstances of this Tribunal, do not command the necessary confidence and are not accepted as sufficiently independent.

3.8 Other Rulings

3.8.1 The Tribunal has delivered a series of Rulings which are summarised at Appendix 3 the cumulative effect of which has been to deny the families and their legal representatives access to "all information relevant to the investigation". It would be pointless to rehearse again our previous submissions but we wish to record our present submission that the denial of access to the families and their legal representatives of all information relevant to this Inquiry is incompatible with Article 2.

Appendix 1

CONSEIL DE L'EUROPE
COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

CASE OF FINUCANE v. THE UNITED KINGDOM

(Application no. 29178/95)

JUDGMENT

STRASBOURG

1 July 2003

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Finucane v. the United Kingdom,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Mr M. PELLONPÄÄ, *President*,
Sir Nicolas BRATZA,

FS 1 · 50

Mrs E. PALM,
Mr M. FISCHBACH,
Mr J. CASADEVALL,
Mr S. PAVLOVSCHI,
MR J. BORREGO BORREGO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 10 June 2003,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 29178/95) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Irish national, Mrs Geraldine Finucane ("the applicant"), on 5 July 1994.
2. The applicant was represented by Mr Peter Madden, a lawyer practising in Belfast. The United Kingdom Government ("the Government") were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office, London.
3. The applicant alleges that there had been no proper, effective investigation into the death of her husband, Patrick Finucane.
4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).
5. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.
6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section (Rule 52 § 1).
7. By a decision of 2 July 2002, the Court declared the application admissible.
8. The applicant and the Government each filed observations on the merits (Rule 59 § 1). The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1950 and lives in Belfast, Northern Ireland.
10. At around 7.25 p.m. on 12 February 1989, the applicant's husband, solicitor Patrick Finucane, was killed in front of her and their three children by two masked men who broke into their home. She herself was injured, probably by a ricochet bullet. Patrick Finucane was shot in the head, neck and chest. Six bullets had struck the head and there was evidence that one or more of these had been fired within a range of 15 inches when he was lying on the floor. The day after the murder, on 13 February 1989, a man telephoned the press and stated that the illegal loyalist paramilitary group, the Ulster Freedom Fighters ("UFF") claimed responsibility for killing Patrick Finucane, the Provisional Irish Republican Army ("PIRA") officer not the solicitor.
11. Patrick Finucane was a solicitor who represented clients from both sides of the conflict in Northern Ireland and was involved in a number of high profile cases arising from that conflict.

FS 1 · 51

The applicant believed that it was because of his work on these cases that prior to his murder he received death threats delivered, via his clients, by officers of the Royal Ulster Constabulary ("RUC") and was targeted for murder. Occasional threats had been made against Patrick Finucane since the late 1970s. After acting for Brian Gillen in a case concerning maltreatment in RUC custody, the threats apparently escalated, and clients reported that police officers often abused and threatened to kill him during interrogations at holding centres such as Castlereagh. On 5 January 1989, five weeks before his death, one of Patrick Finucane's clients reported that an RUC officer had said that Patrick Finucane would meet his end. On 7 January 1989, another client claimed that he was told that Finucane was "getting took out" (murdered). His death came less than four weeks after Douglas Hogg MP, then Parliamentary Under-Secretary of State for the Home Department, in a Committee Stage debate on the Prevention of Terrorism (Temporary Provisions) Bill on 17 January 1989 said:

> "I have to state as a fact, but with great regret, that there are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA."

1. Investigation into the killing

12. After the shooting, the applicant's house was cordoned off by the RUC and a forensic examination of the scene conducted by experts. Photographs were taken and maps prepared. A scene of crimes officer examined the car believed to have been used by those responsible for the shooting which had been found abandoned.
13. On 13 February 1989, a consultant in pathology conducted a post mortem examination.
14. A major incident room was set up as the Antrim Road police station. Many suspected members of the Ulster Freedom Fighters (UFF) were detained and interviewed about the murder.
15. On 4 July 1989, the RUC found one of the weapons believed to have been used in the murder. On 5 April 1990, three members of UFF were convicted of possessing this and another weapon and of membership of the UFF. The weapon had been stolen from the Ulster Defence Regiment's barracks in August 1987 and in 1988 a member of the UDR was convicted of this theft.
16. In or about September 1990, the police found firearms in the roof space of William Stobie's flat. Stobie was arrested. He was, according to the applicant, questioned about the Finucane murder from 13 to 20 September 1990. A journalist had allegedly interviewed Stobie and had told police about the interview but declined to make a statement. The applicant alleged that Stobie denied to the police any direct involvement in the shooting but admitted that he was the quartermaster for the UDA, supplying the weapons and recovering them after use. He also is reported as having told the police that he had been acting as an informer for Special Branch for the past three years. A decision was taken on 16 January 1991 not to prosecute Stobie in relation to the Finucane case, apparently on the basis that there was insufficient evidence. On 23 January 1991, the decision was taken not to proceed with two arms charges against Stobie. The prosecution offered no evidence and Stobie was acquitted.

2. Inquest proceedings

17. The inquest into Patrick Finucane's death commenced on 6 September 1990 and ended the same day. Evidence was heard from RUC officers involved in investigating the death, as well as from the applicant, two neighbours and a taxi driver whose car had been hijacked and used by those responsible for the shooting. The applicant was represented at the inquest by counsel who was able to question witnesses on her behalf. After giving evidence, the applicant wished to make a statement concerning the threats made against her husband by the RUC but was refused permission to do so by the Coroner on grounds that it was not relevant to the proceedings.
18. Forensic evidence showed that the victim had been hit at least eleven times by a 9 mm Browning automatic pistol and twice by a .38 Special Revolver. Detective Superintendent ("D/S")

FS 1 - 52

Simpson of RUC, who was in charge of the murder investigation, gave evidence that the Browning pistol was one of thirteen weapons stolen from Palace army barracks in August 1987 by a member of the Ulster Defence Regiment (UDR - a locally recruited regiment of the British army) who was subsequently jailed for theft. These weapons found their way into the hands of three members of the UFF who were convicted of possession of the weapons and of membership of the UFF. However, the police were satisfied that those individuals had not been in possession of the weapons at the time of Patrick Finucane's murder.

19. According to the evidence given by D/S Simpson at the inquest, the police had interviewed fourteen people in connection with the murder, but had found that, although their suspicions were not assuaged, and they remained reasonably certain that the main perpetrators of the murder were among the suspects, there was insufficient evidence to sustain a charge of murder. None of the fourteen persons had any connection with the security forces. D/S Simpson further stated that none of the suspects had any connection with the security services. He rejected the claim made by the UFF that Patrick Finucane was a member of the Provisional IRA.

20. The inquest heard evidence that the assassins had used a red Ford Sierra car, Registration no. VIA 2985, that had been hijacked by three men from a taxi driver, WR, shortly before the murder. D/S Simpson stated in evidence that he did not consider the hijackers to have carried out the murder and that he considered the precision of the killing to indicate that the killers had murdered before. He had heard that a death threat had been made to a prisoner client of the deceased. He had also seen parts of a report by a group of international lawyers. This had been investigated by the Stevens inquiry with whom he liaised closely. Though he did not know who was interviewed, as it was separate from the murder investigation, he said that no evidence was found substantiating the allegation. On further questioning, he stated that he had only read the report by the international lawyers that lunchtime and was unaware of the existence of material linking the security forces to Mr Finucane's death.

3. The Stevens inquiries

21. On 14 September 1989, the Chief Constable of the RUC appointed John Stevens, then Deputy Chief Constable of the Cambridgeshire Constabulary, to investigate allegations of collusion between members of the security forces and loyalist paramilitaries ("Stevens 1").

22. While the applicant stated that it was claimed by the RUC at Patrick Finucane's inquest that John Stevens had also investigated Patrick Finucane's death, the Government stated that the inquiry was prompted by events other than the shooting of Patrick Finucane.

23. On 5 April 1990, John Stevens presented his report to the Chief Constable of the RUC. While the full report was not made public, the Secretary of State for Northern Ireland made a statement to the House of Commons on 17 May 1990. He stated, *inter alia*, that as a result of the inquiry 94 persons had been arrested, of whom 59 had been reported or charged with criminal offences. He stated that while the passing of information to paramilitaries by the security forces had taken place, it was restricted to a small number of individuals and was neither widespread nor institutionalised. Any evidence or allegation of criminal conduct had been rigorously followed up. No charges had been laid against members of the RUC, but Mr Stevens had concluded that there had been misbehaviour by a few members of the UDR. Mr Stevens had made detailed recommendations aimed at improving the arrangements for the dissemination and control of sensitive information.

24. As a result of the Stevens inquiry, Brian Nelson, who had worked as an undercover agent providing information to British military intelligence and who had become the chief intelligence officer of the Ulster Defence Association ("UDA"), an illegal loyalist paramilitary group which directed the activities of the UFF, was arrested. At his trial, the British authorities claimed that he had got out of hand and had become personally involved in loyalist murder plots. Originally he faced thirty-five charges, but thirteen were dropped and he was eventually convicted of five charges of conspiracy to murder, for which he was sentenced to ten years' imprisonment. During the Stevens inquiry, members of the team had interviewed him. According to the Government, he

FS 1 . 53

had denied any complicity in the murder.
25. In prison, Brian Nelson allegedly admitted that, in his capacity as a UDA intelligence officer, he had himself targeted Patrick Finucane and, in his capacity as a double agent, had told his British Army handlers about the approach at the time. It was also alleged that Nelson had passed a photograph of Patrick Finucane to the UDA before he was killed. Loyalist sources further alleged that Nelson had himself pointed out Finucane's house to the killers. These allegations were transmitted in a BBC Panorama programme on 8 June 1992 and the transcript of the programme was sent to the Director of Public Prosecutions ("DPP").
26. Following the Panorama programme, the DPP asked the Chief Constable of the RUC to conduct further inquiries arising from the issues raised in the programme. In April 1993, John Stevens, then Chief Constable of the Northumbria Police, was appointed to conduct a second inquiry ("Stevens 2"). According to the Government, he made inquiries into the alleged involvement of Brian Nelson and members of the Army in the death of Patrick Finucane (see however John Steven's press statement paragraph 33 below). The applicant states that no member of the inquiry team contacted her or her legal representative, or any former clients of Patrick Finucane, about the death threats made prior to the murder.
27. On 21 January 1995, John Stevens submitted his final report to the DPP, having submitted earlier reports on 25 April 1994 and 18 October 1994. On 17 February 1995 the DPP issued a direction of "no prosecution" to the Chief Constable of the RUC.
28. In answer to a parliamentary question published on 15 May 1995, Sir John Wheeler MP said that the DPP had concluded that there was insufficient evidence to warrant the prosecution of any person, despite Nelson's alleged confession. He refused to place copies of Mr Stevens' three reports in the House of Commons library, claiming that police reports were confidential.

4. Civil proceedings

29. On 11 February 1992, the applicant issued a writ of summons against the Ministry of Defence and Brian Nelson, claiming damages on behalf of the estate of the deceased, herself and other dependants of the deceased. It was alleged that the deceased's murder was committed by or at the instigation of or with the connivance, knowledge, encouragement and assistance of the first defendant and by the second defendant, who was at all material times a servant or agent of the first defendant. It was also alleged that the first defendant was negligent in the gathering, recording, retention, keeping safe and dissemination of material concerning the deceased, and in the warning, protection and safeguarding of the deceased.
30. The applicant's statement of claim was served on 8 December 1993 and the defence of the Ministry of Defence on 29 December 1993. In its amended defence of 11 October 1995, it was admitted that Brian Nelson acted as agent for and on behalf of the Ministry of Defence but claimed that if he had had any information about the proposed attack on Patrick Finucane it had not been communicated to the Ministry as he was required to do.
31. On 22 January 1998, the applicant served further and better particulars of her case and a request for further and better particulars of the Ministry of Defence's case. She served a list of documents on 8 April 1998. On 20 May 1999, a supplemental list of documents, verified by an affidavit sworn by the Permanent Under Secretary of the Ministry of Defence, was served on the applicant. The applicant requested copies of those documents which were provided on 20 July 1999. The applicant then requested inspection of the originals but was informed on 21 October 1999 that the Ministry of Defence was not in possession of the originals.

5. Recent developments

(a) The Stevens 3 Inquiry

32. On 12 February 1999, the Government stated that at a meeting between the applicant and Dr. Mowlem, the Secretary of State for Northern Ireland, a paper was handed over to Dr Mowlem

FS 1 · 54

which, it was claimed, contained new material relating to the murder of Patrick Finucane. This paper was passed to John Stevens, now Deputy Commissioner of the Metropolitan Police who had been appointed by the Chief Constable of the RUC to conduct an independent investigation into the murder of the applicant's husband ("Stevens 3").

33. On 28 April 1999, at a press conference, John Stevens stated:

> "... in September 1989 ... I was appointed ... to conduct the so-called 'Stevens Inquiry' into breaches of security by the Security Forces in Northern Ireland.
>
> This commenced after the theft of montages from Dunmurry Police Station.
>
> This Inquiry resulted in 43 convictions and over 800 years of imprisonment for those convicted.
>
> My subsequent report contained over 100 recommendations for the handling of security documents and information.
>
> All of those recommendations were accepted and have been implemented.
>
> This 'Stevens 1' Inquiry was followed by a 'Stevens 2' Inquiry in April 1993...
>
> At the request of the DPP I was asked to investigate further matters which solely related to the previous Inquiry and prosecutions. [The then RUC Chief Constable] referred to our return as 'tying up some loose ends'.
>
> At no time, either in Stevens 2 or in the original Stevens 1 inquiry did I investigate the murder of Patrick Finucane... However, those inquiries through the so-called double agent, Brian Nelson, were linked into the murder of Patrick Finucane.
>
> [The] Chief Constable of the [RUC] has now asked me to conduct an independent investigation into the murder of Patrick Finucane. I am also investigating the associated matters raised by the British Irish Rights Watch document 'Deadly Intelligence' and the UN Commissioner's Report. ..."

(b) Criminal prosecution

34. On or about 23 June 1999, charges were brought against:
- William Alfred Stobie for the murder of Patrick Finucane;
- Mark Barr, Paul Alexander Givens and William Hutchinson for offences of possession of documents containing information useful to terrorists.

35. It was reported by the Committee for the Administration of Justice that on being charged William Stobie made the following statement:

> "Not guilty of the charge that you have put to me tonight. At the time I was police informer for Special Branch. On the night of the death of Patrick Finucane I informed Special Branch on two occasions by telephone of a person who was to be shot. I did not know at the time of the person who was to be shot."

36. William Stobie's solicitor told the court that his client was a paid police informer from 1987 to 1990 and that he gave the police information on two occasions before the Finucane murder which was not acted upon. He also stated that, at his client's trial on 23 January 1991 on firearms charges, the prosecution offered no evidence and his client was acquitted. The bulk of the evidence against his client had, he alleged, been known to the authorities for almost 10 years.

37. On 26 November 2001, it was reported in the press that the trial of William Stobie had collapsed, when the Lord Chief Justice returned a verdict of not guilty in the absence of evidence. The prosecution had informed the court that the key witness, a journalist, was not capable of giving evidence due to serious mental illness.

38. On 12 December 2001, William Stobie was shot dead by gunmen, shortly after having received threats from loyalist paramilitaries.

FS 1 · 55

39. Further arrests were reported as being made by officers in the Stevens inquiry in March 2002, with persons being questioned in relation to the Finucane murder.

(c) Proposed international investigation

40. On 24 October 2001, the Government announced in Parliament that, amongst the measures proposed to the Irish Government in the context of the Good Friday Agreement, was the proposal for the United Kingdom and Irish Government to appoint a judge of international standing from outside both jurisdictions to undertake an investigation into allegations of security force collusion in loyalist paramilitary killings, including that of Patrick Finucane. In light of the investigation, the judge would decide whether to recommend a Public Inquiry into any of the killings.

(d) Stevens 3 Inquiry Report

41. On 17 April 2003, Sir John Stephens submitted his report to the D.P.P. A nineteen page overview with recommendations was made public. The summary included the following:

> "4.6. I have uncovered enough evidence to lead me to believe that the murders of Patrick Finucane and Brian Adam Lambert could have been prevented. I also believe that the RUC investigation of Patrick Finucane's murder should have resulted in the early arrest and detection of his killers.
>
> 4.7. I concluded that there was collusion in both murders and the circumstances surrounding them. Collusion is evidenced in many ways. This ranges from the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder..."

He stated that his inquiries with regard to satisfying the test for prosecution in relation to possible offences arising out of these matters were continuing.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Inquests

1. Statutory provisions and rules

42. The conduct of inquests in Northern Ireland is governed by the Coroners Act (Northern Ireland) 1959 and the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963. These provide the framework for a procedure within which deaths by violence or in suspicious circumstances are notified to the Coroner, who then has the power to hold an inquest, with or without a jury, for the purpose of ascertaining, with the assistance as appropriate of the evidence of witnesses and reports, inter alia, of *post mortem* and forensic examinations, who the deceased was and how, when and where he died.

43. Pursuant to the Coroners Act, every medical practitioner, registrar of deaths or funeral undertaker who has reason to believe that a person died directly or indirectly by violence is under an obligation to inform the Coroner (section 7). Every medical practitioner who performs a *post mortem* examination has to notify the Coroner of the result in writing (section 29). Whenever a dead body is found, or an unexplained death or death in suspicious circumstances occurs, the police of that district are required to give notice to the Coroner (section 8).

44. Rules 12 and 13 of the Coroners Rules give power to the Coroner to adjourn an inquest where a person may be or has been charged with murder or other specified criminal offences in relation to the deceased.

45. Where the Coroner decides to hold an inquest with a jury, persons are called from the Jury

FS 1 · 56

List, compiled by random computer selection from the electoral register for the district on the same basis as in criminal trials.

46. The matters in issue at an inquest are governed by Rules 15 and 16 of the Coroners Rules:

> "15. The proceedings and evidence at an inquest shall be directed solely to ascertaining the following matters, namely: -
>
> (a) who the deceased was;
>
> (b) how, when and where the deceased came by his death;
>
> (c) the particulars for the time being required by the Births and Deaths Registration (Northern Ireland) Order 1976 to be registered concerning his death.
>
> 16. Neither the coroner nor the jury shall express any opinion on questions of criminal or civil liability or on any matters other than those referred to in the last foregoing Rule."

47. The forms of verdict used in Northern Ireland accord with this recommendation, recording the name and other particulars of the deceased, a statement of the cause of death (e.g. bullet wounds) and findings as to when and where the deceased met his death. In England and Wales, the form of verdict appended to the English Coroners Rules contains a section marked "conclusions of the jury/coroner as to the death" in which conclusions such as "lawfully killed" or "killed unlawfully" are inserted. These findings involve expressing an opinion on criminal liability in that they involve a finding as to whether the death resulted from a criminal act, but no finding is made that any identified person was criminally liable. The jury in England and Wales may also append recommendations to their verdict.

48. However, in Northern Ireland, the Coroner is under a duty (section 6(2) of the Prosecution of Offences Order (Northern Ireland) 1972) to furnish a written report to the DPP where the circumstances of any death appear to disclose that a criminal offence may have been committed.

49. Until recently, legal aid was not available for inquests as they did not involve the determination of civil liabilities or criminal charges. Legislation which would have provided for legal aid at the hearing of inquests (the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Schedule 1 paragraph 5) has not been brought into force. However, on 25 July 2000, the Lord Chancellor announced the establishment of an Extra-Statutory Ex Gratia Scheme to make public funding available for representation for proceedings before Coroners in exceptional inquests in Northern Ireland. In March 2001, he published for consultation the criteria to be used in deciding whether applications for representation at inquests should receive public funding. This included *inter alia* consideration of financial eligibility, whether an effective investigation by the State was needed and whether the inquest was the only way to conduct it, whether the applicant required representation to be able to participate effectively in the inquest and whether the applicant had a sufficiently close relationship to the deceased.

50. The Coroner enjoys the power to summon witnesses who he thinks it necessary to attend the inquest (section 17 of the Coroners Act) and he may allow any interested person to examine a witness (Rule 7). In both England and Wales and Northern Ireland, a witness is entitled to rely on the privilege against self-incrimination. In Northern Ireland, this privilege is reinforced by Rule 9 (2) which provides that a person suspected of causing the death may not be compelled to give evidence at the inquest.

51. In relation to both documentary evidence and the oral evidence of witnesses, inquests, like criminal trials, are subject to the law of public interest immunity, which recognises and gives effect to the public interest, such as national security, in the non-disclosure of certain information or certain documents or classes of document. A claim of public interest immunity must be supported by a certificate.

FS 1 . 57

2. The scope of inquests

52. Rules 15 and 16 (see above) follow from the recommendation of the Brodrick Committee on Death Certification and Coroners:

> "... the function of an inquest should be simply to seek out and record as many of the facts concerning the death as the public interest requires, without deducing from those facts any determination of blame... In many cases, perhaps the majority, the facts themselves will demonstrate quite clearly whether anyone bears any responsibility for the death; there is a difference between a form of proceeding which affords to others the opportunity to judge an issue and one which appears to judge the issue itself."

53. Domestic courts have made, *inter alia*, the following comments:

> "... It is noteworthy that the task is not to ascertain how the deceased died, which might raise general and far-reaching issues, but 'how ... the deceased came by his death', a far more limited question directed to the means by which the deceased came by his death.
>
> ... [previous judgments] make it clear that when the Brodrick Committee stated that one of the purposes of an inquest is 'To allay rumours or suspicions' this purpose should be confined to allaying rumours and suspicions of how the deceased came by his death and not to allaying rumours or suspicions about the broad circumstances in which the deceased came by his death." (Sir Thomas Bingham, MR, Court of Appeal, *R. v. the Coroner for North Humberside and Scunthorpe ex parte Roy Jamieson*, April 1994, unreported)
>
> "The cases establish that although the word 'how' is to be widely interpreted, it means 'by what means' rather than in what broad circumstances ... In short, the inquiry must focus on matters directly causative of death and must, indeed, be confined to those matters alone ..." (Simon Brown LJ, Court of Appeal, *R. v. Coroner for Western District of East Sussex, ex parte Homberg and others*, (1994) 158 JP 357)
>
> "... it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish the facts. It is an inquisitorial process, a process of investigation quite unlike a trial...
>
> It is well recognised that a purpose of an inquest is that rumour may be allayed. But that does not mean it is the duty of the Coroner to investigate at an inquest every rumour or allegation that may be brought to his attention. It is ... his duty to discharge his statutory role - the scope of his enquiry must not be allowed to drift into the uncharted seas of rumour and allegation. He will proceed safely and properly if he investigates the facts which it appears are relevant to the statutory issues before him." (Lord Lane, Court of Appeal, *R. v. South London Coroner ex parte Thompson* (1982) 126 SJ 625)

B. The Director of Public Prosecutions

54. The Director of Public Prosecutions (the DPP), appointed pursuant to the Prosecution of Offences (Northern Ireland) 1972 (the 1972 Order) is an independent officer with at least 10 years' experience of the practice of law in Northern Ireland who is appointed by the Attorney General and who holds office until retirement, subject only to dismissal for misconduct. His duties under Article 5 of the 1972 Order are *inter alia*:

> "(a) to consider, or cause to be considered, with a view to his initiating or continuing in Northern Ireland any criminal proceedings or the bringing of any appeal or other proceedings in or in connection with any criminal cause or matter in Northern Ireland, any facts or information brought to his notice, whether by the Chief Constable acting in pursuance of Article 6(3) of this Order or by the Attorney General or by any other authority or person;
>
> (b) to examine or cause to be examined all documents that are required under Article 6 of this Order to

FS 1 . 58

be transmitted or furnished to him and where it appears to him to be necessary or appropriate to do so to cause any matter arising thereon to be further investigated;

(c) where he thinks proper to initiate, undertake and carry on, on behalf of the Crown, proceedings for indictable offences and for such summary offences or classes of summary offences as he considers should be dealt with by him."

55. Article 6 of the 1972 Order requires inter alia Coroners and the Chief Constable of the RUC to provide information to the DPP as follows:

"(2) Where the circumstances of any death investigated or being investigated by a coroner appear to him to disclose that a criminal offence may have been committed he shall as soon as practicable furnish to the [DPP] a written report of those circumstances.

(3) It shall be the duty of the Chief Constable, from time to time, to furnish to the [DPP] facts and information with respect to -

(a) indictable offences [such as murder] alleged to have been committed against the law of Northern Ireland; ...

and at the request of the [DPP], to ascertain and furnish to the [DPP] information regarding any matter which may appear to the [DPP] to require investigation on the ground that it may involve an offence against the law of Northern Ireland or information which may appear to the [DPP] to be necessary for the discharge of his functions under this Order."

III. RELEVANT INTERNATIONAL LAW AND PRACTICE

56. Paragraph 9 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted on 24 May 1989 by the Economic and Social Council Resolution 1989/65, (UN Principles on Extra-Legal Executions) provides, *inter alia*, that:

"There shall be a thorough, prompt and impartial investigation of all suspected cases of extra legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances ..."

57. Paragraphs 10 to 17 of the UN Principles on Extra-Legal Executions contain a series of detailed requirements that should be observed by investigative procedures into such deaths. Paragraph 10 states, *inter alia*:

"The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the inquiry ... shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify ..."

Paragraph 11 specifies:

"In cases in which the established investigative procedures are inadequate because of a lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognised impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided in these principles."

FS 1 · 59

Paragraph 16 provides, *inter alia*:

> "Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as all information relevant to the investigation and shall be entitled to present other evidence..."

Paragraph 17 provides, *inter alia*:

> "A written report shall be made within a reasonable time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures, methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law..."

58. The "Minnesota Protocol" (Model Protocol for a legal investigation of extra-legal, arbitrary and summary executions, contained in the UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions) provides, *inter alia*, in section B on the "Purposes of an inquiry":

> "As set out in paragraph 9 of the Principles, the broad purpose of an inquiry is to discover the truth about the events leading to the suspicious death of a victim. To fulfil that purpose, those conducting the inquiry shall, at a minimum, seek:
>
> (a) to identify the victim;
>
> (b) to recover and preserve evidentiary material related to the death to aid in any potential prosecution of those responsible;
>
> (c) to identify possible witnesses and obtain statements from them concerning the death;
>
> (d) to determine the cause, manner, location and time of death, as well as any pattern or practice that may have brought about the death;
>
> (e) to distinguish between natural death, accidental death, suicide and homicide;
>
> (f) to identify and apprehend the person(s) involved in the death;
>
> (g) to bring the suspected perpetrator(s) before a competent court established by law."

59. In section D, it is stated that "In cases where government involvement is suspected, an objective and impartial investigation may not be possible unless a special commission of inquiry is established...".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

60. The applicant complained that there was no effective investigation into the death of her husband, Patrick Finucane, which had occurred in circumstances giving rise to suspicions of collusion of the security forces with his killers. She invoked Article 2 of the Convention which provides as relevant in its first paragraph:

> " Everyone's right to life shall be protected by law. ..."

FS 1. 60

A. The parties' submissions

1. The applicant

61. The applicant submitted that the RUC investigation into her husband's death was *inter alia* hopelessly inadequate as it failed entirely to explore the possibility of collusion and as the investigating officers were hierarchically linked to those against whom allegations were made. The inquest was also strictly limited in its scope, involving no key witnesses or any persons suspected of involvement in the death and could not provide an effective part of the process of identifying or prosecuting the perpetrators of any unlawful act. As regarded the first two Stevens inquiries, neither was concerned with investigating the murder of Patrick Finucane and neither fulfilled the requirements of independence, promptness, public scrutiny or accessibility to the next of kin. The inquiry teams never, for example, made contact with the applicant's family, her husband's firm of solicitors or any of his clients who had reported death threats.

62. As regards the third inquiry, this was commenced ten years after the murder. So far the Stevens team refused to disclose to the applicant any material held by it. As regards her alleged lack of co-operation with various investigations, she had always taken the position that an independent judicial inquiry was the appropriate solution. Nor was the third inquiry sufficiently independent as it, like the others, had been established by the RUC Chief Constable at the relevant time and Mr Stevens reported, according to her understanding, to the Chief Constable. There was thus a hierarchical connection between the head of the investigation and the Chief Constable of the force against whom serious allegations had been made.

63. Further, the applicant argued that the examination by the DPP of the evidence throughout the history of the case had been a secret and undisclosed process, without any reasons given for decisions not to prosecute. He could not be regarded as independent due to the relationship between his office and the police. His decisions not to prosecute also cast grave doubt on his independence, in particular as the evidence against Mr Stobie was known to the authorities for at least 10 years. She referred to the decision not to prosecute Mr Stobie in 1991 for his role in the Finucane murder or his involvement in the UDA, the decision not to offer evidence against Mr Stobie at his trial on arms charges in January 1991 and the failure to prosecute Brian Nelson for conspiracy to murder, despite the evidence that he had passed a photograph of Patrick Finucane to known killers, or to prosecute Nelson's army handlers for collusion despite their knowledge that Patrick Finucane was targeted.

2. The Government

64. The Government accepted that, in light of the previous judgments (*Hugh Jordan v. the United Kingdom*, no. 24746/94, *McKerr v. the United Kingdom*, no. 28883/95, *Kelly and Others v. the United Kingdom*, no. 30054/96 and *Shanaghan v. the United Kingdom*, no. 37715/97, ECHR 2001-III) the RUC investigation, the inquest and the Stevens inquiries did not cumulatively satisfy the procedural requirement imposed by Article 2 of the Convention. They pointed out however that the reports following the first and second Stevens' inquiries were not made public as this would have prejudiced national security.

65. In any event, the Government stated that the third inquiry represented the only comprehensive investigation into the death of Patrick Finucane. This was ongoing, conducted by 18 to 20 police officers from outside Northern Ireland and it was to report to the DPP. So far, apart from William Stobie, 14 persons had been arrested and interviewed in connection with murder. While the RUC were resisting the applicant's current application for disclosure of material generated in the third inquiry because of potential prejudice to national security, the material's relevance to matters before, or likely to come before, the courts or to ongoing investigations, it had been made clear

FS 1 · 61

that disclosure would be reconsidered if it were to become apparent that there would be no harm to those interests.
66. Furthermore, the Government submitted that significant efforts had been made by the Stevens team to keep the applicant as fully informed as possible. However the applicant refused to meet with the police or the Stevens' team and repeatedly indicated her unwillingness to co-operate with the inquiry. In those circumstances, the Government argued that although the first two Stevens inquiries did not satisfy the procedural obligation in Article 2 as they were not centrally concerned with the murder of the applicant's husband, the third inquiry was so concerned and it was being conducted with thoroughness. The Government accepted that as it was occurring some years after the events it did not satisfy the requirements of promptness and reasonable expedition.

B. The Court's assessment

1. General principles

67. The obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force (see, *mutatis mutandis*, the *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, Series A no. 324, p. 49, § 161, and *Kaya v. Turkey*, judgment of 19 February 1998, *Reports of Judgments and Decisions* 1998-I, p. 324, § 86). The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. What form of investigation will achieve those purposes may vary in different circumstances. However, whatever mode is employed, the authorities must act of their own motion, once the matter has come to their attention. They cannot leave it to the initiative of the next of kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedures (see, for example, *mutatis mutandis, Ilhan v. Turkey* [GC] no. 22277/93, ECHR 2000-VII, § 63).
68. For an investigation into alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events (see, for example, *Güleç v. Turkey*, judgment of 27 July 1998, *Reports* 1998-IV, §§ 81-82; *Ogur v. Turkey*, [GC] no. 21954/93, ECHR 1999-III, §§ 91-92). This means not only a lack of hierarchical or institutional connection but also a practical independence (see, for example, *Ergi v. Turkey*, judgment of 28 July 1998, *Reports* 1998-IV, §§ 83-84, and the recent Northern Irish cases, for example, *McKerr v. the United Kingdom*, no. 28883/95, § 128, *Hugh Jordan v. the United Kingdom*, no. 24746/94, § 120, and *Kelly and Others v. the United Kingdom*, no. 30054/96, § 114, ECHR 2001-III).
69. The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances (for example, *Kaya v. Turkey,* cited above, p. 324, § 87) and to the identification and punishment of those responsible (*Ogur v. Turkey*, cited above, § 88). This is not an obligation of result, but of means. The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident, including *inter alia* eye witness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death (see, for example, *Salman v. Turkey* [GC], no. 21986/93, ECHR 2000-VII, § 106; *Tanrikulu v. Turkey* [GC], no. 23763/94, ECHR 1999-IV, § 109; *Gül v. Turkey*, 22676/93, § 89, 14 December 2000, unreported). Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard (see the

FS 1 · 62

recent Northern Irish cases concerning the inability of inquests to compel the security force witnesses directly involved in the use of lethal force, for example, *McKerr v. the United Kingdom*, cited above, § 144, and *Hugh Jordan v. the United Kingdom*, cited above, § 127).

70. A requirement of promptness and reasonable expedition is implicit in this context (see *Yasa v. Turkey*, judgment of 2 September 1998, *Reports* 1998-IV, pp. 2439-2440, §§ 102-104; *Cakici v. Turkey* [GC], no. 23657/94, ECHR 1999-IV, §§ 80, 87 and 106; *Tanrikulu v. Turkey*, cited above, § 109; *Mahmut Kaya v. Turkey*, no. 22535/93, ECHR 2000-III, §§ 106-107). While there may be obstacles or difficulties which prevent progress in an investigation in a particular situation, a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts (see, for example, *Hugh Jordan v. the United Kingdom*, cited above, §§ 108, 136-140).

71. For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Güleç v. Turkey*, cited above, p. 1733, § 82; *Ogur v. Turkey*, cited above, § 92; *Gül v. Turkey*, cited above, § 93; and recent Northern Irish cases, for example, *McKerr v. the United Kingdom*, cited above, § 148).

2. Application in the present case

72. The Court recalls that, following the death of Patrick Finucane on 12 February 1989, an investigation was opened by the RUC. No prosecutions resulted at that stage. An inquest opened on 6 September 1990 and closed the same day. Two police inquiries, Stevens 1 and 2, took place in 1989-1990 and 1993-1995. A third inquiry, Stevens 3, commenced in 1999 and is still ongoing. On 23 June 1999, a criminal prosecution was brought against William Stobie for the murder of Patrick Finucane. A verdict of not guilty was entered on or about 26 November 2001, after the prosecution offered no evidence.

73. The applicant has made numerous complaints about these procedures, alleging that they do not satisfy the procedural obligation imposed by Article 2 of the Convention. The Court notes that the Government have accepted, in large part, that the procedures failed to provide the requisite safeguards, though they do not agree with all the criticisms made by the applicant.

(i) The police investigation

74. Firstly, concerning the police investigation, the Court notes that the investigation started immediately after the death and involved necessary steps to secure evidence at the scene. The car and gun used in the incident were located though this did not lead to any charges being brought in respect of the killing. A number of suspects from the loyalist paramilitaries, popularly believed to have carried out the killing, were interviewed. During the inquest, the officer in charge of the investigation stated that though he was reasonably certain that the main perpetrators of the murder were amongst them, there was insufficient evidence to support a prosecution.

75. It is not apparent to what extent the initial police investigation included inquiries into possible collusion by the security forces in the targeting of Patrick Finucane by a loyalist paramilitary group. A weapon believed to have been used in the murder had been stolen from the UDR and a member of the UDR was convicted of the theft and UFF members were convicted of possession of the gun. It was therefore apparent that the weapon had come into the hands of the loyalists via the security forces. At the inquest however, the police officer in charge of the investigation stated that none of the 14 persons interviewed in relation to the murder had any connection with the security forces. Allegations of collusion involving the police were also made from a very early stage, in particular with regard to threats made by the RUC to Patrick Finucane's clients.

76. In so far therefore as the investigation was conducted by RUC officers, they were part of the

FS 1 · 63

police force which was suspected by the applicant and other members of the community of issuing threats against Patrick Finucane. They were all under the responsibility of the RUC Chief Constable, who played a role in the process of instituting any disciplinary or criminal proceedings (see paragraph 55 above). In the circumstances, there was a lack of independence attaching to this aspect of the investigative procedures, which also raises serious doubts as to the thoroughness or effectiveness with which the possibility of collusion was pursued.

(ii) The inquest

77. In Northern Ireland, as in England and Wales, investigations into deaths may also be conducted by inquests. Inquests are public hearings conducted by coroners, independent judicial officers, normally sitting with a jury, to determine the facts surrounding a suspicious death. Judicial review lies from procedural decisions by coroners and in respect of any mistaken directions given to the jury. There are thus strong safeguards as to the lawfulness and propriety of the proceedings. In the case of *McCann and Others v. the United Kingdom* (cited above, p. 49, § 162), the Court found that the inquest held into the deaths of the three IRA suspects shot by the SAS on Gibraltar satisfied the procedural obligation contained in Article 2, as it provided a detailed review of the events surrounding the killings and provided the relatives of the deceased with the opportunity to examine and cross-examine witnesses involved in the operation. However it must be noted that the inquest in that case was to some extent exceptional when compared with the proceedings in a number of cases in Northern Ireland (see the cases of *Hugh Jordan v. the United Kingdom*, *McKerr v. the United Kingdom*, and *Kelly and Others v. the United Kingdom*, cited above). The promptness and thoroughness of the inquest in the *McCann* case left the Court in no doubt that the important facts relating to the events had been examined with the active participation of the applicants' highly competent legal representative.

78. In this case however, the inquest was concerned only with the immediate circumstances surrounding the shooting of Patrick Finucane. There was no inquiry into the allegations of collusion by the RUC or other sections of the security forces. The applicant was refused permission to make a statement to the inquest about the threats made by the police against her husband as the Coroner regarded these matters as irrelevant. As later events were to show however, there were indications that informers working for Special Branch or the security forces knew about, or assisted in, the attack on Patrick Finucane (see paragraphs 16, 25 and 36, concerning William Stobie and Brian Nelson), which supported suspicions that the authorities knew or connived in murder. The inquest accordingly failed to address serious and legitimate concerns of the family and the public and cannot be regarded as providing an effective investigation into the incident or a means of identifying or leading to the prosecution of those responsible. In that respect, it fell short of the requirements of Article 2.

(iii) The Stevens inquiries

79. The Court recalls that the authorities responded to concerns arising out of allegations of collusion between the loyalist organisations and the security forces by instituting special police inquiries, headed by a senior police officer from outside Northern Ireland. It is not apparent however that the first two inquiries, however useful they may have been in uncovering information, were in fact concerned with investigating the death of Patrick Finucane with a view to bringing prosecutions as appropriate. In any event, the reports were not made public and the applicant has never been informed of their findings. The necessary elements of public scrutiny and accessibility of the family are therefore missing.

80. As regards the most recent inquiry, Stevens 3, which is squarely concerned with the Finucane murder, the Government have admitted that, taking place some ten years after the event, it cannot comply with the requirement that effective investigations be commenced promptly and conducted with due expedition. It is also not apparent to what extent, if any, the final report will be made public, though a summary overview has recently been published. The Court does not find it

FS 1 · 64

necessary in light of these defects to consider further allegations of lack of accessibility of the applicant to the procedure or lack of independence of the inquiry from the Police Service in Northern Ireland (which has replaced the RUC).

(iv) The DPP

81. The applicant also alleged that the DPP had shown a lack of independence in this case. The Court has in previous cases noted that the DPP, who is the legal officer charged with the responsibility to decide whether to bring prosecutions in respect of any possible criminal offences, is not required to give reasons for any decision not to prosecute and in this case he did not do so. No challenge by way of judicial review exists to require him to give reasons in Northern Ireland, though it may be noted that in England and Wales, where the inquest jury may still reach verdicts of unlawful death, the courts have required the DPP to reconsider a decision not to prosecute in the light of such a verdict, and will review whether those reasons are sufficient. This possibility does not exist in Northern Ireland where the inquest jury is no longer permitted to issue verdicts concerning the lawfulness or otherwise of a death.

82. The Court does not consider it possible at this stage for it to determine what in fact occurred in 1990-1991 and in 1995 when decisions were taken concerning the prosecution of persons possibly implicated in the Finucane murder (see paragraphs 16 and 27 above). However, where the police investigation procedure is itself open to doubts of a lack of independence and is not amenable to public scrutiny, it is of increased importance that the officer who decides whether or not to prosecute also gives an appearance of independence in his decision-making. As the Court observed in *Hugh Jordan v. the United Kingdom* (judgment cited above, § 123) the absence of reasons for decisions not to prosecute in controversial cases may in itself not be conducive to public confidence and may deny family of the victim access to information about a matter of crucial importance to them and prevent any legal challenge of the decision.

83. Notwithstanding the suspicions of collusion however, no reasons were forthcoming at the time for the various decisions not to prosecute and no information was made available either to the applicant or the public which might provide re-assurance that the rule of law had been respected. This cannot be regarded as compatible with the requirements of Article 2, unless that information was forthcoming in some other way. This was not the case.

(v) Conclusion

84. The Court finds that the proceedings for investigating the death of Patrick Finucane failed to provide a prompt and effective investigation into the allegations of collusion by security personnel. There has consequently been a failure to comply with the procedural obligation imposed by Article 2 of the Convention and there has been, in this respect, a violation of that provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

85. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

FS 1 · 65

86. The applicant stated that the quantum of any award of non-pecuniary damage was for the Court to assess on an equitable basis. She raised concerns however that any award for damages for just satisfaction, as were made in the other Northern Ireland cases (*Hugh Jordan, McKerr, Kelly and others* and *Shanaghan*, cited above) would be regarded as bringing to an end the investigative obligation imposed by Article 2 of the Convention. She refers in that regard to the approach adopted by the domestic courts in the application brought by Jonathan McKerr after the Court's judgment in his case for a declaration that State was in continuing breach of the procedural obligation under Article 2 and for an order of mandamus to compel provision of an effective investigation. On 26 July 2002, the High Court in Northern Ireland rejected the application, finding that this Court would not have exercised its discretion to award just satisfaction had it envisaged the possibility of *restitutio in integrum* through the holding of an effective investigation and therefore considered that any continuing obligation had come to an end once the Court issued its judgment. This decision has since been overturned by the Northern Ireland Court of Appeal on 10 January 2003, and an application for leave to appeal by the Crown is apparently pending to the House of Lords. The applicant requested the Court to state that awards of just satisfaction do not bring to an end the rights conferred by Article 2. Since she would not wish any award of just satisfaction to jeopardise action taken at a domestic level to enforcing an investigation at domestic level, she requested the Court not to make an award of just satisfaction if it were to agree with the High Court approach mentioned above.

87. The Government stated that the applicant had received a very significant sum, some half a million pounds, under the Criminal Injuries Compensation Scheme and had shown a certain ambivalence as to whether she wished to claim non-pecuniary damage. As her main concern was to obtain a judgment of the Court against the Government, any such judgment would appear to constitute of itself sufficient just satisfaction.

88. The Court would recall that it has awarded non-pecuniary damages in other similar cases in which it has found a breach of the procedural obligation under Article 2 of the Convention (see the *Hugh Jordan, McKerr, Kelly and Others* and *Shanaghan* cases, cited above). The compensation referred to by the Government does not relate to the shortcomings in the official investigation and would not prevent an award of non-pecuniary damages in that respect.

89. As regards the applicant's views concerning provision of an effective investigation, the Court has not previously given any indication that a Government should, as a response to such a finding of a breach of Article 2, hold a fresh investigation into the death concerned and has on occasion expressly declined to do so (*Ülkü Ekinci v. Turkey*, no. 27601/95, judgment of 16 July 2002, § 179). Nor does it consider it appropriate to do so in the present case. It cannot be assumed in such cases that a future investigation can usefully be carried out or provide any redress, either to the victim's family or by way of providing transparency and accountability to the wider public. The lapse of time, the effect on evidence and the availability of witnesses, may inevitably render such an investigation an unsatisfactory or inconclusive exercise, which fails to establish important facts or put to rest doubts and suspicions. Even in disappearance cases, where it might be argued that more is at stake since the relatives suffer from the ongoing uncertainty about the exact fate of the victim or the location of the body, the Court has refused to issue any declaration that a new investigation should be launched (*Orhan v. Turkey*, no. 25656/94, judgment of 18 June 2002, § 451). It rather falls to the Committee of Ministers acting under Article 46 of the Convention to address the issues as to what may practicably be required by way of compliance in each case (cf. *mutatis mutandis, Akdivar and Others v. Turkey*, judgment of 1 April 1998 (Article 50), *Reports* 1998-II, p. 723, § 47).

90. In sum, the Court is unable to make the declaration or clarifications requested by the applicant with a view to the consequences of this judgment. As she has stated that in this event she does not wish any damages to be paid, it will proceed on the basis that her claim is withdrawn.

FS 1 · 66

B. Costs and expenses

91. The applicant claimed 94,020.22 pounds sterling (GBP), inclusive of value-added tax VAT) for costs and expenses for legal work done since the introduction of the case in 1995. This included fees of GBP 31,385.75 for over 207 hours work by a senior solicitor, GBP 6,580 for over 117 hours work by a paralegal, GBP 29,375 for fees of senior counsel and GBP 19,583.32 for junior counsel.
92. The Government submitted that this was grossly excessive. While the case was complex, many of the legal issues were similar to those raised in the other Northern Ireland cases. The claims by lawyers included well over 300 hours by solicitors plus unspecified hours by two counsel. They considered there must have been a significant degree of duplication of work and that the applicant has not demonstrated that these legal costs were reasonably and necessarily incurred.
93. The Court recalls that this case, which has been pending for some considerable time, has involved several rounds of written submissions and may be regarded as factually and legally complex. Nonetheless, no oral hearing has been held. It finds that the fees claimed to be on the high side when compared with other cases from the United Kingdom and is not persuaded that they are reasonable as to quantum. Having regard to equitable considerations, it awards the sum of 43,000 euros (EUR), plus any value added tax which may be payable.

C. Default interest

94. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 2 of the Convention;

2. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 43,000 (forty three thousand euros) in respect of costs and expenses, to be converted into pounds sterling at the rate applicable at the date of settlement, plus any tax that may be chargeable;
(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

FS 1 · 67

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President

Home page

FS 1 . 68

Appendix 2

FS 1. 69

Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions

Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989*

Prevention

1. Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions.

Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody. This prohibition shall prevail over decrees issued by governmental authority.

2. In order to prevent extra-legal, arbitrary and summary executions, Governments shall ensure strict control, including a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as those officials authorized by law to use force and firearms.

3. Governments shall prohibit orders from superior officers or public authorities authorizing or inciting other persons to carry out any such extralegal, arbitrary or summary executions. All persons shall have the right and the duty to defy such orders. Training of law enforcement officials shall emphasize the above provisions.

4. Effective protection through judicial or other means shall be guaranteed to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

5. No one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become a victim of extra-legal, arbitrary or summary execution in that country.

6. Governments shall ensure that persons deprived of their liberty are held in officially recognized places of custody, and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other persons of confidence.

7. Qualified inspectors, including medical personnel, or an equivalent independent authority, shall conduct inspections in places of custody on a regular basis, and be empowered to undertake unannounced inspections on their own initiative, with full guarantees of independence in the exercise of this function. The inspectors shall have unrestricted access to all persons in such places of custody, as well as to all their records.

8. Governments shall make every effort to prevent extra-legal, arbitrary and summary executions through measures such as diplomatic intercession,

improved access of complainants to intergovernmental and judicial bodies, and public denunciation. Intergovernmental mechanisms shall be used to investigate reports of any such executions and to take effective action against such practices.

Governments, including those of countries where extra-legal, arbitrary and summary executions are reasonably suspected to occur, shall cooperate fully in international investigations on the subject.

Investigation

9. There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.

10. The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. The same shall apply to any witness. To this end, they shall be entitled to issue summonses to witnesses, including the officials allegedly involved and to demand the production of evidence.

11. In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.

12. The body of the deceased person shall not be disposed of until an adequate autopsy is conducted by a physician, who shall, if possible, be an expert in forensic pathology. Those conducting the autopsy shall have the right of access to all investigative data, to the place where the body was discovered, and to the place where the death is thought to have occurred. If the body has been buried and it later appears that an investigation is required, the body shall be promptly and competently exhumed for an autopsy. If skeletal remains are discovered, they should be carefully exhumed and studied according to systematic anthropological techniques.

13. The body of the deceased shall be available to those conducting the autopsy for a sufficient amount of time to enable a thorough investigation to

be carried out. The autopsy shall, at a minimum, attempt to establish the identity of the deceased and the cause and manner of death. The time and place of death shall also be determined to the extent possible. Detailed colour photographs of the deceased shall be included in the autopsy report in order to document and support the findings of the investigation. The autopsy report must describe any and all injuries to the deceased including any evidence of torture.

14. In order to ensure objective results, those conducting the autopsy must be able to function impartially and independently of any potentially implicated persons or organizations or entities.

15. Complainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation. Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect. over complainants, witnesses and their families, as well as over those conducting investigations.

16. Families of the deceased and their legal representatives shall be informed of, and have access to. any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence. The family of the deceased shall have the right to insist that a medical or other qualified representative be present at the autopsy. When the identity of a deceased person has been determined, a notification of death shall be posted, and the family or relatives of the deceased shall be informed immediately. The body of the deceased shall be returned to them upon completion of the investigation.

17. A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

Legal proceedings

18. Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice. Governments shall either bring such persons to justice or cooperate to extradite any such persons to other countries wishing to exercise jurisdiction. This principle shall apply irrespective of who and where the perpetrators or the victims are, their nationalities or where the offence was committed.

19. Without prejudice to principle 3 above, an order from a superior officer or a public authority may not be invoked as a justification for extra-legal, arbitrary or summary executions. Superiors, officers or other public officials may be held responsible for acts committed by officials under their authority if they had a reasonable opportunity to prevent such acts. In no circumstances, including a state of war, siege or other public emergency, shall blanket

immunity from prosecution be granted to any person allegedly involved in extra-legal, arbitrary or summary executions.

20. The families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

---

* In resolution 1989/65, paragraph 1, the Economic and Social Council recommended that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions should be taken into account and respected by Governments within the framework of their national legislation and practices.

Appendix 3

FS 1 · 74

SCHEDULE OF TRIBUNAL RULINGS

DATE	TITLE	DETAIL
24-07-98	**Rulings and Observations of the Tribunal on the Matters raised at the Preliminary Hearing on 20 & 21 July 1998**	Level of legal representation; Experts; Anonymity etc
27-11-98	**Further Rulings and Observations**	The Status of Evidence Venue Experts Anonymity and Privilege Progress Report Counsel's Report
17-12-98	**Further Rulings and Observations**	Venue Anonymity
18-12-98	**Ruling on Submissions relating to Report No 1 of Counsel to the Inquiry**	-
22-02-99	**Ruling on Home Addresses**	-
30-04-99	**Submissions by BBC-**	
05-05-99	**Further Rulings**	Applications for Anonymity
12-10-99	**October 1999 Rulings and Observations**	Anonymity Public Interest Immunity Experts Sources BBC ITN UTV The Daily Telegraph The Law The BBC ITN The Importance of the ITN Evidence Conclusion on BBC/ITN UTV The Daily Telegraph and Toby Harnden Mr Harnden's notes and tapes Procedure in respect of allegations

SCHEDULE OF TRIBUNAL RULINGS

07-02-00	**Further Rulings and Observations**	Sources Public Interest Immunity Legal Representation Statements on the Inquiry Web Site
29-02-00	**Deceased Soldiers: Anonymity**	Anonymity ruling of October 1999 relating to living soldiers extended to include deceased soldiers.
24-05-01	**Names in Public Domain**	
01-06-01	**Intelligence Material and Civilian Witnesses**	-
01-08-01	**The Venue for the Oral Evidence of the Soldiers**	
29-05-02	**Dr John Martin**	
19-12-02	**Public Interest Immunity, Time-Delay Procedure, Anonymity, Screening and Venue Applications**	
14-04-03	**Martin Ingram**	
14-04-03	**Applications for Anonymity, Screening and Redactions of Documents and other material made on behalf of the Government and Government Agencies**	
12-05-03	**Applications for Anonymity, Screening and Restrictions on Disclosure of Sensitive Information made by Ministry of Defence in relation to Officer Y and Officer Z**	
23-05-03	**Anonymity**	
10-07-03	**Questioning of Witnesses**	
18-09-03	**Patrick Ward: Application for Screening and Venue**	

SCHEDULE OF TRIBUNAL RULINGS

01-10-03 **Application by Soldier L for Screening**

02-10-03 **INQ 2225: Application for Screening**

02-10-03 **INQ 0005: Application for Screening**

10-10-03 **Soldier AD, Soldier 203: Applications for Screening**

FS 1 · 77

4. THE ROLE OF THE GOVERNMENT IN THE PROVISION OF EVIDENCE TO THE INQUIRY

4.1 Introduction and Summary of Submissions

4.1.1 The vast bulk of the documentary evidence received by the Inquiry has been provided by the Government. Apart from being the custodian of official documents, the Government is under a legal obligation by virtue of Article 2 of the European Convention to do everything in its power to ensure that the Inquiry into deaths and injuries caused by its servants and agents is both independent and effective. It is readily acknowledged that the Government has declared its willingness to cooperate fully with the Inquiry and to disclose all relevant material. It has supplied the Tribunal with a very substantial and wide-ranging body of information and documentation. The material provided includes documents that purport to be contemporaneous as well as documents that have been recently created.

4.1.2 However, the Tribunal has to evaluate this information and, as part of this process, it is obliged to determine whether it has indeed been given all the relevant available material and whether the material that has been provided is reliable. It also has to be satisfied that it is genuine.

4.1.3 In this context, we submit that: the Government (including in particular the MOD) and its agencies (including in particular the Security Service, Secret Intelligence Service and the RUC / PSNI) should be regarded as having a potential interest in protecting their former servants and agents, including in particular soldiers, civil servants, politicians and others involved either directly or indirectly in the events leading up to Bloody Sunday, the events on the day itself and relevant events thereafter. For this reason alone, the Government and its agencies cannot be relied upon to make full disclosure of

all the documentation and information in their possession. Indeed, it is our submission that the Government ought to have been represented as an interested party at the Inquiry, rather than merely an observer and provider of information and documentation. If the Government had been a party, the Security Service for example, may have felt under a greater obligation to take care to disclose everything in its possession.

4.1.4 Whether or not the Tribunal accepts this contention, the Tribunal will be unable to discharge its task without fully appreciating the nature and role of those Army and Government agencies which were and still are engaged in what may euphemistically be described as shaping perceptions of the truth in a manner favourable to the Government and Army. It is in our respectful submission necessary, therefore, to examine the role of the HQNI's Information Policy unit in order to determine the extent, if any, to which it was engaged in psychological operations (psyops) in relation to Bloody Sunday.

4.1.5 Secondly, whether or not State agencies were engaged in formal psyops, it has to be determined whether relevant documentation which was damaging to the Army case, including photographs and cine film, was destroyed or otherwise suppressed at the material time or in the intervening period before the Inquiry was set up..

4.1.6 Thirdly, the Tribunal must decide whether State agencies have disclosed all of the relevant material still in their possession. This in turn requires an examination of the reasons for delayed disclosure in order to determine whether the failure to disclose such material at an earlier stage reflects a lack of genuine willingness on the part of the agencies concerned to co-operate with the Inquiry.

4.1.7 In our submission,

(i) vital documents (including photographs) relevant to Bloody Sunday that were or ought to have been in the possession of the

Government or State agencies have been deliberately destroyed and / or suppressed;

(ii) some material has been edited;

(iii) some material, including in particular Intelligence material, has been supplied by the Government in a manner designed to mislead the Tribunal;

(iv) some material that is or should still be available has been withheld and, therefore,

(v) the Tribunal has not been provided with all the relevant official documentation and information concerning Bloody Sunday.

4.1.8 We propose to arrange our submissions under the following headings:

(i) Information Policy Unit and Psyops

(ii) Missing Army Photographs and cine film

(iii) MOD

(iv) Intelligence Agencies

(v) RUC / PSNI

4.2 Information Policy Unit and Psyops

Nature Of Psyops In The 1970's

4.2.1 Psychological Operations (Psyops) in the early 1970's in Northern Ireland took a variety of forms, some perfectly harmless "hearts and minds" work but some of it sinister, as it was described by Tony Staughton, Head of Public Relations at HQNI (**KW2.5**). Sinister psyops involved deception, dirty tricks, disinformation, black propaganda, falsifying documents, forging documents and spreading false rumours. This activity was all designed to invent or distort facts in such a way as to cast the Army in a good light and the "enemy" in a bad light. (per Colin Wallace, **Day 237/162/20 to Day 237/162/24**)

4.2.2 The enemy in this context included not just the IRA but others, such as NICRA, who were perceived by the Army as threatening the state: see the evidence of Colin Wallace (**Day 237/163/10 to Day 237/163/14**).

4.2.3 Colin Wallace has given examples of the kind of psyops conducted by the Army and the Intelligence Services at the material time. On **Day 237/163/15 to Day 237/167/24**, he confirmed the accuracy of the accounts published in *Curtis, "The Propraganda War in Ireland"* (**OS1.614 to OS1.617**), *Lashmar and Oliver "Britain's Secret War"* (**OS1.601 to OS1.605**) and *Dillon, "The Dirty War"* (**OS1.627**). The Psyops referred to in these accounts included an example of the Army falsifying official statistics in order to influence Government policy and the Information Research Department of the Foreign Office distorting facts so as to influence public opinion. Information Policy disinformation sometimes re-emerged in Intelligence Summaries graded as A1 (**Day 237/174/21 to Day 237/175/1**). At Appendix 5 of his second statement (**KW2. 218**), he exhibited a document that purported to be a confession of a former IRA member but which was in fact forged by Mr Wallace and contained much "fiction" (**KW2.145** and **Day 237/175/12 to Day 237/175/13**) In brief, psychological Operations were characterised by dishonesty, deceit and falsehood. (**Day 237/178/5 to Day 237/178/7**)

4.2.4 Psyops required cooperation and co-ordination with the Intelligence Services and those involved in Psyops worked closely with MI6 and MI5 (**Day 237/178/8 to Day 237/178/23**). As the term "dirty tricks" implies, Psyops and Intelligence units were capable not only of being unscrupulous but also of engaging in activity which would normally be regarded by official agencies as completely unconscionable, as exemplified in the Kincora affair (summarised in *Dillon, "The Dirty War"* at **OS1.629**) so that allegations of misconduct which in other circumstances might be considered outlandish cannot be rejected without close examination.

4.2.5. The upshot of this is that all information and documentation emanating from or influenced by Psyops personnel is inherently unreliable and potentially misleading (**Day 237/180/25 to Day 237/181/15).** The problem is that just about all official Army and Government information and documentation could be influenced by Psyops personnel. It is simply impossible to tell. Mr Wallace was not aware of any documents or information in respect of Bloody Sunday having been falsified by Psyops personnel (**Day 237/189/10 to Day 237/189/20**). However, as Hugh Mooney suggested (**KM.631**), it appears that Mr Wallace was involved only in "low level" psyops and that he may have been "outside the loop" when it came to "high level" activities. Therefore the mere fact that he was unaware of psyops being conducted in relation to Bloody Sunday does not mean that they were not (**Day 238/18/5 to Day 238/18/10**).

4.2.6 Nor can the Government necessarily be relied upon to admit when such information and documentation has been influenced by psyops personnel. Mr Wallace's own involvement in Psyops was authorised by senior officials, including in particular Mr Broderick (**OS1.624**), but this was denied at the highest level by the Government until 1990 when it was finally admitted in the House of Commons by the Secretary of State for Defence (see Hansard **OS1.551 to OS1.552** and **OS1.571**) (**Day 237/182/17 to Day 237/183/7**).

Psyops personnel in Northern Ireland in 1972

4.2.7. Colin Wallace was the only witness to admit active involvement in psyops during the period in question but, ironically, he was the only one who was not either a member of Psyops staff or on the Psyops Committee. Indeed, he was unaware that there was a Psyops Committee (**Day 238/8/22 to Day 238/15/11**).

4..2.8 Col. Tugwell claimed not to have been involved in Psyops or disinformation but he was the Head of the Department described by Colin Wallace as the Psyops Unit and he is recorded in the documentation as responsible for the co-ordination of psyops.

4.2.9. INQ 1873 said in his statement (**C1873.1 paragraphs 3 to 4**) that he was not involved in psyops and that it was wrong in principle to practise psyops against one's own people. Yet we now know that he was the former Head of Psyops at the Joint Warfare Establishment at Old Sarum and he was a member of the Psyops staff in N. Ireland. Both Mr Mooney and Mr Wallace confirm that he was actively involved in psyops. (**Day 238/22/12 to Day 238/22/15**)

4..2.10. Hugh Mooney also claimed to have no involvement in psyops and could not remember any committee meetings but he had been sent to Northern Ireland to advise the Army on psyops; according to the documentation, he was a member of the Psyops staff and of the Psyops Committee; and he referred in his own reports to attending Psyops meetings.

4.2.11. This anxiety on the part of Messrs Tugwell, Mooney and INQ 1873 to distance themselves from psyops in the face of documentary evidence that they were deeply involved in such activity gives rise to the inference that (a) they were involved in such activity, (b) this activity related to Bloody Sunday and (c) it was so discreditable that they had to deny it.

4.2.12. The documentation discloses the following facts. In July 1970, Lt Col INQ 1873 visited Northern Ireland with a view to considering possible ways in which military psychological activities might be employed there: **C1873.7**. He recommended the establishment of a Psyops Committee and a Psyops Staff Officer at HQNI. At a meeting of the JSC on 3rd June 1971, the GOC confirmed that he was examining the whole subject of psychological warfare: **TMPD 29.39**. On 14th July 1971, Lt. Col. INQ 1870 submitted a

memorandum for consideration by the G (Liaison) Committee on 21st July 1971. The memorandum was classified Secret / LocSen (locally sensitive). Attached to the memorandum was a document entitled "Headquarters Northern Ireland Psychological Operations Staff Terms of Reference". (KM6.108.1) According to this document, the Director of Psychological Operations was to be the Commander of Land Forces. The Psyops staff was to consist of GSO1 (Liaison) (INQ1873), the Information Advisor to the GOC (Mr Mooney) and clerical support. The Psyops Committee was to consist of, *inter alia*, the CLF, the Chief of Staff, the UK Rep (Howard Smith), the Director of Intelligence (David), INQ1873, the GSO1 Intelligence, the Civil Advisor, Mr Mooney and the Chief Public Relations Officer. Lt. Col. INQ1873 was to be responsible for psyops activities and co-ordination of other forces and agencies, including the RUC, when implementing psyops activities. Mr Mooney was to be responsible for assistance with the implementation of psyops affecting non-military matters. All operations were normally to be approved by the CLF as the Director of Psyops.

4.2.13 No minutes of the meeting of this Committee on 21st July 1971 or of any meeting of the Psyops Committee have been provided to the Tribunal. In a note dated 24th January 1972, Col Tugwell advised that the term "Psyops" should not be used "in view of its somewhat sinister connotations". This may explain why there is no other reference to any committee by the name of Psyops Committee. There are references to the Military Information Policy Committee and it is clear that this Committee did meet (see G70C.441.11 paragraph 29) but the Tribunal has not been provided with any minutes of any of this Committee's meetings either.

Evidence given by the Psyops Personnel

4.2.14 **Colin Wallace**

(i) According to Colin Wallace, the Information Policy unit was involved in Psyops as of January 1972 and was in fact known as the Psyops Unit. (Day 238/149/2 to Day 238/149/7)

(ii) The Department was headed by Col Tugwell and the personnel included INQ1873 and Mr Mooney. They were all involved in Psyops. (Day 238/22/1 to Day 238/22/6)

(iii) Psyops was part of PR but the MOD chart at GEN1.19 is misleading in that it did not refer to the Psyops Unit or the Psyops Committee.(Day 238/23/10 to Day 238/24/11). This chart is not a true reflection of the Government's understanding of the position since, at KW2.205, the Secret Intelligence Service confirmed that Mr Wallace was engaged in Psyops.

(iv) Mr Wallace knew of the Army's intention to teach the Bogsiders and Civil Rights marchers a lesson (KW2.191). The new "get tough" policy was designed to placate Unionists and the paratroopers were the instrument chosen to effect the policy (KW2.190). In other words, as Mr Wallace accepted, the Army plan was politically motivated (Day 238/31/15 to Day 238/31/22)

(v) It was planned to use the paratroopers in circumstances where they were liable to use lethal force, whether in a premeditated, calculated fashion or as a characteristic over-reaction on their part. Even though the written operation order did not envisage a plan to shoot demonstrators, Mr Wallace expressed the view that there can be plans at various levels and that this "happened all the time" (KW2.263) in a way that was always "deniable". (Day 238/33/6 to Day 238/33/10)

(vi) Mr Wallace was aware that consideration was being given before Bloody Sunday to a plan or policy to shoot selected ringleaders of the DYH (Day 236/99/1)

(vii) He accepted that, as an alternative to giving soldiers direct orders to shoot civilians, it was possible to create conditions in which that was likely to happen, for example by using trigger-happy soldiers and

manipulating them by giving them a special briefing (**KW2.140 paragraph 58**, **Day 238/34/12 to Day 238/34/15**). Of particular significance in this connection is the evidence concerning the draft chapter of a book written by an anonymous officer referred to Wallace by Captain Jackson. This officer appears to have been a lieutenant or captain in 1 Para who was present both at Bloody Sunday and at the briefings beforehand. The fact that the wife of one of the officers who attended the briefings could characterise the planned operation as "Londonderry's Sharpville" tends to suggest, as Mr Wallace accepted, that some elements of 1 Para may have been given a special briefing to the effect that they had a licence to shoot civilians on Bloody Sunday. (**Day 238/35/14 to Day 238/37/2**)

(viii) In the aftermath of the shootings, Mr Staughton and the regular PR Branch at HQNI was effectively excluded from presentation of the facts on behalf of the Army. (**Day 241/138/9 to Day 241/138/12**). The first Press release was drafted by Col. Tugwell, who concealed this by arranging that the staff who put out the statement should say it was "phoned in by one of our chaps in Derry" (**B133.103**). The interview with the BBC was arranged by Mr Mooney and the interview itself was given by Col. Tugwell. **All the information put out by the Army that day was put out by psyops personnel** ((**Day 238/43/25 to Day 238/45/12**).

(ix) Although Mr Wallace has denied falsifying any information in relation to Bloody Sunday, Mr Mooney stated that he, Col. Tugwell and Mr Wallace met at Mr Mooney's house a few days after Bloody Sunday to discuss the matter (**Day 240/27/11 to Day 240/27/14**) and during the course of the meeting Mr Wallace raised the possibility that the IRA could have been present at Bloody Sunday wearing uniforms stolen sometime earlier from a laundry in Derry. (**Day 239/122/25 to Day 239123/3**). If true, this evidence suggests both that these three individuals were involved together in a Psyops Unit at the material time

and that they actively considered psyops methods for dealing with the fall-out from Bloody Sunday. This should be seen in the context that Col. Tugwell and Mr Wallace were both involved in the "analysis of the opposition case" at the Widgery Inquiry (**CO1.209**)

(x) Based on his own experience, Mr Wallace said he would not be surprised if Government officials had suppressed documents relevant to Bloody Sunday (**Day 238/86/21 to Day 238/86/25**)

4.2.15 **Col Tugwell**

(i) Col. Tugwell says that he was not involved in Psyops and did not deal with disinformation (**B1333.7 paragraph 46**). However, the documentary evidence would suggest otherwise.

(ii) In the memorandum of 30th November 1971 written by Mr C H Henn of DS10 concerning the organisation of information activity for Northern Ireland (**KM6.99**), which was copied to Col. Tugwell among others, it is stated in express terms that Col. GS (Information Policy), i.e. Col Tugwell, was responsible among other things for co-ordinating and laying down the general policy for the activities of the GSO1 (Liaison), i.e. INQ1873, *in the latter's concern with Psychological Operations* (**KM6.102**). It was also noted in the same memorandum that, within the Ministry of Defence in London, a new staff post at Lt Colonel level was to be set up early in January 1972 in the Northern Ireland branch of the Directorate of Military Operations (MO4) and that this officer would be responsible for co-ordinating those aspects of intelligence, psychological operations and special political action which contribute to HMG's propaganda policy and that in this connection he would liaise with Col Tugwell at HQNI (**KM6.101 paragraph 7**).

(iii) In 1990, the Government admitted formally, in connection with Mr Wallace's activities, that until the mid 1970's it was Army policy to disseminate disinformation to malign individuals (**OS1.552**).

(iv) It does not appear that Col Tugwell was opposed in principle to the use of Psyops where the occasion demanded it. In a memorandum written by him just one week before Bloody Sunday in his capacity as Chairman of the Military Information Working Party (**G70c.441.6**), he expressed reservations about "black activities" in Northern Ireland but apparently only on the basis that it was difficult to keep secrets for long in Northern Ireland. He did not consider that this excluded "isolated exercises for specific purposes" where authorised by the Military Information Policy Committee, the committee which may have been the cover name for the Psyops Committee. (**G70c.441.9**). Although it is clear from this memorandum (at paragraph 29) that the MIPC did meet, we have no minutes of any such meetings.

(v) With regard to the nature of the "enemy" against whom such black activities may have been regarded as legitimate, Col Tugwell made it clear in another note written by him on 9th November 1971 (**G26A.195.1**) that the individuals and organisations regarded by him as either "front organisations" for the IRA or republican sympathisers included the *Irish News*, NICRA, various relief and action committees in Catholic areas, the SDLP, vigilante or street committees, University Groups and teachers, the Association of Irish Priests and a number of other named priests. (Paragraph 7)

(vi) In the same document (at paragraph 8) Col Tugwell, without a trace of irony, comments that "the indigenous Irish, once convinced that their cause is just, possess a breathtaking ability to lie with absolute conviction, not just in support of something they believe to be true, but to put across a story they know very well is untrue".

(vii) Another reflection of his attitude towards Irish civilians is his comment at paragraph 13b of the same document that internment was a "humane alternative to relying entirely on shooting it out". (**G26A.195.6**)

(viii) The importance attached by Col Tugwell to the truth is reflected in his own conduct on Bloody Sunday. He said in his statement that he was

"anxious to get to HQNI to find out what had happened" (**B1333.4 paragraphs 23 to 24**) but the first press statement issued by the Army was drafted by Col Tugwell before he even left Derry. In other words, he was responsible for disseminating the Army's first official account of what had happened in Derry before he himself had found out what had happened. It seems clear that long before he returned to HQNI he knew that the Paras had killed innocent civilians and that, in his own terms, the Army faced a public relations disaster, which is why he and others in his vehicle were "sombre and quiet on the way back to HQNI" (**B1333.4 paragraph 23**). Despite this, he drafted a press statement and gave an interview to the BBC which conveyed the impression that the Army had behaved perfectly properly and had fired only when justified in doing so. During the course of this interview, he also claimed that four of those shot were on the Army's Wanted List. He claimed that this was an error but it is, in our submission, much more likely that this was a deliberate ploy designed to promote the belief that the Army had in fact been engaged in a gun battle with the IRA.

4.2.16 **INQ1873**

(i) In his statement (**C1873.1 paragraphs 3 to 4**), Lt Col. INQ1873 denies being involved in Psyops in Northern Ireland because this would have been contrary to the principle that Psychological Operations may not be conducted "against one's own people". The evidence that this is untrue is overwhelming. When asked whether he now accepted that when he denied involvement in psyops in Northern Ireland he was being economical with the truth, he replied: "I think unintentionally, sir" (**Day 242/52/21**).

(ii) In any event, it is clear from the documented remarks of some senior Army officers and civil servants that many in the Army and British Government did not in fact regard the people of Northern Ireland, especially the Nationalists, as their "own people." Like Col. Tugwell, it

is notable that some of INQ1873's comments in his diary have an anti-Irish racist tinge and tend to suggest that, far from regarding the people of N. Ireland as his "own", he would have regarded large sections of the community as "the enemy", and certainly would have done so for the purposes of psyops. He referred in his diary to the "mendacious Irish" (**C1873.21**) and to "the Irish at their worst, violent cold-blooded killers" (**C1873.23.1**)

(iii) As appears from the documents referred to above, INQ1873 had been the head of Psyops at the Joint Warfare Establishment, Old Sarum; he prepared a report on ways in which military psychological activities might be employed in Northern Ireland; he was himself appointed as the Psyops staff officer in Northern Ireland; he was a member of the Psyops Committee; and he was primarily responsible for Psyops activities in Northern Ireland at the material time, although he was anxious to point out that he was responsible for it "under the direction of the Commander for Land Forces", i.e. General Ford. (**Day 242/52/24 to Day 242/55/6**)

(iv) Mr Mooney says that INQ1873 did carry out psyops in Northern Ireland at the material time (**KM6.14 paragraph 25**) and Mr Wallace also confirmed this (**Day 238/22/12 to Day 238/22/15** and **Day 238/151/12 to Day 238/152/15**).

(v) In paragraph 3 of the Information Policy Review to the end of March 1972 (**G130.858 paragraph 4**) written by INQ1873, he wrote:

> "When intelligence indicated that the IRA planned to use the march as cover for their gunmen, consideration was given to various pre-emptive and protective measures in the propaganda field".

In his oral testimony, INQ1873 admitted that he did not have any intelligence before the march that the IRA planned to use the march as cover for their gunmen and when asked by the Chairman why then he came to write this a month or so later he said:"I cannot explain that. It is a mistake on my part, I think" (**Day 242/23/17 to Day 242/23/25**)

(vi) Referring to INQ1873's description of the "pre-emptive and protective measures" taken by Information Policy on Bloody Sunday in his Review, Col Tugwell said that these were "wise-after-the-event items". (**B1333.067**) In other words, they were made up. Mr Mooney referred to some of these measures as "sheer invention" and certainly not taken in the light of any intelligence. (**Day 239/121/3 to Day 239/121/18**)

(vii) In his own personal diary for 30th January (**C1873.16**), he had also written that "undoubtedly there was an IRA plan for the hooligans to promote trouble" but he also had to admit that he did not know of any such plan (**Day 242/42/10 to Day 242/42/13**).

(viii) INQ1873 agreed that a meeting did take place in July 1971 to consider the document (**KM6.108.1**) recommending the establishment of a psyops committee (**Day 242/56/4 to Day 242/56/6**). He said there were no minutes of the meeting but could not explain why not. He began to explain that "it was merely an approval of the .. ..." but then he changed tack and suggested that it was merely for distributing the document for consultation. In our submission he was about to explain that the meeting was called simply to rubber stamp the document before realising that he had previously suggested that the committee "did not go any further" (**Day 242/55/24 to Day 242/56/13**). His subsequent attempts to explain why recommendations that had apparently been generated initially by the GOC and Commander of Land Forces had not been approved and minuted were not convincing. When asked who disagreed with the establishment of the Psyops Committee he said that he did not think that there was any disagreement. When asked why then it had not been set up he said it was not necessary. When asked who decided that, he said it just came about. (**Day 242/56/14 to Day 242/58/19**)

(ix) Having claimed that he had no further role in Psyops after July 1971, he was unable to explain why it appeared from a series of documents which came into being after that date that he was still being referred to as the officer involved in Psyops in Northern Ireland. For example, in a note

from Mr Henn, DS10 dated 30th November 1971 (**KM6.9.9** and **KM6.102**) he is referred to as being concerned with psychological operations. In his diary for 4th January 1972 (**C1873.11.4**), there is reference to INQ1873 having a discussion with someone from Old Sarum (**C1873.21.1**) and to him meeting the Psyops staff.

(x) INQ1873 also claimed to have no recollection of doing anything specifically in connection with Bloody Sunday to counteract what he would have regarded as enemy propaganda about Bloody Sunday, namely allegations that innocent civilians had been murdered by the Army, even though it was his task to counter such "propaganda" (**Day 242/71/24 to Day 242/73/14**)

(xi) In the light of this evidence, it is difficult to regard INQ1873's denials of involvement in Psyops as anything other than pure lies. His denials of involvement in psyops concerning the dissemination of official information after Bloody Sunday are equally unreliable. Insofar as psyops were necessary to protect the image of the Army in Northern Ireland, the Army could hardly have been in greater need of such activities as they were following Bloody Sunday. Despite this, INQ1873 persisted in claiming that not only did he take no part in matters concerning Bloody Sunday but he did not engage in psyops of any kind during this period.

4.2.17 **Hugh Mooney**

(i) Mr Mooney described himself as a journalist by profession and joined the Information Research Department of the Foreign and Commonwealth Office as a "Specialist Writer". (**KM6.1 paragraph 2**) He was seconded to HQNI in or about July 1971. He was there under "deep cover" as the Information Advisor to the GOC (**KM6.62**). He claims that he did not carry out any psyops in Northern Ireland and that IRD activity in Northern Ireland was not sinister. If this is true, it is

difficult to understand why Mr Clifford Hill, then Deputy Head of the FCO's Guidance and Information Policy Department, told the FCO's Personnel Department to put a note on the file of anyone serving in Northern Ireland that *"anything done there should not be held against them"* (**KM6.11 paragraph 16c**), or why the Chief of Army Public Relations wanted to be disassociated from him. (**KM6.75**).

(ii) He said his role was to "eliminate extremists" (**KM6.118**), a characterisation which he now claims is inaccurate and misleading even though he did seem to take credit in the same document (**KM6.118**) for participation in the fabrication of a dummy Army order which was designed to kill persons handling certain types of explosives. In another of his reports, he was keen to point out that he had not neglected the "darker side" of his work (**KM6.113**).

(iii) He now claims that his only function in respect of Psyops was to keep an eye on what was going on and to report to the UK Rep (**KM6.24 at paragraph 54**). However, this is difficult to reconcile with the documentary evidence that

- He attended a Psyops course in February 1971 (**KM6.14 at paragraph 23**)
- His immediate job on appointment to Northern Ireland was to *advise the Army* on psyops(**KM6.67 at paragraph 2**)
- There was concern that his work would duplicate that of the Psyops Officer already in Northern Ireland (**KM6.68 2**)
- He was a member of the Psyops Staff and a member of the Psyops Committee (**KM6.108**)
- He claims that he didn't attend any Psyops meetings and cannot recall any such meetings (**KM6.28 paragraph 59 (2) (e)**) but he claimed in a contemporaneous report that he did attend Psyops meetings (**KM6.118**). In a report at **KM6.111**, he refers to a "psyops working party of which I am a member".

(iv) He says that Psyops ceased in September 1971 with the formation of Information Policy (**KM6.28 and 29**), but

- This was just a few weeks after the Psyops Committee was established (21st July 1971)
- INQ1873 continued to be styled as GSO1 (Liaison) as per the "Terms of Reference" proposed in the new scheme (**KM6.109**)
- Col. Tugwell was responsible, as the Head of Information Policy, for co-ordinating the activities of GSO1 (Liaison) "in the latter's concern with psychological operations" (**KM6.102**).
- His above-mentioned report to the effect that he was "attending psyops meetings" (**KM6.118**) was written after he had been in post for more than three months and there was no hint in that report that the Psyops Committee had ceased to exist or was about to cease to exist.
- He continued to share an office with INQ1873 after September 1971.
- Mr Wallace says that Information Policy was involved in Psyops in January 1972. [**KW2.14 paragraph 73**]
- The Military Information Policy Committee (possibly the cover name for the Psyops Committee) was certainly still meeting in January 1972.

(v) Mr Mooney claims that his dealings with Intelligence were only at a social level and he did not receive Army Intelligence Reports (**KM6.25 paragraph 57**) but

- His *role* was to liaise with the Director of Intelligence (**KM6.73**) and
- He wanted to have his own office to have access to "*more*" raw intelligence. (**KM6.120**)

(vi) He says that Bloody Sunday was the "biggest PR event for the British Army" (**KM6.40 paragraph 92**) but he claims that the PR Branch did very little in response to it (**KM6.39 paragraph 91**); Psyops did nothing because it did not exist at the time; he did very little as Information Advisor to the GOC and was not called upon to brief anyone before or after because he was careful not to tread on PR's toes

(**KM6.35 paragraph 75**); and there is no evidence that Clifford Hill did anything. Mr Mooney could not explain why the various individuals in PR at the time did so little to present the Army's case effectively in the immediate aftermath of Bloody Sunday. It is submitted that the truth is that those involved in Psyops, such as Mr Mooney, were in fact heavily involved in damage-limitation psyops exercises but are not prepared to disclose what they did.

(vii) In his first statement, Mr Mooney made no reference to writing the "Hindsight on Insight" article and gave the impression that he paid only one visit to the Widgery Tribunal just to see what was going on but had no other role (**KM6.2 paragraph 13**). However, it is submitted that in order to acquire the understanding of the detail apparent in that article, he would either have had to do considerable research into the matter or he was in fact already best placed to write the article because of his covert involvement in related psyops.

4.2.18 Mr Mooney claimed that the chart prepared by Madden and Finucane at **KM6.79** was inaccurate, mainly because it shows him as part of the Information Policy unit. When asked specifically whether he was under the operational responsibility of the Information Policy section, he said "not at all" (**Day 240/32/10**). However, his own Head of Department at the IRD said that Mooney was under the operational control of the Information Policy Unit (**KB4.3 paragraph 7**). Mr Mooney cannot in our submission be regarded as a reliable witnesses.

Conclusion

4.2.19. We are satisfied that we have not been provided with all relevant documentation and information concerning the Psyops witnesses and the issues with which they are or may be connected. The only expert evidence and/or guidance received by the Tribunal and the Families' representatives

concerning Intelligence and Information Policy / Public Relations has been that provided by the Ministry of Defence, which we do not regard as either impartial or reliable. We have therefore been deprived of the material required fully to appreciate the role of these witnesses in all relevant matters.

4.2.20. It is therefore difficult to know the extent to which they were involved in preparing the public and the Press for violence on Bloody Sunday, seeking in advance to attribute to the organisers of the march responsibility for the violence, and, after the event, concealing the truth of what the Army had done. This may have taken the form of, *inter alia*, disseminating false information (e.g. that those shot had been gunmen and bombers, that 4 of the deceased were on the "wanted" list, that the events confirmed intelligence reports that the IRA had planned to use the march as cover for an attack on the Army), suppressing evidence (e.g. the army photographs), fabricating evidence (e.g. Col Tugwell's own claim to hear automatic fire) and impugning the integrity of those local eye-witnesses and others (such as the Sunday Times Insight Team) who sought to reveal the truth about Bloody Sunday. However, the Tribunal should, at least, be satisfied that the documentation it has received about these matters is incomplete. Moreover, all the information and documentation that has emanated from Government and Army agencies must be treated with caution and cannot safely be taken at face value.

4.3 Missing Army and Police Photographs and Cine Film

Introduction and Summary of Submissions

4.3.1 The failure by the Army and the Royal Ulster Constabulary to produce photographs and cine films taken by soldiers and police officers on Bloody Sunday is a matter of grave concern. The evidential value of photographs and films of material events cannot be overstated. We know that at least 10 Army photographers between them took well over 1000 photographs of the march and its aftermath. Yet not one of these photographs has been produced to the

Inquiry and it has now emerged that they may even have been concealed from the Widgery Tribunal. Nor has the Ministry of Defence been able to explain when, where, why, by whom and in what circumstances these photographs came to be destroyed or lost. Apart from a passing reference in Col. Overbury's Report, there is not a single record of their development, contents, movement, custody or disposal. All we know about them is that these photographs undermined the Army case, because they did not show any civilian gunmen or bombers or anything else to justify Army shooting. What we do not know is the *extent* to which they undermined the Army case and implicated individual soldiers.

4.3.2. The Army also had a photographer in an Army helicopter taking cine film. The Ministry of Defence failed to furnish the Tribunal with the original cine film taken from the helicopter. All the Tribunal received was a "copy", lasting 3 minutes 43 seconds and in which the relevant passage of film stops abruptly almost immediately after the first two APC's came to a halt near Rossville Flats.

4.3.3 Our submissions on this issue are as follows:

(i) These photographs undermined the Army's case that soldiers were shot at and had nail bombs thrown at them. Lt Col Overbury made this clear in his report when he said that "a single photograph of a gunman or nail-bomber would have gone a long way to proving the case of the Army". With 10 Army photographers in a forward position -normal Army practice, according to General Ford (**WT 10/30**) - in order to obtain maximum photographic coverage, it would be remarkable if none of the "well over 1,000 copies of photographs" taken by them provided a clear picture of the true scene encountered by soldiers as they moved into the Bogside and began firing, not to mention the real possibility that soldiers may have been caught on camera in the act of shooting civilians.

(ii) The photographs were copied and retained in a variety of locations.

(iii) Records of the photographs were kept. There should still be records indicating their contents, existence, movements, whereabouts and/or disposal.

(iii) The MOD's failure to produce either the photographs themselves or records indicating what happened to them gives rise to the inference that they have been deliberately destroyed and/or concealed either by the Army or the MOD in order to suppress damaging evidence about the Army's conduct on Bloody Sunday.

(iv) The copy cine film made available to the Tribunal is an incomplete, edited copy of the original, which was destroyed and / or concealed in order to suppress damaging evidence about the Army's conduct on Bloody Sunday.

The Operation Order and its Implementation

4.3.4. The Operation Order for Photographic Coverage specified that 10 photographers (deployed initially at positions along the containment line) and one cine camera team (deployed in a helicopter) would execute the "mission" of providing "max photo coverage of the NICRA march and all associated incidents on 30 Jan 72" (**G99A.600.1**);

4.3.5. The 10 soldiers were drawn from 22 LADR (2), 1 Coldstream Guards (2), 1 Royal Anglian(1), 2 Royal Green Jackets(2), 1 King's Own Border(1), 3 Royal Regiment of Fusiliers(1) and 1 Para(1):**G99A.600.1 paragraph 1**) The two photographers from 2RGJ and the one photographer from 1 Para were attached to 22LADR, giving them 5 photographers in all, deployed initially at five different locations, viz. OP Echo (Embassy Building), the Corner Boot Store/Waterloo Street, the junction of Great James Street/Little James Street, the City Wall (Shipquay Gate) and the entrance to Victoria RUC station. The photographer from the Fusiliers was attached to the Coldstream Guards, making a total of three photographers, who were deployed at Blighs Lane and St Eugene's Cathedral (2). The photographer from 1KOB was attached to 1

Royal Anglian, making two photographers, who were deployed at Brandywell and Craigavon Bridge. (**G99A600.1 paragraphs 4 to 6**).

4.3.6. Although the photographers were deployed initially at the stated locations, they were required to "move posn as necessary to achieve the aim". (**G99A600.1 paragraph 3**) In this connection, General Ford said during the Widgery Tribunal proceedings that it was normal Army practice for photographers to occupy forward positions (**Widgery Transcript 10/30**).

4.3.7. The films were to be collected from time to time by the Intelligence section of HQ 8 Infantry Brigade and processing was to be carried out at HQ 8 Infantry Brigade at HQNI under the instructions of GSO3 Intelligence and Security (Captain INQ1803) (**G99A600.2 paragraph 11**). INQ 1803 (who was also given the cipher INQ1504) signed the order and was also to be responsible for the co-ordination of the plan (**G99A600.3 paragraph 15**).

4.3.8. Two Sioux helicopters were made available, one to carry the cine photographer during the event and the other to carry film from Brigade Headquarters to HQNI. It was anticipated that there would be at least two deliveries of films, with one helicopter departing for HQNI at 15.30 hrs and the other at 17.15 hrs with "the balance of films" (N.B. plural) (**G99A600.2 paragraph 9).** The films were to be subsequently available to units for "INT and PR purposes". (**G99A600.3 paragraph 13).**

4.3.9. There are statements from 6 soldiers who were apparently designated to take still photographs of the events on the day as well as from 1 soldier who took cine film from a helicopter, 2 RMP soldiers who took photographs at the mortuary, a war artist who took photographs for the purposes of a painting and a press officer who also took some photographs. Photographers were generally members of Intelligence sections and the officer in charge of coordinating the plan was the Brigade Intelligence Officer (GSO 3 Int and Sy, viz INQ1803). The connection between photographs and Intelligence is important, for reasons connected to the maintenance of files and records, discussed further below.

4.3.10 It is difficult to relate these statements to the Op Order in that the positions photographers say they took up do not seem to correspond exactly with those allocated to the photographers in the Order, which may mean either that the photographers did not comply with the Order or that there were other photographers who did but from whom statements have not yet been taken.. The positions adopted by the photographers who have given statements appear to have been as follows:

(i) Barrier 12: INQ 836 (22 LADR) and INQ 863 (22 LADR)
(ii) Barrier 14: INQ 850 (RGJ, War Artist) and INQ 1231 (2 RGJ)
(iii) Craigavon Bridge: INQ 1199 (1 RA) until moved to City Walls
(iv) City Walls: INQ 1199 (1RA) after Craigavon Bridge
(v) Presbyterian Church: INQ 1970 (1 PARA) (until he left to follow the Intelligence Officer)

4.3.11 The most relevant initial deployment locations appear to have been those under the control of 22 LADR. According to INQ863 of 22LADR, UNK48 was taking photographs at OP Echo. As his cipher indicates, we have no statement from this photographer. There is no statement from the RGJ photographer who was assigned to the Corner Boot Store/Waterloo Street, although this may have been the task performed by INQ1231 who says he was positioned at Barrier 14. Two (not 1) photographers from LADR were deployed at the junction of Great James Street/Little James Street (Barrier 12), viz INQ836 and INQ863. There is no statement from an RGJ photographer to the effect that he was at the City Wall (Shipquay Street) although Corporal INQ1199 of the Royal Anglians made his way to the City Walls and Craigavon Bridge. The 1 Para photographer (INQ1970) was not deployed at the entrance to the Victoria RUC station but at the Presbyterian Church before he moved to a barrier.

4.3.12 If photographers from different units were deployed in accordance with the Operational Order, there were at least three, possibly four, other photographers from whom statements do not appear to have been taken, viz the second photographer from 1 Coldstream Guards and the photographers from 1 Kings Own Border and 3 Royal Regiment of Fusiliers.

4.3.13 There is no reason to believe that the Operation Order was not carried out in full; the evidence, for example, of Captain 028 (**WT 17/59**), Lieutenant 119 (**WT 14/18**) and INQ 863 confirms that Army photographers, both in uniform and in civilian clothes, did take photographs and were present at material times and locations. Soldiers with cameras are seen in some of the still photographs and some are seen in the actuality footage, for example as follows:

Video 1 (CDRom):

V1/02.04/11.41	- Soldier with camera over his left shoulder
V1/03.05 / 11.41	- Para (INQ1970?) wearing a beret with a camera over his left shoulder.
V1/03.17 / 11.41	- Soldier on knee, perhaps the same as number 1 taking photographs with other cameras slung over his shoulder.
V1/04.06 / 11.41	- Soldier with a camera in his left hand as he moves through the barrier (this is not entirely clear)

Video 3 (CDRom):

V3/3.52 / 09.25	- Soldier referred to by Alan Finnis at **AF 17.1 paragraph 4** as having been handed a camera as he stood on the roof of a Landrover which moved in the direction of William Street on the west side of Waterloo Place.

4.3.14 There is little doubt that there were a number of photographers well placed to take photographs of material events. In addition to the photographers responsible for taking still photographs (discussed below), **INQ754**, a Bombardier in 42 Battery 22 LADR, was allocated the job of looking after two Army cameramen who were going to take a cine film of part of the march. (**C754.1 paragraph 6**). He believes that they were positioned on about the third floor of a large derelict building on the south side of William

Street (**C754.1 paragraph 7**). The camera crew set up the cine camera in one of the windows (**C754.2 paragraph 8**). He says that the camera crew were filming through the window after he had heard a number of shots fired (**C754.2 paragraph 14**). Neither of these cameramen made a statement to the RMP at the time or to the Widgery Inquiry or to the present Inquiry. Neither the contents nor the existence of the cine film have been disclosed or referred to in any documentation provided to us. However, these cameramen would appear to have been in a position to take cine film which would have been of considerable use to this Inquiry if it had been disclosed.

4.3.15 INQ622 says that he was one of four soldiers who each accompanied a photographer on Bloody Sunday. It was not clear how many, if any, are among the six who have made statements. However, INQ622 was with his photographer at or near the junction of Rossville Street/William Street when he saw paras debus in the waste ground and take up firing positions. (**C622.4 paragraphs 25 to 26**) He assumed that the photographer been taking photographs. (**C622.4 paragraphs 27 to 28** and **Day 310/94/11 to Day 310/94/16**)

4.3.16. Captain 21 of 22 LADR was directing a photographer (UNK48) on top of the Embassy Ballroom (OP Echo) at a time when he saw paratroopers shooting at the Rubble Barricade and claims to have seen automatic fire coming from the rubble barricade. (**B1501 to B1503**). During his oral testimony, he said that if he had seen anything indicating the presence of civilian gunmen or bombers or anything of that kind presenting any kind of threat to soldiers he would have directed the photographer to take photographs of it. (**Day 317/109/17 to Day 317/110/3**). If there had been gunmen in the open in the Rossville Flats area he was in a good position to see them but he did not and saw nothing to justify the firing by soldiers on any civilian in that area. (**Day 317/110/4 to Day 317/111/22**). The photographer was in the same position.

4.3.17. Capt 028 of the Royal Artillery briefed photographers and visited various locations. He had a camera himself and took some photographs. He was in Rossville St and claims to have seen civilians firing from behind the rubble barricade but produced none of his photographs at the Widgery Tribunal when he gave evidence and he no longer has them. (**B1577.3**)

4.3.18. In view of this, the most striking feature about the evidence of those Army photographers who have made statements is that none of them recollects photographing anything significant. The following is a summary of their evidence in note form:

(i) INQ 81: Member of 1 Coldstream Guards. Stayed at one barrier all day. Handed over films to one of the Intelligence officers of the Coldstream Guards. Royal Ordnance Corps had a dark room at Ebrington. Did not see the prints. Doesn't remember what barrier he was at.

(ii) INQ 836: Warrant Officer, 22 LADR. Intelligence and Operations Room staff. Unit consisted of 3 men plus photographer. He was photographer that day. Went to Barrier 12. Doesn't remember photographing anything very interesting. Stayed at barrier. Any photographs he took would have been kept on file and handed over to the Regiment that took over from his.

(iii) INQ 863: 22 LADR. Battalion photographer. There were 2 or 3 other photographers in his team, each assigned different positions. Was at barrier 12. UNK48 stationed on the Embassy Ballroom. He has seen a photograph taken by UNK48 from the Embassy Ballroom which shows gas coming from the direction of the Army from behind Barrier 12. Some time after Bloody Sunday he saw photographs taken by UNK48 from Embassy Ballroom of civilians lined up at Kells Walk. He took three films at Barrier 12 but never saw them. He handed them over to an officer from the Brigade. Seven or eight films were taken by other photographers. UNK48 kept one of his films.

(iv) INQ 850: War artist. He was a Company Commander in the RGJ. He had a small Instamatic camera to take photographs for painting. Probably not one of the designated photographers. He has identified himself on BBC news footage. He took photographs only at Barrier 14.

He was beside Col Wilford at Barrier 14 when he (Wilford) radioed that he was "under fire".

(v) INQ 1199: Corporal in 1 RA (Royal Anglians). PR/Military Intelligence photographer, reported to PRO (UNK14 and Intelligence Officer INQ 8) It was up to INQ 8 to decide where he would be deployed. He took a position on Craigavon Bridge. Later moved to city walls, when there was still plenty of day light for photography. Saw injured people but no soldiers. May have taken photographs but saw nothing out of the ordinary. Usually handed photographs in. No knowledge of where they are now.

(vi) INQ1231: Lance Corporal, 2 RGJ. Photographer with Intelligence Section, Battalion HQ. Each battalion had its own photographer. He took photographs in order to obtain intelligence and build up a portfolio of persistent rioters. He was positioned at Barrier 14, took photographs with telephoto and standard lenses. Moved through Barrier 14 some time after Paras went in. Took photographs of arrest operation around 5.00 pm. 10 rolls of film, over 300 photographs. All sent to the Widgery Inquiry. Also prepared intelligence files for the day including information and photographs, and presented it to Intelligence Officer. Completing this kind of file was standard procedure.

(vii) INQ 1970:. 1 Para Intelligence Section (part of TAC HQ). He was the Batallion Photographer after the Intelligence Sergeant Major. Trained in *Belfast Telegraph* for 2 weeks, trained in covert photographs in HQ Northern Ireland. Generally had responsibility to take arrest photographs. N.B. A Battalion scrap book used to be kept and Intelligence Sergeant kept it up to date with photos. INQ1609 was also was in Intelligence section and became standby photographer. INQ 2139 was also in the Intelligence section. He (INQ 1970) has a photograph of the Intelligence section which he did not produce to Eversheds. All the negatives were filed. He started a filing system in Palace Barracks in the Intelligence section. He kept book of photographs, maybe as many as five copies each. (This is a reference to his general practice rather than to Bloody Sunday photographs in particular.) He was in Derry for Bloody Sunday. He was deployed initially with A Company near the Presbyterian Church. He gave one of his two cameras to them. He then left to get better photographs of the

rioters at a barrier. He followed the Intelligence Officer and took photographs. He was not shown the 8 Brigade briefing order for photographs. He took 2 x 36 rolls. He gave them to the Intelligence Officer and they were taken to HQ Northern Ireland for processing. The negatives and prints were all given back to his section after the Widgery Inquiry. He put them into a filing system. INQ1609 was also there and might have taken photographs. In 1974 there was a photographic display about Northern Ireland in the Parachute Regiment Intelligence section at Aldershot. Some of those on display were taken by him on Bloody Sunday. All the books and files stayed in Northern Ireland when the Battalion returned to England. He seems to have been close to Lt N when he was firing at the corner of Eden Place

(viii) Soldier 222: Company Quartermaster Sergeant in RMP. Went to Altnagelvin to photograph civilians who had been killed. He did this in the mortuary. He said it was necessary to remove clothing to do this. He took Polaroid instant colour prints. He does not know what has become of the photographs.

(ix) Soldier 223: Company Sergeant Major, Provost Company 1RMP. Went with Soldier 222 to photograph bodies at Altnagelvin. He says he did not touch the bodies. They took full-length photographs but also took photographs of entry and exit wounds where visible. A report was filed to go with the photographs. It was handed to Brigade HQ. The photographs in the EP series are not the ones he took.

4.3.19. In his report, Col. Overbury said that "well over 1000 copies of photographs were produced on demand for the use of the Tribunal and Counsel for the Army" (**CO1.7 paragraph 21**). In a letter from his solicitors to the Inquiry dated 15th June 2000 it was stated that "Mr Overbury would not disagree with the figure of 1000 ***different*** photographs which has been mentioned as the number handed over" (emphasis added). (**CO1.278**) The statements of the soldiers themselves suggest that hundreds of photographs were taken by them. In the same letter, it was stated that Mr Overbury saw many such photographs taken from the ground and also, he believes, from the air" (**CO1.277 to CO1.278**) although no soldier has admitted to taking still photographs from the air.

4.3.20 The cine film was taken by Sergeant INQ 2030, who was a Sergeant in the Royal Army Ordnance Corps. He believes he was under the command of Tony Staughton (**Day 256/96/5 to Day 256/96/14**) but he reported to Colin Wallace, who was his immediate superior. (**C2030.1 paragraph 6**) He does not know whether he used a Bolex camera (battery-operated, zoom lens,500 ft spool) or a Bell and Howell (clockwork-operated, no zoom lens, 100 ft spool) but he believed it was a Bell and Howell. He believes he was on the left-hand side of a Scout helicopter, not a Sioux, as suggested in the Operation Order. He does not remember the name of the pilot and has only vague impressions of what he filmed. He says he learned over the intercom that shots had been fired and probably after that went from 500 ft to over 1000 ft. He was in the air for at least two and a half hours, possibly three and a half or more (**Day 256/129/17 to Day 256/130/9**). He probably landed either to refuel or to **replace film**. (**Day 256/131/4**) The film was couriered to the Ministry of Defence in London for development. He had to fill in a form and attach it to the package. That is the last he saw of the film. Whenever he took the film he would have entered it into a Job Book but he may not have done that with this particular film. The Job Book was normally sent to the Ministry of Defence once a year but it was sometimes lost. He says the cine film appears to be in three parts: 1. from 500 ft., 2.from 1000 ft (after he had heard that shots had been fired), 3. 1000 ft with the tele photo lens.

4.3.21 There are statements from Major INQ254 and INQ2088, the pilots in the Kangaw Flight with 3 Commando Brigade, Air Squadron. They piloted the two Sioux helicopters in the air on Bloody Sunday. According to INQ 2054, there was no camera in these helicopters. The cine film was probably taken from an Army Air Corps helicopter. (We do not appear to have a statement from this pilot.) Captain INQ 2088 took the first flight from 13.45 until 16.15 and his passenger was Col Welsh. INQ2054's was from 16.15 -17.45 and his observer was Corporal UNK555. His call sign was 61 Delta. Captain INQ2088's was 61 Yankee. He doesn't remember what he saw. He refers to a letter from the Ministry of Defence to the OC Kangaw Flight dated 14th December 1972 requesting a copy of aerial photography for an official history of Northern Ireland because the photographs were "not held by HQNI or HQ8 Infantry Brigade" (**C2054.67**)

The Cover-up

4.3.22 As appears above, well over 1000 photographs taken by Army photographers were produced and, even before the events of the day, it was the intention to retain them for PR and intelligences purposes. The importance of retaining and cataloguing them became greater when the enormity of the events that had occurred became apparent and even more so when the establishment of the Widgery Inquiry was announced. As appears from the evidence of the photographers themselves, in particular INQ1231 (**C1231.3 paragraph 21**) and INQ1970, the 1 Para photographer, (**C1970.4 paragraph 17**) the photographs were often kept and filed in unit Intelligence sections, with possibly as many as five copies of each group of photographs. INQ1970 himself took 2 rolls of film x 36. The negatives and prints were returned to him after the Widgery Tribunal and he personally put them into the filing system. (**C1970.8 paragraph 33**) INQ1970 said that some of these photographs were part of a photographic display put on by the Parachute Regiment in Aldershot in 1974.

4.3.23 INQ2023 said that in 1973 or in 1974 he saw hundreds of Bloody Sunday Photographs in the Intelligence Section of 1 Para. (**C.2023.4 paragraph 21**)

4.3.24 Yet, although the Tribunal has made extensive efforts to obtain the Army photographs and cine film, their enquires have met with an almost completely negative response from the Ministry of Defence. The Ministry even failed to provide the name of the photographer who took the cine film and this was only obtained when Mr Scott made a personal visit to Army Headquarters in Northern Ireland (**KS1.1 paragraph 66**). In addition, when he began calling the specified organisations to arrange inspection visits he "encountered resistance" (letter of 27th July 1999 at **KH3.111 paragraph 4**).

4.3.25. We do not accept Mr Harding's explanations either for the disappearance of the photographs or for the complete absence of documentation relating thereto.

4.3.26. In his statement, Mr Harding makes the bland assertion that the photographs were probably destroyed after the Widgery Inquiry on the grounds that they were "of no further use" (**KH3.6 paragraph 14**) and that they were probably of poor quality given "the photographic techniques of the day and the lack of expertise of unit military photographers at the time". (**KH3.10 paragraph 26**). This is at odds with the evidence summarised above, that the Army photographers were specialist photographers drawn from Intelligence sections of their units. Soldiers are seen in photographs and in actuality footage (e.g. **V1/03.05**) carrying cameras with telescopic lenses. INQ1970, the 1 Para photographer, had extensive training with the *Belfast Telegraph* and had a Pentax PRI which he described as "excellent" (**C1970.1 paragraph 7**). As for the photographic techniques of the day, the photographs taken by press photographers and even amateur photographers such as Mr Tucker (**EP28**) give the lie to this suggestion.

4.3.27 As for the suggestion that they were probably destroyed on the grounds that they were of no use, the decision whether Army photographs would have been preserved and recorded depended, according to Mr Harding himself, on two factors, namely whether they were of some enduring historical value (**KH3.6 paragraph 13**) and whether they were of any continuing practical use. (**KH3.5 paragraph 11**) Photographs of Bloody Sunday should have qualified as being of enduring historical value. As for their continuing practical use, they were of immediate use for the purpose of the Widgery Inquiry and so should have been catalogued and filed for that reason alone, yet we have seen no such records. They were of medium term use in defending court claims. There are no references in photographs in the material dealing with claims (**Day 275/18/7 to Day 275/19/22**). They were of long term use for intelligence, PR and Operational purposes and indeed may have been entered in classified document registers but they have not been found in such files either. They were certainly more important than arrest photographs once the

prosecutions were dropped but the arrest photographs were retained, for reasons that Mr Harding was unable to explain. (**Day 275/29/17 to Day 275/30/4**).

4.3.28 Quite apart from the obvious flaws in the propositions on which Mr Harding relies, it is simply inconceivable that "well over 1,000 copies of photographs" and original cine film could disappear without trace when (a) they related to one of the most controversial events in modern British political and military history, (b) there had recently been a major public inquiry under the 1921 Act in relation to this event, at which all the photographs had been deliberately concealed from the families, and (c) they were in the possession of Government agencies which as a matter of routine operated bureaucratic systems in order to keep track of just this kind of material.

4.3.29 Whilst acknowledging the time and effort Mr Harding has clearly devoted to the task of searching for photographs, neither the method nor the attitude adopted by him was in our submission appropriate to achieve the task. He was over-eager to offer instant explanations for both the disappearance of the photographs and the absence of records. Apart from the suggestion that photographs may have been of no use and that they were probably of poor quality in any event, he carried out searches in a manner that assumed integrity on the part of the Army branch to which his inquiries were directed. He did not carry out any personal checks on the records of the officers responsible for the collection of photographs or any of the Intelligence sections or of the Assistant Provost Marshall since the normal method of searching is to ask the unit itself to do the search. (**Day 275/33/10 to Day 275/33/18**) This was the approach adopted even in the case of the Parachute Regiment. Interestingly, the 3rd Battalion of the Parachute Regiment keeps its photographic history in its Intelligence cell (**KH3.364**), which is consistent with photographers being drawn from the Intelligence sections and with the photographs themselves being recorded in Intelligence files. When asked if

he would expect 1 Para to follow the same practice, he agreed that certainly that was the practice in 1972. (**Day 275/38/12 to Day 275/38/14**) Mr Harding did not in fact receive a reply from 1 Para itself in response to his queries but from Regimental HQ on behalf of the Parachute Regiment (**Day 275/38/15 to Day 275/38/19**). The letter of 4th September 2002 from the Regimental HQ said that 1 Para holds "no photographic or film records" (**KH3.376 paragraph 2(a)**. It was further explained that 1 Para's scrapbooks were passed to the Regimental museum in 1998. This did not strike Mr Harding as suspicious (**Day 275/38/20 to Day 275/40/13**) even though this was the year the Inquiry was set up. It did not occur to him that, if there had been any photographs left in 1 Para's possession, the incriminating photographs might have been moved in 1998 and only the residue sent to the Regimental museum. (**Day 275/40/14 to Day 275/40/18**)

4.3.30 When it was suggested that this was because he had never entertained the possibility that the Army could suppress incriminating material he said: "That is correct. I do not believe the Army has suppressed material from 1972". (**Day 275/40/22 to Day 275/4023**) When given the chance to reconsider and change this answer if did not reflect his real view, he did not take the opportunity to do so but simply said: "I am not prepared to speculate". (**Day 275/40/29 to Day 275/41/19**). As we know, there were 10 photographers from 7 different regiments. Yet the Tribunal's inquiries of all these regiments and their museums has led to a "nil return", apart from some irrelevant photographs found at the Parachute Regiment's museum. This displays either that, quite independently of each other, each of these 7 different regiments operates a very efficient system of destroying every last photograph in its possession about an event which must have been one of the most significant in its recent regimental history or that, alternatively and in our view more plausibly, there has been a **deliberate, concerted policy of withholding damaging material from the Inquiry.**

4.3.31. During the course of his testimony, Mr Harding said that the "audit trail goes cold in 1972" (**Day 275/16/17 to Day 275/17/8**). In fact, as Mr Harding conceded, **he did not find any audit trail at all.** (**Day 275/17/12 to Day 275/17/14**) There is no documentary material in any Government department or public agency indicating the whereabouts or fate of the photographs.

4.3.32 Indeed, Mr Harding claims to have drawn his conclusion that the photographs could not have been regarded as terribly important from the fact that, had the material been of value to ascertain the events of January 1972, he "would have expected to find them among the material archived by the Widgery Tribunal itself" (**Day 275/17/15 to Day 275/17/21**). This tends to suggest that **the Army photographs were not even produced to the Widgery Tribunal. Mr Smith**, Secretary to the Widgery Tribunal, was unable to say whether the photographs were provided to the Tribunal and could throw no light on the existence of the photographs (**Day 239/30/21 to Day 239/32/15**). David Dewick, the Assistant Secretary to the Tribunal, "cannot recall seeing photographs of any kind during the Inquiry." He suggested that as they would have been evidence to the Tribunal they would have gone to the Legal teams rather than have passed through the general office. He would also have expected the Legal team to keep logs of the photographs since it was certainly not his job to do that. (**KD5.5 paragraph 25**) To the best of his knowledge, he never saw any Army photographs. (**Day 270/30/23 to Day 270/31/1**

4.3.33. **Sir Basil Hall** was the Solicitor to the Tribunal and therefore head of one of the Legal teams referred to by Mr Dewick. When he was asked whether any of the Army photographs were made available to the Widgery Inquiry, his reply was "not that I know of" (**Day 250/74/23**).

4.3.34 Sir Basil says that Mr Huggins was "responsible for various administrative matters associated with the collation of evidence" and "looked after the filing and distribution of all papers received by the Inquiry". (**KH2.2 paragraph 6**).

Nor does Sir Basil recollect seeing the Operation Order about photographs. (Day 250/73/16 to Day 250/73/17). When asked why he did not make any inquiry of the soldiers as to what happened to the photographs produced on foot of the Operation Order, he said that if he had seen the Operation Order it would certainly have been his duty to try to obtain the photographs so he either failed in his duty or he did not see the Operation Order. (Day 250/76/22 to Day 250/77/19) In his statement, **David Huggins** agrees that he was mainly responsible for the handling and recording of documents although he did not see or handle all the documents before the Tribunal. (KH10.2 paragraph 3) So far as he can recollect, he did not see any photographs which may have been supplied by the Army. (KH10.2 paragraph 4) If the photographs were before the Tribunal, he would be surprised if there were no records of them somewhere. (KH10.2 paragraph 5)

4.3.35. Sir Basil Hall's deputy, **John Heritage**, cannot recall seeing any Army photographs other than the aerial photographs at EP21.1 to EP21.8. (KH6.15 paragraph 1). He does not recall seeing any Operation Order about photographs or anything about photographs (Day 251/98/7).

4.3.36 **Roger Munrow**, a Senior Legal Assistant who was a member of Sir Basil Hall's team, was mainly responsible for taking statements from journalists and priests (KM8.1 paragrpah 3). He too makes no reference to seeing Army photographs. **Michael Hirst** was the most junior legal member of the team. Although he saw photographs of scenes in Derry on Bloody Sunday he cannot remember whether they were press photographs. (KH7.2)

4.3.37. It appears that the surviving Counsel for the Army and for the Widgery Inquiry have not been asked about the photographs and film.

4.3.38. As Legal Advisor to the Army Team and the person who was effectively in charge of that team, **Lt Col Overbury** should also have been able to answer at

least some of the questions about the contents, distribution, cataloguing and whereabouts of the Army photographs and film. It was he who prepared the Army Tribunal Team's report of the Inquiry, which referred to the photographs having been produced and made the point "that the evidential effect of photographs in support of a case cannot be over emphasised". In this connection he said that

> "a single photograph of a gunman or nail bomber would have gone a long way to proving the case of the Army" (**CO1.67 paragraph 30**)

As pointed out above, he said that over 1000 copies of photographs were produced on demand for the use of the Tribunal and Counsel for the Army. (**CO1.66 paragraph 21**) Col Overbury's evidence about the photographs was extremely unsatisfactory. In a letter written on his behalf by his solicitors on 15th June 2000 (**CO1.277**), it was stated that Mr Overbury saw many Army photographs taken from the ground and also, he believes, from the air. He said he could not disagree with the figure of 1000 different Army photographs. In his Eversheds statement made in November 2002, he said that he saw a large number of the Army photographs (**CO1.51 paragraph 69**).

4.3.39 When he came to give evidence before the Tribunal on Day 243, he said he couldn't remember whether these were different photographs or 1000 copies of what may be a considerably lesser number of images. (**Day 243/68/19 to Day 243/69/13**) When asked whether there was a large number of Army photographs that did not reach the Tribunal and, if there were what they showed, he said he could not help the Tribunal at all on that. (**Day 243/70/21 to Day 243/70/25**). He said that he did not actually have the physical control or possession of documents or photographs, most of which were held by the DAPM (**Day 243/70/25 to Day 243/71/8**). When asked whether he did remember that he had seen Army photographs that were shot both from the ground and in the air, he said: "My recollection is that I did". (**Day**

243/170/14 to Day 243/170/19). He initially said that he did not think that he had seen photographs taken from the air on Bloody Sunday (Day 243/172/6 to Day 243/172/10) but then said he believed he did see such photographs although he couldn't recall what they showed (Day 243/172/25 to Day 243/173/10) When it was pointed out that he had said that the photographs did not show anything that helped the Army, he said that is what he was told and then suggested that, as far as he knew, he did not look at the photographs at all. Then he said that he did not know how many photographs he looked at (Day 243/175/20 to Day 243/176/8). He said that aspect of the case was the responsibility of the DAPM (Day 243/177/2 to Day 243/177/3) and we were told on Day 256/157/7 to Day 256/157/12 that this DAPM was INQ1898 (as opposed to INQ3). When asked if it could be the case that the Army did not provide the Army photographs to the Widgery Tribunal, he said he had no knowledge of that (Day 243/179/16 to Day 243/179/18). When asked by the Chairman who would actually have handed over things like statements or anything else to the Inquiry, he said that the DAPM, i.e. INQ1898, would have done that (Day 243/180/2 to Day 243/180/8), he told the Chairman that he was not able to help the Tribunal as to whether or not any of the Army photographs were actually sent to the Widgery Inquiry (Day 243/180/22 to Day 243/180/25) He said that it was possible that the Army photographs were never supplied to the Tribunal (Day 243/181/3 to Day 243/181/5).

4.3.40 Major **INQ1872**, who was Col Overbury's assistant, said he did not remember dealing with photographs at all. Certainly he had nothing to do with keeping track of them. He did not even remember seeing photographs taken by Army photographers. (Day 252/79/7 to Day 252/81/1)

4.3.41 In his statement **INQ1898**, the DAPM who, according to Col. Overbury, had responsibility for the photographs, says:

> "I would not have had control over any photographs and they would not have been handed to me for (sic) me for the simple

reason that I did not have an office or cupboard space in which they could be stored". (**C1898.5 paragraph 15**)

Whether or not this is regarded as a convincing explanation, this is another witness who is anxious to deny any responsibility for or knowledge of the photographs. Lt Col. Overbury having pointed the finger of responsibility at **INQ 1898**, he in turn then pointed the finger of responsibility at the Assistant Provost Marshall who, he said, "would have had overall responsibility for collecting the photographs as evidence." (**C1898.5 paragraph 13**). The Assistant Provost Marshall was Lt Col. (now Brigadier) **INQ1383.** He was head of the RMP in Northern Ireland. (**Day 304/144/16 to Day 304/144/17**). Needless to say, he too denied ever seeing any Army photographs of Bloody Sunday or having any idea what had happened to them (**Day 304/121/7 to Day 304/121/11).** When pressed about this, he insisted that he had "absolutely no idea that these photographs even existed" (**Day 304/183/13 to Day 304/183/17**). Therefore, as far as the two most senior officers responsible for the collection, preservation, and presentation of evidence are concerned, the Tribunal is expected to believe that even the very existence of the Army photographs has been erased from their memories. The upshot is that, with regard to their enquiry into the whereabouts of these photographs, the Tribunal has been completely "stonewalled" by the Army.

4.3.42 **Colin Wallace** did admit to seeing Army photographs. He would not make a guess at the number but there were certainly a lot and thought that the figure of well over 1000 different Army photographs was reasonable. (**Day 238/64/4**) He agreed that these photographs could not have been handled or processed in any way without there being a comprehensive cataloguing index system and that the Tribunal could be assured that there was such a system. (**Day 238/64/8 to Day 238/64/16**) He found it hard to believe that all the Army photographs had disappeared. He also believed that at the end of the

Widgery Tribunal all the material produced by the relevant groups was archived (**Day 238/66/1 to Day 238/66/4**)

4.3.43 In summary, therefore, apart from Mr Wallace, all those involved in the Widgery Tribunal, both in the Tribunal's team and the Army's team, have distanced themselves from the Army photographs. They claimed to have no memory of what they showed or what became of them. This is simply not credible. We note that the photographs were never made available to the families and the evidence would now suggest that they were not even made available to the Widgery Tribunal. Bearing in mind the sympathy which Lord Widgery exhibited towards the Army, this is one of the clearest pointers that the Army photographs must have not only failed to assist the Army's case but seriously damaged its case. Indeed, the mere fact that nothing could be found in well over 1000 different photographs taken by soldiers to assist the Army is itself seriously detrimental to the Army case. Clearly, there was nothing in any of that vast number of images that supported even the suspicion of conduct on the part of the civilians which would have warranted live shooting by the Army.

4.3.44 If the Tribunal had been provided with the Photo Coverage Order, it is likely that an enquiry would have been made about the photographs taken by soldiers in accordance with the Order. The fact that no such enquiry appears to have been made would suggest that the Army's team was so concerned about disclosing the existence of the photographs that it even concealed the existence of the Photo Coverage Order.

4.3.45 In other words, **suppression of the evidence concerning Army photographs began as soon as the Widgery Inquiry was announced**. Whether or not the photographs were indeed destroyed or have simply been concealed from this Tribunal, there can be little doubt that their contents, existence and whereabouts have been deliberately suppressed by or on behalf of the Army in

order to deprive anyone outside the Army of incontrovertible evidence of discreditable conduct on the part of the Army.

4.3.46 The Tribunal has sought expert evidence on the question whether the heli-tele cine film taken by INQ2030 was edited. Mr R J Butler examined the cine film from which the VHS recording (**Video No.3, HO219 / Item 46**) was made. He found the cine film to be a 16 mm positive print from a negative original. The cine positive is identical in content to the video. He found no indication on the positive print of a splice on the negative from which it was made. He is satisfied that the positive print is "complete and unedited and that the negative from which the 16 mm positive print was made was unedited". (**E5.5 paragraphs 20 to 22**) Mr Adrian Williams also examined the positive print. The printed edge numbers (from the negative onto the positive) were continuous through the length of the reel indicating, in his opinion, that the material had not been cut. In his opinion, the footage had not been edited. (**M99.2 at paragraphs 11 to 14**)

4.3.47 The Tribunal refused our request to instruct our own expert in film or video tape to enable us properly to evaluate and challenge this evidence. See our letter of 9th January 2002. As a result, we are at a marked disadvantage vis-a-vis the soldiers' representatives. It would appear that they do have the benefit of advice and guidance from a photographic expert. This is apparent from the nature of the questions forwarded by the Treasury Solicitor for Mr Butler's consideration. At question 8(b), the Treasury Solicitor asked what processes were applied to the image in question, "giving details of both the software functions applied (such as, for example, deblurring, contrast corrections etc.) and the effect of such operations upon the image". Not only are we unfamiliar with deblurring and contrast corrections but we have no idea what other processes would be incorporated by the term "etc." The Treasury Solicitor was also conscious of problems that could arise where images are taken from video tape since he asked whether account was taken of "image interlacing".

We doubt if this question was raised by a lay person. Basic fairness, not to mention the principle of equality of arms, required that if a photographic expert could be made available to the soldiers' representatives out of public funds then the same facility should have been made available to the families' representatives.

4.3.48 With regard to the instruction to Mr Butler to examine the cine film for "both contents and authenticity" (**E5.2 paragraph 2**), we have great difficulty accepting the validity of either Mr Butler's conclusions or those of Mr Williams

4.3.49 First, like the Peer Review Panel, we note that in paragraph 6 of his Report Mr Butler says that "all conclusions are based on examination of the original material using laboratory video and imaging equipment" but none of the material originally received by Mr Butler was truly "original". As he notes himself elsewhere, the cine film from which the VHS recording was made was itself no more than a positive print from a negative original.

4.3.50 Secondly, he makes no attempt to explain the extent to which or the manner in which it is possible to detect on a positive print the presence or absence of a splice on the negative from which it was made.

4.3.51 Thirdly, he says in **paragraph 19** of his original report that all but one of the apparent edits are consistent with being created within the cine-camera that recorded the original material without explaining how he comes to this conclusion.

4.3.52 Fourthly, neither Mr Butler nor Mr Williams made any attempt to relate the film to the statements of relevant witnesses. In fairness to both, some of this evidence may not have been available at the time they carried out their examinations but, for whatever reason, their reports do not take account of or attempt to explain this evidence.

4.3.53 In particular, as appears above, INQ2030 believed he used a Bell and Howell camera with a **100 ft. spool whereas the copy the Tribunal has is 135 ft long**. It also appears from the photo coverage order and from INQ2030's testimony that there were two or more different spools of film. Neither of the experts comments on whether the film was shot with a telephoto or zoom lens or had other features indicating whether it was shot with a Bolex camera (battery-operated, zoom lens, 500 ft spool) or a Bell and Howell camera (clockwork-operated, no zoom lens, 100 ft spool). Nor do the experts comment on the fact that the **copy film deposited with the Public Record Office was 200 ft.** (**KD5.25**), not 135 ft. INQ2030 himself believed that some of the film appeared to be missing. (**Day 256/134/9**). In this connection, Mr Colin Wallace (**KW2.19 paragraph 98**) raised the query whether the film follows a correct chronological sequence in that there are shots of what appears to be a relatively calm crowd at Free Derry Corner after the Army had been deployed in Rossville Flats car park. In fact, the crowd scene to which Mr Wallace seems to be referring appears on the film approximately 40 seconds after soldiers are seen to debus on the waste ground at Rossville Street and discharge at least two baton rounds. We also know from the evidence of Mr Robert White (combined with other evidence) that shots were probably fired by one or more members of the Anti-Tank Platoon in a southerly direction along Rossville Street (i.e. towards Free Derry Corner) possibly less than a minute after the two lead Army personnel carriers were photographed by him on Rossville Street (i.e. before they reached the waste ground).

4.3.54 According to Mr Wallace, the film should have been brought back directly to him personally but the orders were changed at some time during the afternoon and was sent direct to London. (**Day 238/75/24 to Day 238/75/25**). INQ2030 told Mr Wallace that he had been instructed to hand the film over. Such an order must have been given by someone more senior that a Colonel (**Day**

238/79/20 to Day 238/80/19). The decision to intercept the film was "highly irregular" (Day 238/81/7 to Day 238/81/14). Mr Wallace's expectation was that INQ2030 would have had several rolls of film of the events of Bloody Sunday and that his main task would have been to film the separation between the marchers and the rioters (Day 238/82/24 to Day 238/82/25). Each individual roll of film should have been 20 minutes long and the fact that the Tribunal only have one roll which is 3 minutes 33 seconds long was "very odd" (Day 238/83/12) Mr Wallace believed at the time that the film he saw was "obviously a cut version" (Day 23885/9) The Army did not have facilities to edit cine film in HQNI but he believed that the MOD could have done it quite easily in England. (Day 238/81/19 to Day 238/81/21)

4.3.55 In this connection, there is a minute written by Major General **INQ 2144** (the DPS) at KH3.37 which records: "some PR film had been taken from a helicopter ***at the height of the engagement*** and I was asked to bring it to the UK for ***security processing.*** I handed this over to PR5 at London Airport at 21.30 hrs. One copy is to go back to NI and one to ALS2 for Treasury Solicitor". (Emphasis added.) The Tribunal has not been told what "security processing" meant or why it was necessary for a Major General to take the cine film to England at all. As of 24th May 1972, it was believed that the original film was held by Mr David Dewick (KH3.51).

4.3.56 In all these circumstances, the reports of both Mr Butler and Mr Williams are incomplete and their conclusions unconvincing.

4.3.57 With regard to the RUC photographs and films, Sergeant Penny said that 3 RUC photographers were briefed (JP7.1) We have sets of still photographs from Constable Simpson (**EP5**) and Constable Brown (**EP4**) Sergeant Penny himself took 3 x100' rolls of cine film (Mr Scott's statement, KS 1.16 paragraph 70), none of which has been produced. As appears from the Inquiry's report of 22 April 2002 summarising its searches for photographs, the Inquiry's own staff searched the RUC's photographic archive without

success, apart from the negatives at P3/233.64-66. The RUC has said that no one can throw any light on the whereabouts of the cine film.

4.3.58 It is on the basis of this evidence that we say the submissions set out above are well founded.

4.4. Role of the MOD

Introduction and Summary of Submissions

4.4.1 As the Department of Government responsible for the Army, the MOD is the custodian of the vast bulk of material concerning Bloody Sunday. Recognising this, the Government established the Bloody Sunday Inquiry Unit. We readily acknowledge that their task was onerous and that many of their staff have clearly applied themselves to this task with commendable diligence.

4.4.2 However, as appears from our submissions in relation to the Information Policy Unit/Psyops and Missing Army Photographs, we are not satisfied that all relevant material has been disclosed. With regard to other categories of documentation, it is our submission that:

(i) in view of the evidence of the suppression of Army photographs, Psyops material and Intelligence material, it is likely that other relevant documentation has also been deliberately destroyed, concealed or otherwise withheld from the Inquiry; and

(ii) whether as a result of genuine oversight or of unsatisfactory search methods, the MOD has also failed to disclose all relevant documentation in their possession and failed to make disclosure of all relevant documentation in a timely manner or at all.

4.4.3 The first submission arises by inference from the submissions made in the sections concerning Missing Army Photographs, Information Policy/Psyops and Intelligence Agencies. The second submission is founded primarily on our experiences of receiving late disclosure of documentation, sometimes after relevant witnesses have been called.

Major Loden's Shot List

4.4.4 In his testimony to the Widgery Tribunal Major Loden said:

> " As soon as I got back to Clarence Avenue I personally interviewed all the soldiers who had fired (Support Company). I made them tell exactly where they were when they fired, what they fired at, and also they told me the grid references as far as they could on the map I had with me, of where their targets were". **(B2259D** and see also **B2283.8 paragraph 22)**

4.4.5 The list of "engagements," including grid references, is set out at **B2214** and his Diary of Operations appears at **B2211**. It was originally suggested that the Diary and List were typed up from Major Loden's notes. However, during the course of his testimony, the MOD produced a hand written list and a hand written draft statement signed by Major Loden but which was apparently in the hand writing of Captain Michael Jackson, the 1 Para Adjutant (**B2214.1 to 2214.5**). This was of major significance, throwing new light on the testimony of both Major Loden and Captain Jackson. The explanation given in a letter from Mr Jeremy Williams of the BSIU was that it had not been disclosed earlier as a result of a simple oversight. Whether or not this is correct, and we have no reason to doubt Mr Williams' good faith since it was he who brought it to the Tribunal's attention, this episode indicated that, at the very least, there was an alarming degree of sloppiness in the practices and procedures applied by the MOD when making available to the Tribunal material that was available to itself. Insofar as it reflects the MOD's assessment of relevance, it is alarming in the extreme that this would not have been regarded by the MOD as of obvious relevance.

4.4.6 This episode alone supports the submission that, even in the absence of bad faith, the MOD could not be trusted either to identify all the documentation in its possession that was relevant or to ensure that all the documentation identified as relevant was in fact provided to the Tribunal.

4.5 Intelligence Agencies

Introduction and summary of submissions

4.5.1 We use the term "Intelligence Agencies" in the broadest sense to include all those agencies apart from the MOD/Army that were and are concerned with the provision of Intelligence documentation concerning Bloody Sunday. The main agency in this regard is the Security Service (MI5), which comes under the aegis of the Home Secretary. However, it is common case that both the Secret Intelligence Service (MI6) and the Information Research Department of the Foreign and Commonwealth Office played a role in the affairs of Northern Ireland in 1972, so that they also have a responsibility to disclose relevant material in their possession.

4.5.2. Since 1998 the Tribunal has been requesting the Government to make full disclosure of all documentation relevant to Bloody Sunday. Some of these requests have been directed specifically at the Security Service and the Secret Intelligence Service. The Tribunal has been assured on more than one occasion that all relevant documentation has been supplied and when we have sought to challenge this we have been referred to the Government's assurances. For example, in a letter of 7th December 2000 from the Deputy Treasury Solicitor on behalf of the Security Service to Mr Tate, it was stated that "the files of all the Service's human sources on Irish Republican terrorism around that time [Bloody Sunday] have been searched and all material identified as relevant to the Inquiry (reporting from Infliction and Observer B) has either already been made available or is the subject of a Public Interest Immunity (PII) application" (**page 3**). It was also stated in the same letter that from the early 1970's until the early 1990's the Service's policy was not to destroy files on individuals of intelligence value, which were retained either on paper or on film.

4.5.3 The appearance of a substantial quantity of additional material since then, much of it as late as 2003, when the Inquiry had been in existence for nearly five years indicates, at the very least, a failure on the part of the Security Service to conduct an adequate search of its archives. The contents of some of the documentation provided, especially in respect of Observer C, suggests that (a) at least some of this documentation was deliberately withheld because it was damaging to the soldiers' case and (b) there must be further documentation which has still not been disclosed. The evidence of Martin Ingram points to the same conclusion.

Martin Ingram

4.5.4 Martin Ingram said that he had access to and saw "hundreds" of documents relating to Bloody Sunday (**KI2.40 paragraph 3**).

4.5.5 Relevant documents which Ingram saw (and in one case wrote) but which have not been made available to the Tribunal include:

(i) documents that give details of Martin McGuinness' movements indicating that he had been the subject of surveillance during the day of the march (statement dated 26th July 2002, **KI2.3 paragraph 8**);

(ii) documents recording intelligence received prior to the march from both Official and Provisional IRA agents that there was no intention to undertake military activity during the march (***ibid***);

(iii) documents indicating that there were no shots fired at the troops prior to the troops opening fire (*ibid*),

(iv) relevant MOD F102 and MOD F24 forms (***ibid***, **KI2.5 paragraph 11**);

(v) the written report on the Bloody Sunday material prepared by Ingram for an unnamed Major at 121 Intelligence Section, HQNI which Ingram expects still to be in existence (statement dated 17th March 2003, **KI2.40 paragraph 2**) and

(vi) the document recording the debriefing of Frank Hegarty, **KI2.40 paragraph 5**.

4.5.6. He says that "all original intelligence documents are relevant and in my experience are never destroyed" (**KI2.42 paragraph 12**). This material should therefore still be available.

Observer B

4.5.7 In March 2000, we were provided with a statement by Observer B to the effect that, among other things, he had witnessed the drilling of IRA Auxiliaries at Rossville Flats in the week leading up to Bloody Sunday. He contended that from his own observations and from speaking to other persons he formed the view that these Auxiliaries were practising an ambush on soldiers on Bloody Sunday. He claimed to have telephoned his handlers on 25, 26 and 27 January to give them this information. He claimed to have telephoned one of his handlers again on the day after Bloody Sunday with further information about how several men had been seen running from Rossville Flats after the shooting started and that they loaded two Thompson sub-machine guns, a rifle and a pistol into a car before driving off.

4.5.8 He claimed that some of his evidence was corroborated by contemporaneous documents attached to the statement. Six documents were attached to the statement, all referring in different ways to the movement and use of firearms by the IRA and/or civilians. In fact, only three of these documents had been referred to by Observer B in his statement, the origins of the others being unexplained. Nor did they correspond with the details given in Observer B's statement but they were sufficient to give the impression of IRA activity, availability of firearms and civilian firing on or about the time of Bloody Sunday. In other words the Security Service was seeking to bolster Observer B's account by the selective provision of misleading documentation.

4.5.9 Attached to Julian's statement of 19th June 2002 (**KJ4.7**) are Notes for Files, Source Sheets and Reports of the kind that we knew must have existed but which had not previously been supplied. These record in detail and in a systematic fashion some of the information provided by Observer B but, significantly, there was no such documentation concerning Bloody Sunday in the new material. (***ibid***) If it wasn't already obvious, it became clear that such documentation must still exist and that the documentation attached to Observer B's statement was not the only material that was generated in respect of him.

4.5.10 In June 2002, the Inquiry came across the signal from David in the files of the Police Service for Northern Ireland. As a result of requests made by the Inquiry, the Security Service, in or about March 2003, produced a substantial bundle of additional documents concerning Observer C. Even though the contents of the signal document did not correspond with the information Observer B claimed to have provided, the impression which, by silence, the Security Service had allowed to be created and/or maintained was that this signal had been based on information supplied by Observer B, who had of course "pinpointed just about everything they knew about Derry" according to James (**KJ2.1 paragraph 5**). With the production of the additional material in March 2003, it immediately became apparent that the signal was based on information allegedly supplied by Observer C.

4.5.11. When the documents relating to Observer C were first produced, exhibited to Julian's 4th statement (KJ4.30) it became apparent that certain of them at least must have been in the Security Service file from which certain of the documents attached to Observer B's statement had been extracted. In other words, whoever examined the file for the purpose of extracting material in relation to Observer B must have known that there was also material in relation to Observer C and that this was directly relevant to the issues before the Tribunal. Indeed, even a cursory examination of those Observer C

documents would have made it clear that they impacted on the accounts given by James, Julian and David.

4.5.12. When collated, it was clear that the documents formed a sequence, as follows:

(i) **Document K** (**KJ4.75**)- from the Observer C Bundle attached to Julian's 4th statement. This document is telegram number 22 of 31st January 1972. (Incidentally, there is a reference in this document to a Special Branch report graded by them "B3". In his oral testimony Julian claimed not to know what this meant even though it was directed to him. He adhered to this answer even when questioned about it by the Chairman: **Day 325/104/16 to Day 325/104/18** and **Day 325/106/18 to Day 325/107/11**)

(ii) **Document L** (**KJ4.77**)- from the Observer C Bundle. This is a note for file that refers to document K.

(iii) **Document 3** (**K02.11**)- from the Observer B bundle. This document starts off: "Following for Julian from Director of Intelligence Northern Ireland. Reference my telegram 22 of 21st January." It is accepted that this is a mistake and is a reference to the telegram of 31st January, i.e. document K. In order to understand this document (document 3), it would have been necessary to have sight of the first document (document K), which is the telegram to which it refers. Julian agreed with this. (**Day 325/109/13 to Day 325/109/20**) He also agreed that anybody reading document 3 would need to have in the file the previous documents to which it relates, namely documents K and L and that there would be a file with the relevant documents. (**Day 325/110/25 to Day 325/111/5**) However, when document 3 was provided to the Tribunal, it was not provided with documents K or L. In our submission, document 3 must have been extracted from a file and documents K and L, which must have been in the same file, were withheld deliberately. The source referred to in document K was not B but C (per Julian, **Day 325/112/23 to Day 325/112/25**). Julian could not think of a valid reason why the

first two documents in the sequence, in this file, as they must have been, would have been withheld (**Day 325/113/18 to Day 325/113/21**) but, in our submission, the object was to conceal the existence of Observer C.

(iv) **Document 4** (**KO2.12**)- from the Observer B bundle, although it was not referred to by Observer B.

(v) **Document 1** (**KO2.9**) - from the Observer B bundle

(vi) **Note for file dated 4th February** (**KM10.4**) - attached to Officer M's statement. This was not attached to Observer B's statement although it did relate to him. The reason, we suspect, is that even though it was the record of the first meeting with Observer B after Bloody Sunday, it makes no reference to B seeing auxiliaries drilling during the week leading up to the march. It is also another document that refers to the "distribution" of arms rather then the loading of arms.

(vii) **Document 2** (**KO2.10**) - this refers to document 4.

(viii) **Note dated 29th February** (**KJ4.90**) - from the Observer C bundle. As Julian agreed (**Day 325/118/13**), this document seems to refer to document 4, an Observer B document. At the foot of this document there is a note: "Source is reliable. This is a different source to the original one." (**KJ4.90**). As Julian pointed out (**Day 325/118/19**), both Observer B and Observer C appear to have reported on the van. This cross-referencing would suggest that this document and document 4 were probably in the same file but, again, it was not supplied to the Tribunal at the same time as document 4. Julian said that he could not answer for that (**Day 325/119/6 to Day 325/119/7**) but no one else from the Security Service volunteered to explain how one file was apparently filleted in order to extract certain material in relation to Observer B while withholding other material to which it related and about which three of their former members had made statements.

Observer C

4.5.13 The very existence of two additional informants/ agents (Observers C and D) was concealed from the Inquiry. Apart from the obvious relevance to Bloody Sunday of the documentation concerning these informants, the very fact that this documentation runs to "several volumes of files" (per Julian's statement dated 21st March 2003, **KJ4.30 paragraph 1)** makes it difficult to accept that this material could have been overlooked. In his oral testimony, he said that there could have been about **20** files each containing something like **80** documents (**Day 326/26/22 to Day 326/27/15**). Even if the current Security Service staff had somehow contrived to miss this store of material during their searches, there can be no excuse for Julian. When he was first asked in his statement about Observer B, his first thought must have been that Observer B was only an occasional visitor to Derry whereas Observer C was their main agent there.

4.5.14 The reasons why Julian and the Security Service would have wanted to conceal the existence of Observers C and D are obvious. Although anyone familiar with the Republican movement in Derry would have known that Observer C's understanding was limited in the extreme, he was regarded by Julian as a very reliable agent whose reporting was judged of sufficient merit to be shown to the Prime Minister on one occasion. In the weeks prior to Bloody Sunday, he produced a series of reports about plans for civil unrest and the IRA's activities in Derry. He was regarded as a very accurate observer of events around him and was apparently a member of community groups such as the Londonderry Tenants Association. (**KJ4.32 paragraph 5**).

4.5.15 On the day after Bloody Sunday, the Director of Intelligence (David) asked Julian to task Observer C to obtain information about what happened on Bloody Sunday (**KJ4.38 paragraph 18** and Document K at **KJ4.75**).

Observer C was tasked accordingly (see **Document L** at **KJ4.48**). Julian states: "I cannot recall whether Observer C ever did report in response to this tasking: I have found nothing on his file to indicate that he did."(**KJ4.39 paragraph 19**)

4.5.16 The documentation indicates that Observer C was in regular contact with his handlers during the period immediately before and immediately after Bloody Sunday but there is no documentation containing any information from Observer C about what happened on Bloody Sunday. Given the intensity of his contact with his handlers around the material time, it seems unlikely that he did not respond at all. If he had provided information that supported the Army's account of events, it is likely that this would not only have been retained in the original source reports but passed on in documentary form to other interested agencies, including 8 Brigade, HQNI, the Army's Legal Team at Widgery, Army Information Service and Special Branch. No such material or even the suggestion of the existence of such material has surfaced in any of the documentation of which we are aware.

4.5.17 The more likely explanation is that Observer C's report contradicted the Army's account of events and the relevant source reports have either been excised from Security Service records or have been withheld from the Inquiry.

4.5.18 Also, Document T (**KJ4.101**) is a telegram dated 4th December 1972 confirming that it had been routine procedure for at least the previous year for Observer C's case officer to "brief orally the Commander of 8th Brigade on the agent's intelligence". It was not suggested by Brigadier MacLellan that at any time after Bloody Sunday he ever received any intelligence of a kind that would indicate that Observer C passed on any information confirming the Army's account of events.

The Signal from David

4.5.19 The Signal from David was not disclosed by the Security Service or the MOD. It was found by Counsel to the Inquiry in the files of the PSNI in June 2002. A copy of the signal was then sent to the Security Service and the MOD. The Inquiry was told that neither body was able to locate either the signal or the material relating to it. (Day 319 p.18). The copy found in the PSNI files was stored on microfilm, a facility clearly available both to the MOD and the Security Service. This is yet another failure for which it is difficult to accept an innocent explanation

Infliction

4.5.20 The Security Service successfully applied to conceal in their entirety the further statement from Officer A dated 26th February 2003 and the 37 accompanying documents giving further detailed information regarding Infliction's reliability. In the absence of even a redacted version of this material, we are unable to make meaningful submissions about the quality of this material or the delay in providing it.

4.5.21 However, we note that Officer A did not refer to any of the 37 documents in his original statement (**KA2.1 to KA2.4**) and since he contended in that statement that Infliction was a reliable agent we find it difficult to accept the suggestion at paragraph 7 of the Skeleton Argument supplied in support of it's PII application that it was not the Security Service's purpose in providing this additional statement and documentation to seek to persuade the Tribunal that information originating from Infliction is or is not credible.

4.5.22 As for the Security Service's contention that it was concerned only to respond to the Tribunal's request for assistance in the form of further information held in the Service's files, it is difficult to understand why it did not provide the

same documentation in response to the Tribunal's original request for assistance.

4.5.23 Nor do we accept that "by its very nature, material addressing the reliability of Infliction's reporting as an agent has the potential to lead to the identification of Infliction".

4.5.24 References to Infliction's grading in the documentation supplied to us were deleted. According to Annie Machon, Infliction was known to be unreliable and files concerning him noted expressly that his reliability was being assessed (**KM12.1 paragraph 7**). We were supplied with no documentation to this effect although we recognise that this may have been provided to the Tribunal.

4.5.25 According to Officer N, evaluations of agents would take place "regularly, normally at least once a year" (**KN1.1 paragraph 5**) and this would lead to a report which would include a "recommendation as to the reliability, security and requirement issues concerning the maintenance of the agent relationship". These evaluations would normally include details of the numbers and grading of the agents reporting. None of these evaluations, reports or other such documents was made available to us.

4.6 RUC / PSNI

Introduction and Summary of Submissions

4.6.1 The role of the Police Service in Northern Ireland in the provision of evidence to the Inquiry is of much less significance than the role of other State agencies, for the obvious reason that the Police were relegated to a subordinate role on Bloody Sunday.

4.6.2 We are not in a position to comment on the degree to which the Police Service of Northern Ireland has co-operated with the Inquiry. It has certainly provided some important information, for example in connection with Arrests, Communications and Intelligence both before and after the event. However, the following are examples of areas in respect of which, in our submission, disclosure by the PSNI has been unsatisfactory and, in the field of Intelligence assessments, suspiciously incomplete.

Photographs

4.6.3 We refer to Section 4.3 concerning missing photographs and cine film. It may be that, by virtue of their deployment, RUC officers were not in a position to take photographs or cine film that would have thrown much light on events in the Bogside. Nevertheless, it is a matter of concern that none of the cine film and not all of the photographs have been discovered. We have received no explanation for the failure to discover this material.

Intelligence Material

4.6.4 The Signal from David dated 27th January 1972 (KJ4.45) was provided not by the MOD but by the PSNI. The circumstances in which it came to be found suggest that the PSNI had searched their own archives and reviewed their material in a distinctly casual fashion.

4.6.5 As was explained by Christopher Clarke QC (**Day 319/18/22 to Day 319/20/19**) the signal was located in June 2002 in the files of the PSNI. In a letter to the parties dated 11th September 2002, the Inquiry explained that Junior Counsel to the Inquiry had come across the signal and covering letter on a micro-film in the possession of the PSNI. The PSNI held two microfilms containing information relating to Bloody Sunday. One was made available in 1999 and it was apparently believed that that was the only film that existed. However, in June 2002, Junior Counsel to the Inquiry was invited to view the contents of the film and on viewing it she realised that it was not the same

film as that originally made available. The signal was on this second microfilm.

4.6.6 It would appear from the circumstances in which the signal was discovered that the PSNI were not seeking to conceal the second microfilm. Nevertheless, it is surprising that when there were only two microfilms containing relevant information only one was forwarded to the Inquiry. At the very least, this failure indicates a careless attitude and haphazard method. We do not know what steps have been taken by the PSNI to uncover all relevant material. It is therefore difficult to comment extensively on the PSNI's approach to this matter.

Special Branch Assessments

4.6.7. The RUC Special Branch prepared assessments on a weekly basis. An example of the form which these assessments took appears at **G64.380** *et seq*. This is the assessment for the period ended 19th January 1972. Although part of it is missing, it consists of ten pages of text with the headings General Situation, IRA (General), Goulding IRA, IRA (Brady), Na Fianna Eireann (*sic*), NICRA, Northern Civil Resistance Committee and Russian Journalists. Attached were a number of appendices, including Appendix B, "Forthcoming Events", in which the comment "no trouble anticipated" appears against the Bloody Sunday march. (**G66.411**) The Special Branch assessment for the period ended 3rd February 1972 is in the same form, with a substantial narrative text followed by a series of appendices (**G112.697-706**)

4.6.8. However, the Special Branch Assessment for the period ending 26th January 1972, i.e. the last one before Bloody Sunday, is missing. We have two documents which are in the same form as two of the regular appendices, including the appendix concerning "Forthcoming Events". Incidentally, it is for this reason that we reject Mr Bradley's suggestion that this document is not part of the Special Branch Assessment: see **Day 384/147/13 to Day 384/147/25** and **Day 384/176/1 to Day 384/177/17**. In the document, all that

is suggested in relation to the march is that "it is anticipated that marchers will clash with the Security Forces" and there is no reference to any anticipated IRA action. The narrative text is completely missing, for reasons that have not been explained.

4.6.9 Although the schedule of incidents for the period ending 26th January 1972 and the schedule of forthcoming events for the period 27th January – 2nd February are in the same form as the Special Branch's appendices, they are not headed as appendices. They appear in Bundle G following the minutes of the JSC meeting held on Thursday 27th January 1972 (**G76.463**). This is the meeting in which it was suggested that "the operation might well develop into rioting and even a shooting war". (**G76.465 paragraph 4**) Such a suggestion was clearly not warranted by the comment made by Special Branch in "Forthcoming Events" and we suspect that the narrative text of the Special Branch assessment made it clear that nothing more than public disorder was expected and perhaps even that there was an understanding that both the Provisional IRA and the Official IRA were unlikely to engage in any hostile action.

4.6.10 As appears from the stamps on these documents, the Special Branch Assessments were all provided by the MOD, presumably because they were copied to HQNI at the time. It has not been explained why copies of these assessments were not provided by the PSNI itself, especially when it had the signal from David on its microfilm.

4.7 Conclusion

4.7.1 It is clear from the Madden and Finucane chart at **KM6.79** that the UK Government and Army PR network in Northern Ireland at the material time was dominated by MI5, MI6 and IRD operatives. The UK Representative, Howard Smith, later became head of MI5. His deputy, Frank Steele, was a

member of MI6. Clifford Hill and Mr Mooney were seconded from IRD. (**Day 240/33/9 to Day 240/36/21**). The Director of Intelligence at HQNI was also a member of MI5, as were James and Julian, and a member of MI6 was seconded to that Department. In the nature of things, what secret intelligence agencies do best is to keep secrets. What the Intelligence agencies did in support of the Army case following Bloody Sunday and what the IRD and other Psyops operatives at HQNI did as part of their role in shaping perceptions of the truth about Bloody Sunday is likely to remain secret. In view of the direct involvement of soldiers and police officers on Bloody Sunday, nor can the MOD or PSNI be relied upon to disclose material that may incriminate their former members.

4.7.2 It may very well be that the Government, in the sense of the Cabinet, fully intended that all relevant official documentation would be made available to this Inquiry but, for the reasons set out above, we consider that this intention has been frustrated.

5. GENERAL OBSERVATIONS ON CATEGORIES OF EVIDENCE BEFORE THE INQUIRY

5.1 Soldiers

5.1.1. Introduction and summary

5.1.1.1 The evidence available to the Tribunal comes from a variety of sources and takes various forms, including documentary and photographic evidence as well as contemporaneous and recent written and oral accounts taken by civilians, priests, journalists, photographers and expert witnesses. The vast bulk of this evidence points firmly to the conclusion that those killed and wounded on Bloody Sunday were innocent civilians shot deliberately and without any justification by soldiers. Even the RUC, as a body of witnesses, failed to provide evidence to justify the shootings, except indirectly by reference to claims of hearing civilian gunfire. The only body of evidence offering any support for the individual soldiers who shot civilians is that of the soldiers themselves. The evidence of those soldiers who fired shots and of those soldiers who have sought to justify the shootings is examined in detail in those sections concerning the individual sectors where the shootings occurred. In this section, we propose to make general observations on the reliability of the soldiers' testimony as a class of evidence, by reference largely to the evidence of the soldiers themselves. Our submissions on this issue can be summarised as follows:

(i) At best, the evidence not only of the soldiers directly involved in the shootings but of all the soldiers who have given evidence is inaccurate and unreliable. At worst, it is a tissue of lies. Of the hundreds of soldiers who have testified either orally or in writing to the Tribunal, only a small handful can be regarded as completely truthful. None of those who gave evidence

touching directly upon the shootings can be regarded as either truthful or reliable.

(ii) The unreliability of these soldiers' testimony is attributable not only to the dishonesty of individuals. From the moment the events of Bloody Sunday occurred until the present day, the fabrication of evidence has been systematic and has occurred at all levels of the Army, from the youngest private soldier through senior NCO's and officers to General Ford, Commander of Land Forces in Northern Ireland.

(iii) The reasons for this systematic deceit are political, cultural and structural: *political* because Britain was engaged in not just a military but also a propaganda war in Ireland and an admission that British troops had massacred innocent civil rights protesters would have caused considerable damage both at home and abroad to the image of the British Army and the Government; *cultural* because, by reason of their training and ethos, soldiers instinctively tend to close ranks to protect their own and to defend the Army as an institution from attack by those perceived as the enemy, this instinct being shared and nourished by other key elements in the establishment, including the Government and the Judiciary;

structural because the practices and procedures put in place by the Army and the Government facilitated, if not positively encouraged, the fabrication of evidence designed to protect these political and cultural interests.

The Army's political *animus* and the individual shooters' natural inclination to deny responsibility for murder are self-evident. It is proposed in this section to examine the cultural and structural aspects of the soldiers' systematic defence of their conduct, as evidenced in particular by the practices of the Special Investigation Branch (SIB) of the Royal Military Police (RMP) and by the Army Legal Services.

5.1.2 The Army Culture of Closing Ranks

5.1.2.1 In addition to the obvious reasons why any person is unlikely to incriminate himself, the rules and principles that are drilled into a soldier at every stage of his training and experience - in particular the importance of discipline, comradeship, loyalty and subordination of personal interest to the needs of the Army as a whole - all militate against candour where candour would be detrimental to the interests either of other individual soldiers or of the Army as an organisation.

5.1.2.2 In other words, soldiers close ranks to protect themselves individually and the Army as an organisation of which they are a member. Indeed the *esprit de corps* was so effectively fostered by the Army that soldiers not only closed ranks to protect those they knew to be guilty but they also regarded other soldiers as presumptively innocent in the face of evidence to the contrary. The effect is expressed as follows by a rifleman in the Royal Green Jackets (Soldier 160 at **B1956.5 paragraph 31**):

> "The thought that the Paras must have been shot at developed like osmosis. The virtues of loyalty and honouring the Code were drilled into us in training and we did not question whether the Paras had been fired upon – that's where the loyalty comes in, we all simply assumed that they had been fired at. We knew that the Yellow Card did not permit us to fire at anybody unless we positively identified a gunman. To us, it had to be the case that if the Paras fired they had been fired upon. Even if we hadn't heard any shooting, it was second nature to us to close ranks, almost like a collective security thing – in the reverse situation we would have expected them to do the same for us. I have been asked whether we all got together and just decided what we were going to do but we didn't have to; we just knew automatically that we had to help the Paras out when they were under pressure."

5.1.2.3. This may help to explain why so many soldiers in regiments other than the Parachute Regiment claimed to have heard civilian gunfire when they did not. Soldier 160 himself made a statement claiming to have heard machine gunfire both before and after the Paras entered the Bogside but he now admits that he did not. (**B1956.4 paragraph 29**) In addition to the soldiers who claim to have heard civilian gunfire, there were soldiers such as the observers in observation posts on the city walls and on the Embassy Ballroom building, as well as snipers in various locations, who were all well placed and well equipped with binoculars or magnifying rifle sights to see exactly what the Paratroopers did in the crucial period of fifteen minutes after they entered the Bogside. Yet most of them claim to have seen virtually nothing at all of any interest, let alone discreditable conduct on the part of paratroopers. This can only be regarded as evidence of a conspiracy of silence engendered by the perceived need to close ranks to protect the paratroopers.

5.1.2.4 The tendency to close ranks is and was a phenomenon recognised and practised at every level of the Army. In a memorandum to the AG (Adjutant General) dated 13th April 1972 (**G130A.865.1**) the VAG (Vice Adjutant General) reported complaints made personally to him by General Tuzo, the GOC NI, who had come to see him in connection with "matters concerning the Widgery Tribunal" and also to make a complaint about looting and other "misbehaviour" on the part of certain soldiers in Northern Ireland. In this context, the VAG recorded the following:

> "More generally, General Tuzo expressed his disquiet at what would appear to be a growing habit of commanding officers to cover up allegations made against their soldiers. He says it is extremely difficult for him to obtain the true facts when such charges are levelled by Police and/or civilians because commanding officers appear to feel it incumbent upon them to stand up for their subordinates in all circumstances and at all costs... .. He wondered whether it would be possible for commanding officers of units

under orders to proceed to Northern Ireland to be more fully briefed than at present appears to be the case on the need for them to investigate in a totally unprejudiced fashion all charges levelled against their soldiers; instead of, as at present, taking the attitude "my soldiers right or wrong"" [Emphasis added] (**G130A.865.1 to G130A.865.2**)

5.1.2.5 The Deputy Assistant Provost Marshall (Special Duties) (**INQ3**) agreed that General Tuzo's complaint corresponded with his own experience (**Day 256/186/14 to Day 256/186/16**). In the "Brief for investigators engaged on inquiries into IS matters in Northern Ireland" drafted by Warrant Officer Wood and signed by the Assistant Provost Marshall, INQ1383, at **CW1.46** Investigators were specifically warned that they would find that a Soldiers superior officers may be over eager to support their men's actions and try to incorporate statements such as "in my opinion Private ..... acted correctly when he fired on the man" in their evidence (**CW1.51**). When asked to confirm that "soldiers tended to close ranks when they were being questioned about the possibility of either themselves or other soldiers committing criminal acts", he said: "Of course, that is part of unit loyalty". He said "that goes without saying" and when it was suggested that this unit loyalty extended through all levels of the Army his reply was "I presume so" (**Day 256/185/23 to Day 256/185/25**).

INQ 1383, the Assistant Provost Marshall (head of the RMP in Northern Ireland), also agreed that one could rely on soldiers to "close ranks" (**Day 304/151/8 to Day 304/151/12**).

The tendency to close ranks has been demonstrated during the course of this Inquiry to cover not only matters directly touching upon the events at issue but also peripheral issues such as whether soldiers had access to private supplies of ammunition. **Warrant Officer Wood**, the Regimental Sergeant Major of 178 Provost Company (the SIB) stated frankly that there was so much "spare ammunition floating

around at the time" that it was "a waste of time to check what ammunition was fired by asking the Quartermaster". "If a soldier was found in possession of a spare round in Aldershot, he would be court-martialled instantly, but it appeared to me that there was a different philosophy in Northern Ireland." (**CW1.8 paragraph 47**) Warrant Officer Wood recalled that the team from the SIB who were investigating at a later date covered the question of spare ammunition being used on Bloody Sunday but, surprisingly, he cannot recall the outcome of the investigation. The availability of private supplies of ammunition is confirmed by many other soldiers. However, it was flatly denied by a number of the SIB officers, including **Sergeant Major INQ1831** (**C1831.3 paragraph 19**), **Corporal Brobson / INQ 1868** (**C1868.5 paragraph 41**) and **Corporal INQ2064** (**C2064.3 paragraph 18**). In other words, the practice of closing ranks applied not only to ordinary soldiers but to members of the SIB and involved denying anything that could have provided even indirect support for the allegations against the Army. While ordinary private, inexperienced soldiers may genuinely not have known about private supplies of ammunition, it is hardly conceivable that RMP soldiers charged with investigating such matters would have been completely unaware of the practice.

5.1.2.6 Even soldiers not overborne by an instinct to close ranks remain subject to other forms of pressure ranging from the risk of being ostracised to implicit or explicit threats of reprisal (as in the case of **Soldier 027**). Such a breaking of ranks would have been expected to spell the effective end of a soldier's career in the Army and even now the risk of reprisal remains constant.

5.1.2.7 Whether a soldier is actuated by a benign or by a malign instinct to close ranks, or by fear of the consequences of not doing so, the result is the same: a failure on the part of soldiers to tell the truth about what they witnessed on Bloody Sunday. This is manifested in a variety of ways, ranging from a feigned loss of memory to elaborate fabrication.

5.1.3. The Role of the Special Investigation Branch

5.1.3.1 Most of the soldiers rely heavily (and many of those who now claim a loss of memory rely exclusively) on contemporaneous accounts they gave to the Special Investigation Branch (SIB) of the Royal Military Police (RMP) and/or the Army Legal Services (ALS) and/or the Treasury Solicitor (TS - these statements were known as the SA statements) and/or the Widgery Tribunal hearings. Insofar as these accounts purport to justify shooting by any soldier, our submission is that they are untrue, primarily because they conflict with the preponderance of civilian and other evidence of the facts. However, in support of our submission that they are untrue, it is now proposed to examine the role of the SIB to demonstrate that the soldiers' accounts were given in circumstances and under conditions that were positively conducive to the fabrication of accounts favourable to the Army.

5.1.3.2. For ease of reference, **Appendix 1** lists the RMP officers whose evidence is relevant to the SIB investigation into the events of Bloody Sunday.

Of central importance in understanding the role of the SIB is the evidence of **INQ 3** (a Major in the SIB who was Deputy Assistant Provost Marshal (Special Duties) to the effect that there existed in January 1972 a formal policy whereby the RMP would "tend" to military witnesses and the RUC to civilian witnesses in the investigation of offences and incidents. The result was expressed by INQ 3 as follows:

> " With both the RMP and RUC sympathetic to the soldier, who after all was doing an incredibly difficult job, he was highly unlikely to make a statement incriminating himself, for the RMP investigator is out for managerial, not criminal purposes and, using their powers of discretion, it would seem to be unlikely that

the RUC would prefer charges against soldiers except in the most extreme circumstances". (**C 3.1** and see **C3.10 paragraph 12**)

5.1.3.3. In other words, none of the contemporaneous statements was made by a soldier after interview by a police officer anxious to test his account as a potential suspect in a criminal offence, even where (as in the cases of Michael Kelly and Gerard Donaghey) the bullets recovered from their bodies could be traced to particular soldiers and where a substantial body of civilian evidence pointed to unlawful killing. Indeed, not only were the soldiers' accounts not tested by an independent police officer, but a soldier who might otherwise have been tempted to tell the truth to a member of an outside police force in the privacy of a police interview would have been inhibited from doing so to another soldier from the SIB.

5.1.3.4 As Major INQ3 conceded during his oral testimony, the entire purpose of the policy agreement between the GOC and the Chief Constable was "**to ensure that the conduct of soldiers could be protected from scrutiny**" (**Day 256/187/17 to Day 256/187/18**). It should be noted that the practice of having soldiers interviewed only by SIB officers was deprecated by the Northern Ireland Court of Appeal in ***R v Foxford*** [1974] NI 181.

5.1.3.5. Warrant Officer **INQ1835** of the SIB said in his Eversheds statement:

> " If a soldier made a comment to me such as "the command structure broke down that day" I would have put it in a statement but frankly it is not likely that a soldier would say that outside the barrack room. The Army is a family and a family looks after its own" (**C1835.5 paragraph 32**).

5.1.3.6 This recognises the unlikelihood of a soldier breaking ranks to make any remark critical of the Army but it is misleading insofar as it suggests that the SIB would record such criticism in a statement. If a soldier did say something to the SIB officer taking his statement that

would either have incriminated himself or "given the Army a problem", the interview was stopped and the matter referred to either HQNI or Army Legal Services (**C1835.5 at paragraph 31**.) If an SIB Investigating Officer below the rank of Warrant Officer was conducting the interview and the soldier had said something incriminating, the interview would have been stopped and the matter referred to the Warrant Officer (per **INQ2052** at **Day 252/21/10**). Even if the statement was taken by a solicitor from the Treasury Solicitors acting on behalf of the Widgery Tribunal, the interview would be stopped if the soldier appeared liable to incriminate himself, as appears from the case of Soldier V, discussed further below.

5.1.3.7. The reality is that, bearing in mind the magnitude of the events of Bloody Sunday and the inevitable realisation by the RMP that the Army was bound to come under severe scrutiny, the SIB and indeed the ALS personnel instructed to take statements from the soldiers involved were subject to exactly the same pressures that would have deterred those soldiers from making statements which would be damaging to the Army and which would provide ammunition for the enemy in "the propaganda war". The effect was that, when a soldier was asked to make a statement to the RMP, it was against the background that the soldier believed that what was expected of him was to provide evidence which could provide justification for the shootings. See, for example, the express recognition of this by Soldier 151 (**Day 298/131/3 to Day 298/131/9**) and (**Day 298/106/1 to Day 298/106/3**). By way of example, this soldier made a statement in which he purported to have witnessed a nail bomb exploding and a shot being fired but confirmed during his oral testimony that he witnessed neither. (**Day 298/106/5**)

5.1.3.8. Bearing in mind that Police officers were excluded entirely from the statement- taking process by virtue of the policy developed between the GOC and the RUC Chief Constable, the entire *modus operandi* of the SIB in taking statements not only rendered it unlikely that any

soldier would make any admission of criminal responsibility but positively facilitated and encouraged the fabrication of false accounts. It was not the SIB investigators' job to "assess criminal responsibility." (**CW1.48**) The Assistant Provost Marshall, **INQ1383**, initially disputed this suggestion during his oral testimony (**Day 305/106/10 to Day 305/106/12**) but when it was pointed out to him that it appears in the Brief for Investigators drafted by Warrant Officer Wood and authorised by himself he accepted that this was so. (**Day 305/108/13 to Day 305/108/20**) As a consequence, it was not the SIB investigator's job to challenge or cross-examine a soldier about an account but simply to take a note about what he was saying. Major INQ3 agreed with this (**Day 256/181/25**).

5.1.3.9. A statement was taken from a soldier as witnesses, not a suspect, without caution. This was done because, firstly, the soldier was not expected to make any admission of criminal responsibility and, secondly, the investigator would not be trying to obtain any incriminating admissions. Major INQ3 accepted both these propositions (**Day 256/182/1**).

5.1.3.10. Major INQ3 also accepted that this was all explained to the soldier. Major INQ3 was questioned about the consequence of this procedure as follows:

"Q. So a soldier knew that really so long as he did not make any incriminating admissions, his account would not be tested and he would be in the clear as far as prosecution was concerned?

A. Possibly. That was up to him.

Q. There was certainly nothing to discourage a soldier from fabricating an account was there?

A. No.

Q. In fact, you can see how this procedure would have positively encouraged soldiers to fabricate accounts where the soldier had something to hide?

A. It is possible." (**Day 256/182/24 to Day 256/183/10**)

5.1.3.11. Even if a soldier volunteered an admission of criminal conduct, there were checks and safeguards against the soldier maintaining such an admission. First, if this happened the interview would be stopped. Secondly, the matter would be referred to an officer "for confirmation" (**CW1.48**). Thirdly, the matter would be referred to the Army Legal Services (**C1835.5 paragraph 31**). Fourthly, a caution would be administered.

5.1.3.12 The knowledge that the police would not get involved in an investigation meant that both the SIB investigator and the soldier being questioned knew that matters could be kept in-house within the Army and no criminal charges brought as long as no soldier *insisted* on claiming criminal responsibility.

5.1.3.13. These matters are, in our submission, sufficient to establish that the statements taken by the SIB investigators in the immediate aftermath of Bloody Sunday are, at the very least, liable to be inaccurate, misleading and incomplete. However, during the course of the Inquiry, evidence has emerged of a pattern of events suggesting that not only did the interviewees give false and incomplete accounts but the SIB interviewers themselves may have provided some of the false accounts, which they then required the interviewees to sign and adopt as their own. The following are examples.

5.1.3.14. **Soldier 018**, a member of the Anti-tank Platoon, made a statement on 4th February to the effect that he had seen F and G fire shots at

Rossville Flats. (**B1487**) In his Eversheds statement (**B191.5 paragraph 42**) he said:

".. .. I was not in a position to see whether there was a gunman in the flats when the shots were fired, nor could I see that they went through the window. The RMP told me that he needed to include this to substantiate details that had been provided by my colleagues to show that when they fired, they did not hit anybody. At the time I made my statement, I was led to believe the details about the location of the gunman in the flats and the area to which fire was returned were true. I had also heard the shots being fired from my position inside the pig. I therefore agreed to include the details in my statement".

5.1.3.15 Soldier 018's RMP statement was taken by **INQ2120**, who had also taken G's statement.

5.1.3.16 **Soldier 005** made a statement to the RMP, also on 4th February, purporting to corroborate **Soldier R**'s account of shooting at a pistol man in Rossville Flats. However, he told the Inquiry that he did not and could not have seen the gunman he claimed in his RMP statement to have seen. His testimony proceeded as follows (**Day 338/165/21 to Day 338/166/11**):

"Q And you have thirdly said that you did not tell the RMP that you saw a man with a pistol?

A. No.

Q I want to be clear, is it the case that the RMP made the story up?

A. To my mind, yes.

Q. And asked you to sign the statement.?

A. Yes.

Q. So all the material details in the statement were put in the statement by the military policeman taking the statement?

A. Yes

Q. And he presented this to you and said "sign this"?

A. Yes

Q. Did you protest about this?

A. No I just signed it.

5.1.3.17 **Soldier 006** was asked why he had told the RMP that Mr Dillon was arrested for assault when he had not seen any assault. He was questioned as follows:

"Q. You did in fact tell the RMP, did you not, that Mr Dillon was arrested for assault; is that right?

A. 1972, were it .

Q. Yes. In fact it is at **B1375**, your RMP statement. The bottom of the page: "The youth's name was Dillon and he was arrested for assault".

A. The MP would have wrote that, yes.

Q. Did you tell the MP that?

A. I cannot remember now.

Q Would the MP have put that in if you did not tell him that?

A. He may have done yes.

Q Why would he have done that?

A. I do not know at the time. I think they just wrote it and we just agreed with it". **Day 334/56/3 to Day 334/56/18**

5.1.3.18 **Private S** also provided an RMP statement in which he claimed to have seen a gunman shot at by Sergeant O. He told the Inquiry that this wasn't true. When asked by the Chairman how that got into his statement, he said (**332/72/21 to Day 332/72/25**):

"A. Because it was probably inserted there for me, probably.

Q. MR MACDONALD By the RMP who took the statement?

A. Probably, yes, sir.

Q. And you went along with it?

A. Yes."

5.1.3.19 Soldier S had no option but to concede that his 1972 statements were untrue in this and other material respects. For example, he also admitted that he had seen no nail or acid bombs. When he was asked if he had been told by the RMP to put this in his statement, he said "probably" (**Day 332/40/8**). He may of course have said this simply to avoid admitting that he had lied to the RMP. As a shooter, he was anxious to convince the Tribunal that he was honest and that his account of his shots can be relied upon. However, **005**, **018** and **006** did not have to admit that their RMP statements were false and they had little to gain by saying that they had been made up by the RMP.

5.1.3.20 A feature of this pattern is that the statements of those three soldiers were all made on **4th February**. The statements made by soldiers 018 and 006 were both made to the same SIB investigator (**INQ2120,** now deceased), who also took the statement of G, part of which was supported by 018's statement. Soldier 018 made his statement at 19.15 hrs (**B1487**). Fifteen minutes later, Soldier 036 made a statement (**B1629**) and, thirty minutes after that, Soldier147 made a statement (**B1886**). Neither 036 nor 147 had made any statement before this but both now claimed to be able to corroborate the accounts given by F and G of "returning" fire at Rossville Flats even though, if this had been true, they would have been expected to have presented themselves to the SIB to make a statement on the night of the 30th or the early hours of the 31st January (per W.O. Wood, **CW1.8 paragraph 46** and **Day 383/171/14**). At 15.10 on the same day, Soldier J had made a fresh statement (**B269**) claiming that he too had witnessed the shooting from Rossville Flats that had prompted F and G to fire even though he had not suggested this in his first statement.

5.1.3.21. On the same date, statements were taken from a number of other soldiers purporting to support the accounts given earlier by shooters. **INQ2035** took a statement from **Soldier U** in which Soldier U alleged he saw a man with a pistol at the Rossville Street doorway of Block 1

firing shots towards the rubble barricade, striking two men, one being a middle-aged man waving his arm in the air at the same time as he was cradling a teenager on the barricade. This was clearly designed to suggest that Willie Nash and his father Alex had been shot by a civilian gunman. At 19.15 hours on the same date at Palace Barracks, Holywood, **INQ2035** took a statement from **Soldier 033** which in broad terms supported Soldier U's account of this alleged incident.

5.1.3.22 Forty minutes later, **INQ2210** took a statement from **Soldier 037** in which 037 also gave a similar account. (**B1632**) In his Eversheds statement (**B1635**), Soldier 037 said that the events of Bloody Sunday were still "very clear" in his memory and in **B1636.003 paragraphs 24 to 26** he said that he "**definitely did not**" witness either this incident or the incident involving the removal of three bodies from the rubble barricade. He was sure about this because he was at the north-east corner of Block 1 watching the car park and, as he stressed more than once, could not have seen either incident. Soldier 037 was equivocal about the circumstances in which his RMP statement was made and was reluctant to accuse the SIB investigator who took the statement. However, during the course of questioning, he said this (**Day 357/158/9 to Day 357/158/19**):

"Q. Do you accept, first of all, that none of the details in this statement could have come from you?

A. Absolutely.

Q. Assuming that no one else was present at your interview apart from yourself and the RMP investigator, is that not right?

A. It certainly did not come from me.

Q. Therefore it must have come from the RMP investigator?

A. I would say that, yes.

Q. You would say that?

A. Yes."

5.1.3.23 Again, this soldier may be blaming the RMP in the wrong but he had made no other inconsistent statement, the falsehood was only discovered because he volunteered it to Eversheds and he had little to gain by disclosing it at all.

5.1.3.24. Also on the same date (4th February), at 20.30 hrs, Soldier 017 gave a statement to an unidentified SIB Officer in which he corroborated Soldier P's account of shooting a nail bomber in Rossville Street. (**B1479**) He gave a detailed account of seeing the nail bomber emerge from the crowd in front of the Rubble Barricade and seeing P shoot him. He had made no reference to this in his first statement (**B1476**) even though he had referred in that first statement to the crowd and had not suggested that they were doing anything other than throwing stones at the troops.

5.1.3.25 If the Tribunal is satisfied in only one case that an SIB statement-taker himself did indeed fabricate an account and have it signed by a soldier in order to strengthen the Army case, the entire body of evidence taken by the SIB must be regarded as tainted for this reason alone.

5.1.4 The Role of the Army Legal Services

5.1.4.1 **Lt Col. Overbury**, then Assistant Director of Army Legal Services (ADALS), was appointed to lead the Army Legal Services team representing the Army at the Widgery Tribunal. He made no bones about the fact that he was concerned primarily to protect the interests of the Army rather than to find the truth of what happened on Bloody Sunday. (**Day 243/142/17 to Day 243/142/21**) As a result of a controversial and, in our respectful submission, misguided ruling made by the Tribunal on 14th January 2004, following submissions made on **Days 403-405**, we have been prohibited from making allegations of impropriety on the part of **Lt Col. Overbury** in respect of his role in the process of talking soldiers' statements and presenting the Army's

evidence to the Widgery Tribunal. We shall, therefore, let the evidence speak for itself.

5.1.4.2. According to Lt Col. Overbury, it was his duty to "cross-check statements" (**CO1.41 paragraph 26**). He read all the soldiers' statements and interviewed or re-interviewed a number of them. His assistant, Major Bailey, and solicitors seconded from the Treasury Solicitor's staff also sat in during the interviews of soldiers by Sir Basil Hall's team from the Treasury Solicitor's Department staffing the Widgery Inquiry.

5.1.4.3. In determining how Lt Col Overbury discharged his functions, the Tribunal ought to take into account the evidence indicating that, in addition to the obvious factors that would have disposed him to protect the interests of the Army, he was led to believe and understand that he had the licence and authority to do so without risk of subsequent censure. In this connection, we refer to a number of matters which must have given Army Legal Services confidence that material alterations in the accounts of soldiers who were liable to "give the Army a problem" would be effectively screened from close external scrutiny. In particular:

(i) The Attorney General appointed Counsel both for the Army and for the Tribunal (see the minute of 2nd February 1972 from the DUS (Army) at **CO1.20 paragraph 4**) and he made it clear to Lt Col Overbury's immediate line manager, the Director of Army Legal Services, that the Counsel for the Tribunal would be sympathetic to the Army: see the loose minute from the DUS (Army) of 7th February 1972 at **CO1.25 paragraph 1(a),** where it is recorded that "the Attorney General observed that he thought that we could take it that given the personalities involved the proceedings of the Tribunal should not be abrasive as far as the Army is concerned". (Emphasis added.)

(ii) The Attorney General expressed the view, before any evidence was heard, that the Army witnesses "should have nothing to fear" (**CO1.25 paragraph 1(c)**).

(iii) Lord Widgery was a "good choice for the Army" (see **C1872.9 paragraph 2**). For example, he was prepared to go to "extreme lengths" to protect the identity of soldiers (**COl.12 paragraph 7**) and indicated that even though he saw obvious difficulties in shielding witnesses he would accede to such an application if one were made by the Army (**CO1.22**). He was also "well aware of the effects his judgement could have on future operations and the morale of the security forces"(per Mr Gibbens QC, according to Col Dalzell - Payne at **CO1.218 paragraph 7**).

5.1.4.4 Moreover, the circumstances surrounding the material alteration of the accounts given by, for example, Soldiers V and F (including in particular the fact that counsel for the Widgery Tribunal did not even *mention* their previous inconsistent statements, let alone challenge their evidence on this basis) point to the conclusion that the Army was, at the very least, given a "nod and a wink" that soldiers could, with impunity, alter their evidence as required.

Soldier V

5.1.4.5. It appears from the note made by Mr Heritage (**B821.2** and **KH6.14**) that Soldier V made an admission about shooting an alleged petrol bomber that was tantamount to an admission of murder or, at the very least, a breach of the Yellow Card. By virtue of the fact that he had been ordered to make a statement, both Col. Overbury and Major Bailey believed that he could not be prosecuted on the basis of this admission. However, the ALS team were clearly anxious to avoid any statement that would show that soldiers were at fault. The matter was taken up with Messrs Gibbens and Stocker (**B821.01**) and no warning was given, so that the soldier was still protected by the order. Notwithstanding this, the incriminating admission did not appear in the statement taken by the Treasury Solicitor and the account given by

Soldier V in this statement was at odds both with his original RMP statement and the account he had given to Mr Heritage. (See **B802**).Col. Overbury claims not to know how this came about. The irresistible inference is that Soldier V was advised in private by someone in authority in such a manner that Soldier V decided to change his account and offer a fresh account which did not implicate him in any wrongdoing. It is obviously important for the Tribunal to decide who is likely to have furnished this advice since it would clearly impact on the reliability of other military evidence if the person in question had an influential role in the gathering and presentation of other such evidence. The list of candidates is not long.

5.1.4.6. Perhaps more importantly in this context, Soldier V's oral testimony to the Widgery Tribunal also differed from his original RMP statement and from the account given originally to Mr Heritage (**B821.20**) but neither Counsel for the Tribunal nor Lord Widgery nor Counsel for the Army raised this fact. In view of the controversy that had arisen between the Treasury Solicitor and the Army Legal Services over the issue of Soldier V's statement, it is inconceivable that Counsel for the Tribunal would have been unaware of the previous inconsistent statements. The only proper inference to be drawn from the fact that both Mr Stocker and Mr Gibbens failed to deal with this is that they had agreed not to do so. If they were prepared to engage in collusion in Soldier V's case for the purpose of concealing evidence detrimental to both him and the army, it is reasonable to conclude that

(i) they may have done so with other soldiers and in other ways, and

(ii) the Army may have known that the Tribunal (including the Chairman, his counsel and the other important personnel associated with it) was minded to turn a blind eye to such matters.

Soldier F

5.1.4.7 Soldier F made his first statement in the early hours of Monday 31st January 1972 (**B121**). It was a detailed statement made when events were still fresh in his mind. Lt Col Overbury said that he had no

reason to believe that either F or any of the other soldiers was unfit to make statements in the early hours of the following morning. In this statement, F:

(i) made no reference to shooting anyone behind the Rubble Barricade;

(ii) made no reference to shooting anyone behind Block 2 (Joseph Place);

(iii) accounted for all 13 rounds fired in four different incidents; and

(iv) pointed out the location of his targets on a map (**B124**).

5.1.4.8 He made a second statement on 31st January 1972 (**B126**) in which he made no reference to shooting anyone else.

5.1.4.9 In a third (undated) statement (**B129**) he made no reference to shooting any other person, even though he did refer to gunmen at the rubble barricade.

5.1.4.10 He made a fourth statement on 15th February (**B132**) concerning arrests but did not take the opportunity to modify his substantive account.

5.1.4.11 His fifth and final statement (**B135**) was taken on 19th February by Col. Overbury. In it he suggested, for the first time, that

(i) he shot a person at the Rubble Barricade; and

(ii) he shot a person behind Block 2 (Joseph Place).

5.1.4.12 No satisfactory explanation has been offered as to what prompted soldier F's sudden recall of these additional shootings. There was nothing in his four previous statements that would have helped him do so. Nor did he apparently volunteer this additional statement. The inescapable inference is that the impetus for the final statement came from someone in the Army who appreciated the significance of the glaring gap in the Army's evidence and the need to plug it. Col. Overbury claims to have no recollection of the circumstances in which this statement came to be made but suggests that it was probably the

result of the "cross-checking" exercise, the exercise for which he was responsible. (**Day 243/56/19 to Day 243/56/23**) The best he could suggest was that soldier F may have remembered the events more clearly when he was shown photographs of the area, all of which were already available of course when the earlier statements were made.

5.1.4.13 On 14th February 1972 Dr Martin indicated that the bullet recovered from Michael Kelly could be traced to a specific rifle (**D550**) but he did not intend to embark upon the necessary tests until all the rifles were provided to him. It appears that, as of 17th February, the tests had still not been completed (**D628 paragraph 8**) By 28th February, Dr Martin was in a position to draft a letter to the RUC indicating that the bullet had been matched with a particular rifle (**D56**) Incidentally, Lt. Col. Overbury said that no query was raised about the correctness of Dr Martin's conclusions (**Day 243/159/2 to Day 243/159/4**) and we know that "the best ballistics expert in the business" was available to the Army Legal Services Team (**CO1.12 at paragraph 5**). There is no evidence as to when the results of the tests were in fact known to Dr Martin or whether they were communicated to anyone (and if so whom) before the draft letter of 28th February.

5.1.4.14 Col Overbury denied that he would have received advice directly from Dr Martin or from any other source before 28th Febrauary but, in our submission, it is certainly feasible that the results could have been known by Dr Martin prior to 19th February and communicated orally to Lt Col. Overbury on or before that date.

5.1.4.15 Whether or not F's statement of 19th February was prompted by receipt of the information that the bullet recovered from Michael Kelly had been traced to his rifle, the fact remains that he made the statement in circumstances suggesting that someone in ALS was responsible to some degree for prompting the new account.

5.1.4.16 Moreover, neither Counsel for the Army nor Counsel for the Tribunal (Mr Read) raised or queried the manner in which F had come to give his account of shooting a person at the rubble barricade. This could not have been an oversight. At the very least, the failure of Counsel for the Tribunal to refer to the previous inconsistent statements of Soldiers V and F undermines Lt. Col Overbury's suggestion that there was "no point in persuading soldiers to change their accounts because all their statements were given to the Treasury Solicitor" (**CO1.49 paragraph 51**).

5.1.4.17 According to **INQ 1872**, Lt Col Overbury did most, if not all, of the interviewing of soldiers (**C1872.2 paragraph 8**). Significantly, he was responsible for taking statements from General Ford, Brigadier McClellan, Col. Wilford and Major Loden (**CO1.6 paragraph 8**).

5.1.4.18. In addition to interviewing Soldier F on 16th February, Col Overbury interviewed three soldiers from 22nd Light Air Defence Regiment, viz **Soldiers 15, 40** and **134**. Soldier 15 was acting as an observer in the observation post in the shirt factory in Sackville Street, from which he had a view along Rossville Street to the Rubble Barricade. In his RMP statement (**B1414**) he said that he saw a soldier positioned at the corner of Block 1, Rossville Flats and he saw this soldier shoot at and hit a man who was running towards a doorway in Block 1. This man fell in the doorway and was then dragged inside. This may have been Kevin McElhinney. On the face of it, this soldier had fired without justification at a fleeing man. However, after he was interviewed by Col Overbury on 16th February, Soldier 15 made a fresh statement in which he said that before the soldier fired, the man in question stopped, faced the soldier who fired and raised his right arm at shoulder height pointing towards the soldier. (**B1422**) As Col Overbury recognised (**Day 243/210/11 to Day 243/210/14**), the fresh statement allowed for the possibility of a justification for the shooting, on the basis that he may have been pointing a pistol at the soldier. Col Overbury said he did not recall pointing out to Soldier 15 that his first statement was

potentially evidence of an illegal shooting and indeed did not explain how Soldier 15 had come to add this particular detail when being spoken to by him (Col Overbury) except that that was what the soldier said and that was what he wrote down. (**Day 243/210/22**)

5.1.4.19. **Soldier 40** said in his RMP statement that he was in a derelict building in Upper Magazine Street looking over the back of the Rossville Flats when he saw a paratrooper fire from the gable end of Glenfada Park North along the front of Rossville Flats Block 2 in his (Soldier 40's) direction and hit a man who was standing with his back to Soldier 40 waving his arms.(**B1653**) Again, this was a clear statement to the effect that a paratrooper had shot a civilian for no apparent reason. The man in question may have been Barney McGuigan. However, after being interviewed by Col. Overbury, this soldier made a fresh statement (**B1656**) in which he said that the civilian was holding his arms above his shoulders with his fists clenched and he could not say whether he was holding anything. This new statement clearly opened the possibility that the civilian might have been carrying a weapon.

5.1.4.20 **Soldier 134** was also in a derelict building in Upper Magazine Street. In his RMP statement, he said he saw a male civilian trotting across Glenfada Park towards the flats with a paratrooper behind him. The paratrooper knelt down behind a lamp post and fired one round at the man, who then fell to the ground. (**B1823**) Col. Overbury agreed that this was evidence of the man being fired on without cause by a paratrooper. (**Day 243/214/23 to Day 243/215/1**) Col Overbury claimed not to recall why he was asked to interview any of these three soldiers but he had the impression that one of the reasons was "to see if we could put something together that was more consistent." He denied that it was to try and put a spin on some evidence otherwise damaging to the Army. (**Day 243/215/12 to Day 243/215/14**) However, after he was interviewed the same day by Col Overbury, Soldier 134 also made a fresh statement in which he added detail in such a way as to raise the

possibility that the man he saw trotting away may not have been the same person as the man who was shot.

5.1.4.21 The pattern that emerges from this evidence is one of radical alteration by soldiers of their original accounts so as to eliminate "problems for the Army". The question to be determined by the Tribunal is whether this was all spontaneous or was systematically engineered. If it was the latter, it must be decided who is likely to have been responsible and whether the person in question was in a position to engineer other aspects of the Army's evidence, in which case it would be difficult to regard any of it as safe.

5.1.4.22. Quite apart from the evidence of alteration of the accounts of specific soldiers, it appears from the evidence of **Captain 219** that before the Widgery Inquiry a large number of officers and men of 1 Para were assembled in a hall in Palace Barracks and "briefed on what to say and how to say it". (**B2162.8 paragraph 29**) According to Captain 219:

> "The briefing was conducted by members of the battalion (I do not remember who) and by ***strangers from outside who I believe were lawyers***. I do not know whether they were army or civilian lawyers. I remember sitting there feeling very upset – they were almost putting words into our mouths. I was very upset at the time and even now it upsets me. When Widgery reported I felt that the evidence had not got through to him". (Emphasis added)

It is common case that Col. Overbury addressed officers and men of 1 Para and formally ordered them to make statements to the Widgery Inquiry. If Captain 219's evidence about this episode is correct, the Tribunal will presumably wish to consider whether Lt. Col Overbury could have been one of those "strangers from outside" who conducted the briefing in question.

5.1.4.23 According to David Mills (**M.108.2**), Lt Col. Overbury regarded the Army case as a charade. As head of the Army Legal Services team at Widgery, he was in a good position to know.

5.1.5. Conclusion

5.1.5.1 It is our submission that the Tribunal ought to approach the assessment of both the contemporaneous statements of soldiers (including their oral testimony to the Widgery Inquiry) and their current testimony on the basis that their evidence is inherently unreliable and likely to be false on the material issues.

5.2 Royal Ulster Constabulary

5.2.1. Introduction and summary

5.2.1.1 It has always been contended on behalf of the families that one of the most scandalous aspects of Bloody Sunday is that the RUC completely abdicated its responsibility to investigate the conduct of the soldiers and to bring prosecutions. Even on the soldiers' accounts, they had been involved in a mass killing and, on the accounts of countless civilians (including journalists, photographers, priests and others as well as the Bogside residents), there was at least a *prima facie* case of unlawful homicide. The response of the Police was to prosecute *marchers* on the say so of soldiers who were obviously lying and to turn a blind eye to the conduct of the paratroopers. Not one was even interviewed.

5.2.1.2 .It was in these circumstances that, by notice dated 10th December 1999, we made two general allegations against the RUC, namely that they:

(i) failed to conduct any adequate investigation into the actions of soldiers; and

(ii) failed to ensure that all material was obtained from the Army, the RMP and the Treasury Solicitor to enable a full and proper investigation into the actions of soldiers.

5.2.1.3 In a letter of 11th May 2000 the Solicitor to the Inquiry notified us that the Tribunal was not minded to entertain these allegations. It took the view that exploring the failures of the RUC or its officers after the event would not be of any assistance.

5.2.1.4 While the Tribunal may not be prepared to entertain allegations against the RUC for the purposes of determining culpability, it is our submission that these and other matters are relevant to the Tribunal's assessment of RUC officers as witnesses since, not content with turning a blind eye, many RUC officers also succumbed to the temptation to make statements that helped to provide a justification for the shootings.

5.2.1.5 The reality is that the RUC was a sectarian force whose members not only had a natural sympathy with the Army as another branch of the security forces but were positively hostile towards Nationalists and Civil Rights marchers. Apart from previously breaking up Civil Rights marches with brutality, their members had themselves engaged in direct conflict with the residents of the Bogside (for example, during the Battle of the Bogside). They also had a track record of closing ranks and suppressing evidence (for example, in the "conspiracy of silence" that their own Chief Constable of the day said blocked the internal investigation into the attack on Samuel Devenney).

5.2.1.6 It is our submission that the RUC as a body could not and still cannot be trusted to tell the truth about what they witnessed on Bloody Sunday.

5.2.2. Background

5.2.2.1. The question of misconduct among members of the RUC is dealt with briefly by Professor Arthur in his report at **E6.25, E6.27**. The following is a chronology of relevant events concerning RUC conduct during this period:

Date	Facts
5th October 1968	Civil Rights march broken up in Duke Street.
4th January 1969	Police collusion in attack on Civil Rights march at Burntollet
4/5th January 1969	RUC incursion into St Columb's Wells and Leckey Road (recorded in Cameron Report)
19th April 1969	Samuel Devenney and others beaten in Devenney house in William Street.
12th August 1969	Apprentice Boys march, followed by RUC /Apprentice Boys assault on Bogside (Battle of Bogside)
Date	**Facts**
14th August 1969	British Army deployed
9th October 1969	Hunt Report on Police published
October 1969	Sir Arthur Young appointed Chief Constable of RUC
4th November 1970	Sir Arthur Young issues statement that the internal (Drury) Police investigation into the assault on Samuel Devenney was blocked by a "conspiracy of silence" among police officers.

5.2.2.2 The RUC in 1972 was a predominantly Protestant, sectarian force which, despite the fact that the Chief Superintendent in Derry was a Catholic, had on more than one occasion manifested its animosity towards the Catholic residents of the Bogside. The RUC incursion into

the Bogside on the night of 4th /5th January 1969 was investigated by the Cameron Commission, which reported that their investigations

> "have led to the unhesitating conclusion that on the night of 4th /5th January a number of policemen were guilty of misconduct which involved assault and battery, malicious damage to property in streets in the predominantly Catholic Bogside area giving reasonable cause for apprehension of personal injury among other innocent inhabitants, and the use of provocative sectarian and political slogans".

5.2.2.3 It was these events which led to the creation of Free Derry, a slogan which was painted on a gable wall of the Bogside on 5th January 1969. It was the failure of internal police inquiries to uncover the culprits responsible for the beating of Samuel Devenney in April 1969 which led to the RUC Chief Constable complaining of a "conspiracy of silence" within his own force. (**E6.26**). It is submitted that the police officers involved in Bloody Sunday saw it as their duty to rally round the soldiers in order to protect the army and Security Forces generally from criticism about their conduct on the day.

5.3.3 Conduct on the day

5.3.3.1 The RUC on Bloody Sunday had a support role, in more ways than one. It is common case that the Army was in charge of the operation to prevent the march from leaving the Bogside with the RUC involved only in peripheral duties such as patrolling the approaches to the containment area and processing the prisoners. As such, they were not involved in the arrest operation itself and few of them were eye-witnesses.

5.3.3.2 Nevertheless, many of them supplied witness statements in which they claimed to have heard civilian gunfire, including weapons such as Thompson sub-machine guns, which were distinctively IRA weapons, rather than Army SLRs. Many of these police officers were equipped

with personal radios. Yet not one report of civilian shooting was made at the material time by a police officer. The police log of radio transmissions records that at 16.16 paratroopers were moving down Rossville Street and that the area was clear. The next two entries concerned the movements of a bus. At 16 .20 hrs, it was noted that William Street and Rossville Street were clear. At 16.21, it was logged that a press man had reported a 13 year old child lying dead on the street near Butcher's Gate. The first report of shots was at 16.23 but it is clear from a further entry at 16.25 that this related to a report of shooting from the Bogside Inn (**W160**). It was also clear from the Porter transcript of the RUC transmissions that the shooting had been initially directed at soldiers on the City Walls **Serial 377**, (**W185**). It apparent from the Porter transcript that throughout this period the Police were primarily concerned with the movement of civilians outside the Bogside area, which was their primary area of operation, and most of them had little idea of what was going on inside the Bogside.

5.3.3.3 On this ground alone, it is submitted that the Tribunal ought to attach no weight to the evidence of those police officers who claimed after the event that they heard gunfire other than Army gunfire. Some say they now don't remember this but do not resile from their 1972 statements.

5.3.3.4 The role of the police officers at Fort George is discussed in Section 16. As appears in that review of their evidence, most of them claim to have been unaware that soldiers subjected the prisoners to various forms of ill-treatment. The truth, as Joseph Lynn pointed out in his statement, is that many of the police officers enjoyed the spectacle. (**AL39.7 paragraph 33**) Not only were the police not prepared to intervene but they actively participated in the process by taking statements (that they must have known to be false) from soldiers, some of whom claimed to identify a multiplicity of civilians.

5.3.3.5 The reaction of police officers on Bloody Sunday to the fatal shootings was summed up by CSM 202, when he said:

> "The Battalion headquarters were situated in the grounds of a police station. I recall that there were policemen at the side of the road clapping at the headquarters as Major Loden went into the command and control cabin. I suspected that this reaction was because of the number of civilians who had been killed. I was not proud of this reaction from the RUC; I felt uneasy about it" (**B2111.020 paragraph 133**).

5.3.3.6. A solicitor, Patrick Fahy, was at the march and was later stopped near the Craigavon Bridge by a police patrol. Mr Fahy commented to one of the policemen that he believed some people had been shot dead. The policeman's reply was: "There was not half enough of the bastards shot dead". (**AF1.1**)

5.3.3.7 **INQ 2107**, an officer in the 22 LADR also gave evidence to the effect that the police were "elated" to hear of civilian casualties (**Day 371/47/7 to Day 371/47/21**). He noted this fact in his journal at the time (**C2107 paragraph 14**)

5.3.3.8 In addition, a number of Police officers filed reports dated 5th February 1972, apparently in response to a request to this effect. By way of example of the contents and objects of those reports, three police officers – Messrs Carson, Gawley and McVeigh – filed reports in almost identical terms claiming that they had seen a car with a body in it "ramming the barricade", i.e. Barrier 20, when it was quite clear from a substantial body of other evidence that this was simply not true. (**Day 216/10/9 to Day 216/26/15**) The clear inference is that not only did the police officers fabricate this account but they did so in collusion with each other.

5.3.3.9. It should also be remembered in this context that, as is discussed in Section 5.2, the Chief Constable of the RUC had entered into a formal

agreement whereby soldiers involved even in fatal shootings would be interviewed by the RMP rather than by Police officers. There could hardly be a clearer indication that, as far as the police were concerned, soldiers could literally get away with murder.

5.3.3.10 An example of the current standards of police officers is the case of William McGreeghan. In support of his application for screening, he claimed that he was living and working in Northern Ireland but it emerged, quite fortuitously, that he had been living and working out of the jurisdiction for several years. (**Day 219/34/8 to Day 219/45/19**)

5.3.3.11 It is for these reasons that in our submission, insofar as police officers claim to have heard civilian gunfire or nail bombs or other matters that would tend to justify shooting by the Army, their evidence is inherently suspect by virtue of their status as police officers.

5.4 Photographers

5.4.1 As the Tribunal knows there were a large number of photographers present in Derry on Bloody Sunday. Both amateur and professional photographers using still and cine film captured many images of that day – from the gathering of the crowd at Bishop's Field in the cine film taken by Willie McKinney who was shot dead on Bloody Sunday which appears in video 32, to the horror of the image of the murdered Barney McGuigan lying dead on the street in a pool of his own blood **P728**.

5.4.2 A significant number of very helpful photographs were taken by amateur photographers, such as that taken of Michael Bridge by Sam Gillespie **P188**, and the cine film of the removal of the bodies from Glenfada Park and Gerry McKinney lying where he fell taken by Michael Rodgers which appears in video 52.

5.4.3 The failure of the army to produce the photographs taken by its photographers, who were undoubtedly present on the ground on Bloody Sunday has been addressed in **section 4.3**.

5.4.4 However, the photographs that are available to the Tribunal are invaluable, both in themselves as a record of what took place on that day, and also as an aid to the interpretation of other evidence and as an aid to witnesses in giving their evidence. They are the "eye of reality" rather than the "eye of faith" **Day 072/142/13 to Day 072/142/14**.

5.4.5 The value of photographs is well illustrated by those provided by Trevor McBride which show scenes in sector 4. Mr McBride was a freelance photographer who had been asked to cover the march for the Daily Mirror. Among the photographs he took that day are some of the few available photographs in sector 4 including the only photographs of the bodies in Glenfada Park. The shocking photographs which appear at **P438** and **P439** show two bodies and the legs of a third lying along the southern end of Glenfada Park North where they fell. These photographs were not before Lord Widgery's Tribunal which perhaps contributed to his confusion and led to his inability to distinguish between those who fell in Glenfada Park and those who fell in Abbey Park.

5.4.6 While by their nature still photographs record only a split second in time the large number of photographs in the Inquiry's possession can be pieced together to provide an indication of how events developed on the ground. The Tribunal also has a large amount of actuality footage shot by television crews who were present and which shows, *inter alia*, the movement of support company into the Bogside and the initial deployment of the soldiers once they debussed.

5.4.7 What the photographs and film footage show is that at no time does any soldier appear to be acting in a manner that suggests he is under

fire. The photographs taken of soldiers in Rossville Street provide a good illustration of this

5.4.8 Quite apart from the value of their photographs as an independent record of the events of the day, the photographers themselves are obviously important eyewitnesses to those events. Not one photographer provides support, either photographic or otherwise, for the soldiers' case that

(i) they were justified in opening fire;
(ii) that those they shot were armed or acting in a manner that led soldiers to believe they were under threat;
(iii) that those they shot were in close proximity to someone who was armed or acting in a manner that led soldiers to believe they were under threat;
(iv) that gunmen and bombers were shot dead and/or injured and their bodies "spirited away".

5.4.9 The Interpretation of Photographic Material

5.4.9.1 This is a matter that the Tribunal can undertake itself, with the aid of the other evidence before it and having heard the evidence of many of the relevant photographers. This is the standard approach in all manner of proceedings as can be seen from **R v Murphy [1990] NI 306, R v Stevens [2002] NI 361**.

5.4.9.2 Those representing the soldiers have argued for a certain interpretation of a large number of photographs and indeed the Inquiry has had many photographs enhanced, often in an effort to clarify what an individual in a photograph is carrying. It is submitted that, with the exception of "Fr Daly's gunman" which is accepted and has been public knowledge for quite some time, none of the enhanced photographs shows any individual carrying anything more sinister than a stone.

5.4.9.3 It should also be noted that no similar interpretation was urged upon Lord Widgery in respect of the photographs that were before him.

5.4.10 Removal of Photographs/Missing Photographs

5.4.10.1 Those representing the soldiers have, on occasion, indicated during questioning that they believe that certain photographs are missing from a sequence. In addition, allegations appear to have been made against certain photographers during the course of their oral evidence that they have removed photographs that may show civilian gunmen/bombers from sequences of photographs taken by them.

5.4.10.2 When Ciaran Donnelly gave evidence he suggested that some of the photographs taken by him behind the rubble barricade and before he entered Glenfada Park North were missing **Day 071/34/17 to Day 071/35/8**. However when he was questioned by Arthur Harvey QC the following exchange took place

"Q. You come up eventually Rossville Street and you go behind the barricade; did you see anything behind the barricade which would have justified five people being shot dead by the army?

A. No.

Q. The army, according to the evidence that they have given in the past and intend to give in the future, would indicated that behind that barricade they alleged there were at least three riflemen, at least three people with blast bombs, one person with a sub-machine gun and three people with pistols. Did you see any of that?

A. If I had seen any guns or if any blast bombs had gone off, I would have left the area immediately." **Day 071/50/18 to Day 071/51/6**

5.4.10.3 Coleman Doyle also indicated that some of the film he shot that day was missing **Day 072/149/24 to Day 072/150/18**. However again his evidence was that when he was in Rossville Street in the vicinity of

soldiers "I saw nobody shooting at them [the soldiers], or I did not even hear a bomb" **Day 072/137/20 to Day 072/137/21**.

5.4.10.4 Larry Doherty indicated that he had and the newspaper he worked for had given negatives out on loan over the years but that he had supplied the Inquiry with all the photographs in his possession except for two which were missing **Day 070/110/25 to Day 070/111/11**.

5.4.10.5 Robert White who was an amateur photographer indicated in his written evidence to the Tribunal that "Photographs numbered 14, 15, 19 and 23 are not attached to this statement. When these negatives were developed I was asked to destroy these photos as they showed people rioting and could be used as evidence against them. I have kept no copies of these negatives." **AW11.3 paragraph 14**.

5.4.10.6 When he gave oral evidence Mr White indicated that he was "terrified that anybody would get jail" and "it was an automatic sentence of six months for rioting" **Day 137/98/7 to Day 137/100/4**. It was never suggested to Mr White that those photographs he destroyed might have shown anything other than rioting.

5.4.10.7 In any event, Mr White had previously said that while he was at the rubble barricade he did not see anyone there throwing nail bombs or armed with a rifle or a pistol **Day 137/90/22 to Day 137/91/2**.

5.4.10.8 Eamon Melaugh gave evidence that he had given many of the negatives of his photographs to John Lloyd from Time Out and most were not returned. These photographs included, he said, some of bodies on the barricade. Understandably counsel to the Inquiry was sceptical about this claim **Day 143/58/13 to Day 143/60/2**.

5.4.10.9 The following passage appears in the Sunday Times insight article

"The photographer, Fulvio Grimaldi, also saw this gunman. He also is certain that the gunman did not appear until after the Army had killed Duddy and wounded others.."
L213

5.4.10.10 When he gave evidence Mr Grimaldi denied that he had told this to the Sunday Times team **Day 131/43/15 to Day 131/43/9**. He also said that he was never aware of photographing a gunman **Day 131/44/25**. He denied that he had taken and withheld the photograph an enhanced copy of which appears at **E14.004** **Day 131/47/8 to Day 131/47/15**. When interviewed by Paul Mahon Mr Grimaldi appeared to admit to taking the photograph but indicated that he did not see the man fire and did not think he was aware the man had a gun **X4.48.52 to X4.48.53**.

5.4.10.11 Whatever view one takes of Mr Grimaldi's evidence it is clear that his actions have had no effect on the Tribunal's search for the truth of what happened on Bloody Sunday. The Sunday Times team were aware of its existence, a copy of the photograph is in the Inquiry's possession and the Tribunal has heard much evidence about the man depicted therein, including receiving written evidence from that man himself.

5.4.11 Sequencing

5.4.11.1 As with other witnesses the memories of the photographers who have given evidence have faded and/or distorted as a result of the passage of time. As a result of this not only their testimony as to what they saw may be confused but also the sequence in which they took their photographs. This can be seen, for example, from the evidence of Coleman Doyle **Day 072/144/10 to Day 072/144/16**.

5.4.11.2 Problems about the sequence in which photographs were taken is often remedied, however, by a study of the contact sheets that have been provided to the Inquiry.

5.4.11.3 In addition photographers may have been using more than one camera and therefore the shots taken from one camera may be interspersed with shots from another (see for example the evidence of Coleman Doyle **Day 072/152/3 to Day 072/152/12**).

5.4.12 Conclusion

5.4.12.1 It is submitted that the photographic evidence available to the Tribunal is an invaluable tool in the search for the truth about Bloody Sunday. We submit that

(i) The photographic evidence provides no support for the soldiers' case that they were justified in opening fire;

(ii) The evidence of the photographers provides no support for the soldiers' case that they were justified in opening fire and;

(iii) There are no "missing photographs" of significance save those that have not been produced to the Inquiry by the Army.

5.5 Journalists

5.5.1 Introduction

5.5.1.1. This section is intended as a general comment on the evidence emanating from journalists which is before the Tribunal and the approach that should be adopted towards its assessment.

5.5.1.2. The Tribunal has received a large amount of material from journalists. It can be categorised in different manners but principally it can be divided into evidence from those who were present on the day and evidence from those who conducted investigations after the event.

5.5.1.3. Those who were present on Bloody Sunday are a distinct category of eyewitness to the events of the day. They are a distinct category because they were clearly there for a certain purpose i.e. as observers and to a certain extent were trained as such.

5.5.1.4. In addition, there have been a number of investigations conducted by journalists after the event which have generated a huge amount of material now before this Tribunal. These include the investigation of the Sunday Times Insight team which was conducted within a matter of weeks of the event and that conducted by the Praxis films team in 1991.

5.5.1.5. Those investigations alone have provided a large amount of material to this Inquiry which has often clarified and supplemented the evidence of many of those who have given evidence.

5.5.1.6. Clearly it would be ideal if the Tribunal could immediately and without equivocation rely on the evidence of all the journalists who have appeared before it. However, it is obviously the case that the evidence of journalists must, in common with the evidence of civilians, soldiers and others be properly assessed and the Tribunal give it such weight as is appropriate in light of that assessment.

5.5.1.7. It is obviously not the case that all of the evidence given by journalists can be classed as beyond reproach. Journalists are equally as fallible and subject to emotion as other classes of witness. What should set them apart is

(i) their ability to observe and record events;

(ii) their ability to comment on a situation with objectivity and;

(iii) their ability to recognise, if appropriate, where objectivity is being compromised, by whom, and for what reasons.

5.5.1.8. In light of this there are two particular issues that must be weighed in the balance when assessing the evidence of journalists. Given that they can be identified as a distinct category of witness the Tribunal must be

particularly careful not to elevate them to a status which dispenses with the need to properly assess their independence and accuracy.

5.5.2. Independence

5.5.2.1. It is beyond doubt that the vast majority of the journalists who were present on Bloody Sunday and those who conducted investigations into the events of Bloody Sunday were independent witnesses and journalists of integrity and the Tribunal should be reluctant to dismiss their evidence, or the evidence gathered by them, without very good reason. However, it is also possible that some journalists were disproportionately influenced by political pressure, their own agendas or that they were manipulated by the governmental publicity machine and that such influence coloured the information presented by them.

5.5.2.2. That the media could come under considerable pressure from the government and the army in 1972 can clearly be seen. John Barry has said "INSIGHT'S articles on Northern Ireland had brought criticism of a vitriol hard now to comprehend" **M3.2 paragraph 9**. In addition the Tribunal is aware of the reaction of the Ministry of Defence to the critical article about the Parachute Regiment in Northern Ireland published in the Guardian in the week before Bloody Sunday[1]. John Barry has recognised this when he says that it is important that journalists were "intent on finding out what was actually happening rather than merely regurgitating the British Army's version of events..." **M3.1 paragraph 4**.

5.5.3. Accuracy

5.5.3.1. When Peter Pringle gave evidence the following exchange took place

[1] See Simon Hoggart's statement at **M41.2 paragraphs 5 to 6** and also the documents attached at **M41.6**, **M41.7** and **M41.8**

"Q... When you are dealing with individuals who are not to be named as sources, again you have to be extremely cautious in relation to the information that is being supplied to you?

A. Correct.

Q. Some people may be simply mendacious?

A. Absolutely.

Q. Some people may want to inflate their own self-importance in events that go on around them?

A. That is correct.

Q. And some people no matter what they tell you will deny it later to any other person who asks?

A. They may do.

Q. And one of the dangers really apparent after 30 years is that people simply forget?

A. Correct.

Q. When they forget they sometimes forget even talking to journalists at all?

A. Correct." **Day 190/143/22 to Day 190/144/15**

5.5.3.2. Therefore one of the issues that must be considered by the Tribunal is the accuracy of the account recorded by the journalist. In this context accuracy has double significance in that the Tribunal must examine not only the journalist's methodology but also any information that may affect the veracity of the source.

5.5.3.3. Where an independent record of an account exists such as a tape or film recording, that will obviously speak for itself, however when reliance is placed on notes which are simple hearsay or perhaps even "double" or "triple" hearsay they must be treated with more caution.

5.5.3.4. In addition, where no recording of the contact with the source exists then the journalist's methodology must be examined along with the reliability of the source and any corroboration that exists for the information concerned.

5.5.3.5. It is also clear that people will often be prepared to divulge certain information to journalists where they would not be prepared to divulge the same information to other individuals or official bodies, such as this Inquiry. There may be a number of reasons for this including the following

(i) The individual may be expressly told that his/her identity as the source of the information will not be revealed;
(ii) S/he may assume such confidentiality;
(iii) The sensitivity of the information;
(iv) The individual has fears for his/her safety should s/he be identified as the source or in some way connected with the information;
(v) S/he may be giving information which suggests misconduct or the commission of criminal acts by him/herself or another;
(vi) S/he may simply feel at ease with the journalist;
(vii) S/he may feel that the journalist is sympathetic to his/her point of view;
(viii) S/he may believe that provision of the information, even if it is incriminating, will have no consequences for him/herself or others.

5.5.3.6. The result of this may mean that the content of a journalist's note or even the assertion that an interview or conversation took place may be hotly disputed by the claimed subject. Where such information is hotly disputed the journalist's integrity and accuracy is clearly a live and important issue.

5.5.3.7. The Tribunal must also be clear that articles and conclusions have been adequately sourced and corroborated. The drawing of definitive conclusions from one source is not thought to be good practice. In this regard the Tribunal is referred to the manner in which Mr Clarke

and Ms Johnson conducted their task **Day 387/198/3 to Day 387/205/20**.

5.5.4. Journalists present on Bloody Sunday

5.5.4.1. Having said all that however, and having noted above the general points that can be made about evidence from journalists, the evidence from journalists who were on the ground on Bloody Sunday is clear.

5.5.4.2. No journalist has reported seeing anything that provided justification for the deaths and injuries that occurred on Bloody Sunday. Nor does their evidence corroborate that of the soldiers.

5.5.4.3. In this regard the Tribunal is referred, for example to the evidence of the ABC cameraman Barry Fox whose footage can be seen on Video 48. He says "I did not see or hear any civilian gunmen or nail bombs and I did not see, hear, sense or feel any incoming fire towards the soldiers or in my direction. At the time I was completely open minded as to what had happened, but clearly, what had happened was a mess that the Army was going to have to explain." **M115.12 paragraph 63**.

5.6 Civilian Evidence

5.6.1 Introduction

5.6.1.1 This section is intended as a general comment on the evidence emanating from civilians that is before the Tribunal. It will provide a brief outline of the sub-categories of evidence within this category and provide a broad outline o four submissions on the civilian evidence before the Tribunal and the approach that should be adopted towards its assessment.

5.6.1.2 The Tribunal has directly and indirectly received a huge amount of evidence from civilians. Broadly speaking the civilian evidence supports the following conclusions:

(i) Paratroopers entered the Bogside in at speed in vehicles and drove through the crowd.

(ii) They immediately began assaulting unarmed civilians and then opened fire indiscriminately and without justification.

(iii) A small number of isolated shots were fired by gunmen on the day which had no impact whatsoever on the activities of the Paratroopers.

(iv) No nail bombs were thrown at the Paratroopers.

(v) No acid bombs were thrown at the Paratroopers.

(vi) The Paratroopers illegally arrested and unlawfully detained civilians and unlawfully assaulted many of them.

(vii) A number of Paratroopers shot from the hip.

(viii) A significant number of Paratroopers were "hyped up" and / or aggressive.

(ix) Some Paratroopers obstructed medical personnel and then gloated over casualties.

5.6.2 Categories of Civilian Evidence

There are three main categories of civilian evidence.

5.6.2.1 1972 Civilian Evidence

(i) Transcripts of Interviews given by civilians to persons associated with the Civil Rights Association on the evening of Bloody Sunday in its immediate aftermath to persons such as Kathleen Keville.

(ii) Some unsigned "statements" that were typed up as a result of these interviews.

(iii) Statements that were taken by local teachers, priests, nuns, Civil Rights activists and sometimes taken by the witnesses themselves in the weeks after Bloody Sunday.

(iv) Statements prepared by the Order of Malta in the aftermath of the killings.

(v) Civilians provided statements to the Treasury Solicitor at the Widgery Inquiry and, depending on whether they were called to give evidence or not, there may be transcripts of their oral evidence to that Tribunal.

(vi) Civilians provided interviews over the course of the months following Bloody Sunday to the Sunday Times Insight Team journalists.

5.6.2.2 This evidence is clearly of importance as it was obtained very close to the actual events themselves.

5.6.2.3 Many of those witnesses who gave evidence before this Inquiry were among the five hundred or so who provided statements after the events of the day in 1972. The decision to have a statement taking exercise and the manner in which statements were collected in 1972 offer a unique insight not only into event itself, but also the alienated status that the vast majority of the people of Derry who had been witness to the events of Bloody Sunday felt in respect of the agencies of law and order. By providing written statements in 1972, people knowingly exposed themselves to the risk of possible arrest or prosecution. It was however clear to many that what they had witnessed, demanded the creation and presentation of some form of official record. It seems astonishing today that this responsibility fell to people such as students, teachers, civil servants, the clergy and local nuns for collation by voluntary bodies such as the Civil Rights Association and the National Council for Civil Liberties.

5.6.2.4 Having said that, this material has been invaluable to the present Inquiry as it has allowed witnesses to be able to refresh their memory

in relation to the events that they witnessed. The 1972 material can and has been used as tools in order to expose discrepancies between statements provided by witnesses many years apart and reconcile differences. It enables the Tribunal to assess whether support is given or doubt should be cast on subsequent and more recent testimony.

5.6.2.5 Obviously many of these statements are very brief, lack clarity and were not taken by trained statement takers. Many of the statements appear to have been taken quickly in the course of a short period of time, without a period of reflection so that careful amendments, if required, could be made. It also has to be remembered that many witnesses who provided statements were undoubtedly recovering from the psychological impact of the events that they had witnessed often just days before and were making their statements in an atmosphere of extreme emotion.

5.6.2.6 In 1972, David Mills was a Producer for the BBC current affairs programme "24 Hours" and was sent by the BBC to go to Derry to prepare a programme on the findings of Widgery Tribunal in the context of the material that was available to him. He spent about four of five weeks in Northern Ireland doing research for the Widgery programme **M108.11 paragraphs 1 to 4**.

5.6.2.7 Whatever the reliability or accuracy of the stories he was being told, this was Mr Mills' impression:

> "I went to the Bogside and spoke to many people in their homes. I never felt threatened or sensed any personal danger. People wanted to talk, they did not want to hide anything. I did all the research myself, interviewing the key witnesses, such as Father Daly... My strong impression was that people had nothing to hide and there was no attempt to conceal anything. For example, I was told that a civilian had been seen with a gun and

that a group of Officials had come into the Bogside but had left quickly" **M108.13 paragraph 11**

5.6.2.8 Interviews Provided Subsequent to 1972

(i) Interviews given to the media and various researchers over the course of the decades after Bloody Sunday. This includes the Praxis Material for *Secret History*; Interviews to Peter Taylor for *Inside Story*, Channel 4 and other documentaries.

(ii) More recently, interviews given to Paul Mahon, Don Mullan and Jimmy McGovern / Stephen Gargan have become available.

5.6.2.9 The overriding impression when considering this material is that despite the passage of time there is still a basic consistency in relation to the general propositions that emerge from the eyewitness accounts given by civilians, namely, that the Paratroopers went on a killing spree in the Bogside and then lied about the threat that they claimed to have faced in an attempt to cover up their murderous activities.

5.6.2.10 In any event the Inquiry has this material and the Tribunal can compare these accounts with any statements or evidence that was given in 1972.

5.6.2.11 Evidence given by Civilians to this Inquiry

(i) Hundreds of civilians have given statements to the Inquiry's statement takers, Eversheds. Professional lawyers have interviewed them over the course of many hours with the assistance of photographs, actuality footage and their own legal representatives. Time for reflection, consideration and amendment to draft statements and opportunity to make supplemental statements where necessary has been afforded.

(ii) The Tribunal has had the benefit of tested oral evidence if it has seen the need to call these witnesses and is in a position to assess their demeanour and truthfulness directly.

5.6.2.12 Quite apart from those factors referred to above, the level of reliability, which can be placed upon individual testimony, will vary from one witness to the next. All witnesses to the Inquiry have been exposed to factors that will understandably impinge upon the accuracy of their recollection.

5.6.2.13 The passage of time remains the dominant factor affecting accurate recall. In addition, subliminal influences, such as television, film and conversation, casually reinforced over a thirty-year period have all served to distort to varying degrees the accuracy of memory. It should also be recalled that for many of these people, the shocking and traumatic impact of the events themselves serves to impose its own potential limitations.

5.6.2.14 For the most part however a common thread of consistency unites virtually all the civilian witnesses who gave evidence before the Inquiry. They have been unable to forget the killings and woundings that they witnessed. With few exceptions the civilian witnesses have striven to provide a truthful and unbiased account of their experiences on that day. This has been largely reflected in the manner in which they were questioned by the interested parties.

5.6.2.15 As a category of witness, their evidence finds corroboration and therefore gains weight when considered along with the evidence of most of the journalists who were present on the day. Their evidence marries with the objective evidence of photographic material, the actuality footage and the audio material such as the North tape.

5.6.2.16 As a category of witness, they have come forward, some with reluctance and misgivings after the experience of the Widgery Tribunal

and many at the request of the Families and Wounded to tell their story. The vast majority of civilian witnesses before this Tribunal were ordinary people who witnessed extraordinary events. They have done their best and tried to recall what they saw and experienced and unlike many of the soldiers they have not been afflicted with a collective amnesia:

> *"Q. Does it strike you as rather odd that we are now in a situation where the people of Derry cannot forget what happened that day and the paratroopers cannot remember; is that the situation?*
> *A. I can appreciate that, but a lot, a lot of time has gone on since 31 years ago.*
> *Q. It is a very curious paradox; is it not?*
> *A. It certainly is, yes.*
> *Q. That those who have most to account for appear to have the most defective memories of them all; is that not right?*
> *A. If you say so.*
> *Q. Well, do you not agree with that? As far as you are concerned, that is the case?*
> *A. Then okay.*
> *Q. You have no explanation for that?*
> *A. No.*
> *Q. None at all?*
> *A. None at all. As I said, it was 31 years ago and since that event, I have been involved in a lot of experiences, of similar cases."*
>
> (Soldier F being questioned by Seamus Treacy QC.SC)
>
> **Day 376/21/2 to Day 376/21/22**

5.7 **Priests**

5.7.1 It is submitted that this category of witness requires special attention. In 1972 the Catholic Church was regarded and recognised as one of the most conservative institutions in Ireland. The attendance of priests at a Civil Rights March provided the moral endorsement for what many perceived as basic political demand. Traditionally their role in Irish Society was one in which they were implacably opposed to the IRA and generally in the early years of the Conflict were quite supportive of

the forces of "law and order". One witness in particular described Father Mulvey as being "an anti-republican priest" **AD26.4 paragraph 17**. The clergy throughout the Troubles ritually condemned killings, IRA operations and called for Catholics not to support or join it. By way of example the Inquiry has **OS8.45**, which is the *Lost Lives* entry concerning the killing of Patrick Duffy in 1973. It is submitted that this is demonstrative of the type of fundamental disagreement and opposition that existed between the Catholic Church and the IRA.

5.7.2 It might be said that because they ministered to the people of the Creggan, Long Tower and the Bogside that these witnesses are biased and that their evidence should be approached with caution. However the answer to such a submission is simple: when it comes to good and evil, right or wrong, priests do not occupy a neutral middle-ground. They have a duty by their calling and their conscience to explain what they saw and make moral judgments thereon. What they saw on 30th January 1972 was "wilful murder" **V4b/0.00 to 1.32**.

5.7.3 It is clear from the photographic evidence and the actuality footage that the Clergymen can be seen to have been in the centre of events on Bloody Sunday:

(i) Father Daly was the Rossville Flats car park **P627**, **P628**, **EP26.12** and **P629**, but he saw only one man armed with a handgun. The footage at **V1/4.57 to 5.14** of him among the group carrying Jackie Duddy has become an iconic image of Bloody Sunday. He later gave an interview south of Block2 **V1/8.06 to 9.20**.

(ii) Father Carolan can be seen helping John Johnston into his VW beetle car at Columbcille Court **V3/6.39 to 6.45**.

(iii) Father Mulvey was in Abbey Park, the area north of Block 1 **EP4.50**, **V3/6.00 to 6.39** and the Rossville Street area south of

the Rossville Flats **P426**, **P527**, **P528**, **P529**, **P530**, **P532**, **V1/7.28 to 8.00**.

(iv) Father Irwin was with Father Mulvey when he was at the area north of Block1 **EP4.50**.

(v) Fathers Bradley **P423**, **P426**, **P491**, **P435** and O'Keefe **P435**, **P491**, were at the southern end of the Glenfada Park gable facing onto Rossville Street, the Rubble Barricade but who also could see events in the Glenfada Park North Courtyard. Father Bradley later returned to Rossville Street **V1/7.28 to 8.00**.

(vi) Father O'Gara was at the south of Block2 **P734, P733**, **P732** and in Joseph Place **P842 to P829**, **P838**, **P839**.

5.7.4 When one sees the Clergymen in the photographs and in the actuality footage one cannot be help but be struck by the fact that these men were genuinely horrified by what they saw the Paratroopers do to the civilians in Rossville Street. Not one of these witnesses described events that remotely correspond with the suggestion of being caught up in a "gun battle". Not one of these witnesses said that a bomb of any type exploded in the Bogside on Bloody Sunday and only Father Mulvey said that he heard a small amount of automatic fire **H15.12**. It is clear beyond peradventure that these witnesses described events during which everyone present had become the focus of an attack rather than the innocent or potential victim of an armed exchange.

5.7.5 From the outset the priests who witnessed events have openly acknowledged the presence of civilian gunmen. What is clear from their evidence on this topic is that civilian gunmen did not influence the conduct of the Parachute Regiment. Civilian gunfire took the form of isolated shots rather than any concerted attack on soldiers, went unnoticed by the soldiers and did not elicit any response.

5.7.6 It is not proposed to consider the evidence of each of these witnesses in detail but taking their evidence collectively this was their own assessment:

> "We accuse the Colonel of the Parachute Regiment of wilful murder. We accuse the Commander of Land Forces of being an accessory before the fact. We accuse the soldiers of shooting indiscriminately into a fleeing crowd, of gloating over casualties, of preventing medical and spiritual aid reaching some of the dying. It is untrue that shots were fired at the troops in Rossville Street before they attacked. It is untrue that any of the dead or wounded that we attended were armed. We make this statement in view of the distorted and, indeed, conflicting reports put out by Army officers. We deplore the actions of the Army and Government in deploying a unit such as the Paratroopers who were in Derry yesterday. These men are trained criminals. They differ from terrorists only in the veneer of respectability that a uniform gives them." **V4b/0.00 to 1.32**
>
> Father Anthony Mulvey, Press conference attended by Derry Clergymen 31st January 1972.

5.7.7 These priests represented the conscience of an oppressed community. Their presence supplied comfort, courage and support. Dennis Bradley summed up part of this role in the following way:

> "As priests we were therefore on the streets all the time. It was a sort of unwritten rule for the clergy that you went out on the streets on such occasions. There were also frightened people in their houses and people who could be calmed down and sometimes it was possible to speak to groups of youths and rioters and calm things down. You knew the routine. Also the Army got to know you."**H1.4 paragraph 8**

5.7.8 Other priests who gave evidence before the Tribunal echo this role.

After Michael Kelly was shot and given the last rites Dennis Bradley describes the atmosphere, which followed in this way:

> "It was pure panic. Chaos. People were shouting, running. There was shooting and the penny was beginning to drop. I began to understand that something terrible was happening out there in Rossville Street." **H1.9 paragraph 23**

5.7.9 The level of fear and panic provoked by what he clearly perceived to be the activities of the advancing soldiers is summed up by the recollection contained in **H1.10 paragraph 25**:

> "Three things stick in my memory of these moments. First the three bodies at the Barricade. Secondly I was vaguely conscious of Paddy O'Donnell who was wounded beside me. Thirdly there was a man in panic who had become hysterical. I had a strong feeling that I was duty bound to go out to the Barricade but I was terrified of being shot. I was afraid and someone held me back. I remember being terrified that they might stop holding me back. I was conscious of my own survival."

5.7.10 In relation to Michael McDaid, John Young and William Nash, Dennis Bradley related both how these youths could not have been armed and the intensity of the gunfire that was directed at the Barricade:

> ""I was aware of the dead boy nearest to me on the barricade. I did not see anything in his hands. He was only a few yards away but it was just not possible for anyone to have taken away a weapon he might have had. I knew that if I got out there I would be dead. No one went out there. There was too much firing. The

gunfire was intensive. That was definitely its heaviest period that afternoon." **H1.12 paragraph 28**

5.7.11 This description of event provides a forthright outline of how Dennis Bradley in the calling of his vocation faced the biggest challenge of his role as a priest. Minutes beforehand, one of his colleagues, the then Father Edward Daly faced a similar test. Father Daly confirmed the role that many priests provided during these occasions:

> "It was my custom during those years to go to Rossville Street and William Street when there were disturbances occurring or when disturbances threatened. I went there because there were large numbers of elderly people resident in that area, especially in Kells Walk, Glenfada Park and Columbcille Court. They were often frightened and they were particularly discomforted and alarmed when CS gas was used or when there was explosions or gunfire." **H5.1 paragraph 4**

5.7.12 Father Daly's experiences highlight just one of a number of courageous and highly distinctive actions on that day:

> "I was quite paralysed by fear and I lay were I was and I looked back again and I could see this boy who had been hit beside me lying on the ground and blood pouring out over his shirt. So I decided there and then to kind of try and get to him and minister to him and I took a handkerchief from my pocket. I waved it while I lay on the ground then I decided to pick myself up and I just in a crouched position ran over towards this boy and got down on my knees beside him. I then lay down beside him." **H5.12**

5.7.13 Father Daly then recalled in graphic detail how Charles Glenn a Volunteer in the Knights of Malta joined him. He described Charles Glenn's attempts to save the life of Jackie Duddy in the following way:

"He tried to use some time of pad or other to staunch the flow of blood from this wound on his chest and I remember he started to weep and said "Father, are we going to be killed." I remember actually I wept too with him. We both wept together for quite some time and we were very, very frightened." **H5.13 to H5.14**

5.7.14 It will be recalled that when Father Daly was describing this event before Lord Widgery he volunteered a description of an incident in which he saw a civilian gunman wearing a brown jacket fire two or three shots at soldiers from the gable end of Chamberlain Street. Motivated by a genuine and real fear for the safety of himself and those around him he screamed at the man to "Go away" who responded by leaving the scene. **WT4.11.D-F**, **H5.19 to H5.20**

5.7.15 It is important to note that this account was offered without prompting or encouragement from either his Counsel or the Tribunal itself. This illustrates the truthful nature of his evidence and how in particular it reflects on all the priests who were present on that day. Significantly, Father Daly during the period that he came under fire failed to see any other activity, which would have justified the use of firearms at that time. It is particularly worth noting that it was never at any time suggested to him that he saw or heard more than he alleged or that he was attempting to conceal matters from the Tribunal that would have justified the behaviour of the soldiers.

5.7.16 Apart from Father Daly, the only other clergyman who witnessed a civilian gunman was Father Tom O'Gara. This is what he told the Treasury Solicitor:

"A young man appeared from the Cathedral side of Kells Walk unknown and unseen by soldiers, drew a pistol from his pocket leaned over a wall at the end of Kells Walk and fired three shots quickly. The soldiers didn't even recognise his presence and

he disappeared. This was the only weapon I saw throughout that day. The man wore a "longish" coat. He was completely separated from the main crowd even those around the Barricade on Rossville Street. There was at no stage any gunfire from behind me or beside me. I am certain the revolver was fired after the troops opened fire." **H19.5** to **H19.6**

5.7.17 The witness later related the same incident to Lord Widgery **WT7.86 B-C**

The witness went on to recount that he observed this incident from a distance of approximately 70 yards away and how during this period he failed to see any other men with firearms that day. The witness however expressed a firm belief as to the ultimate responsibility for events in the Bogside in the following exchange with Mr Gibbens QC:

"Q. You had indeed shared the very strong views held by Father Daly and the other priests about this matter?
A. Yes.
Q. Where you party to saying that you charged the Colonel of the Parachute Regiment with wilful murder?
A. I am party to saying that.
Q. Where you party to saying that you accused the Commander of Land Forces as being an accessory before the fact?
A. Yes.
Q. Do you still hold to that?
A. I do.
Q. That is your belief is it?
A. Yes." **WT7.87 F-G**; **WT7.88 A**

5.7.18 A number of other priests including Father Carolan, Father McIvor, Father Mulvey, Father McLaughlin, Father Kieran Doherty and Father O'Keefe provide a series of recollections consistent with the

atmosphere and images that have been highlighted by the references above. All of them provided evidence, which clearly demonstrated that the activities of the Army on this occasion were vastly disproportionate to any perceived or actual threat on the ground.

Father McIvor accurately recalls:

> "I notice a youth of about fifteen throwing stones at the roof of the GPO sorting office. It was then that I saw that a soldier was lying on the front edge of the roof with a rubber bullet gun. I did not see him firing any rubber bullets but his colleague standing behind him fired a number at the youth and into the crowd. One bullet in fact hit me on the right leg. CS gas was also fired. The soldier who had been lying down stood up and changed his rubber bullet gun for a rifle. He then made as though to shoot at the youth who was still throwing stones, also a bottle. His threats had no effect and he retired to the back of the roof. Some 5 to 6 minutes later, two shots at least rang out which I am sure came from the area of the Sorting Office and the Presbyterian Church. I did not actually see how fired the shots. Two people, one either side of me and about fifteen yards from me fell to the ground wounded. I was told that there John Johnston, aged about 57 and Damien Donaghy aged 17. Another priest, Father Carolan attended to them." **H11.9**

5.7.19 The importance of this witness in relation to events in Sector 1 was highlighted during the course of the Widgery Tribunal when asked the following question:

> "Q. Did you hear any further shooting at that time?
> A. At that stage, no, I did not hear any further shooting.
> Q. Had you heard any shooting before the two shots you have told the Tribunal about?
> A. No, the first two shots I heard in William Street were the first shots that I heard that afternoon. **WT4.50 B**

5.7.20 The confidence expressed by this witness in respect of the sequence of shots in William Street was reasserted with equal certainty before this Tribunal **Day 055/22/8 to Day 055/23/1**.

In keeping with virtually all the other witnesses in this category, the witness went on to confirm the witnesses that he did not hear any nail bombs nor did he see any petrol bombs explode that day **WT4.50 D**.

5.7.21 It is proposed in this section to restrict all comments in respect of this category of witness for the purposes of providing an overall general impression of the evidence. The important and overriding feature of this evidence concerns the unanimity of agreement to the effect that even where gunmen were identified, they were small in number and their activities and actions provided neither the justification nor the reason to open fire as they did.

We rely on the evidence of the clergymen for the following propositions:

Sector 1

i) The first shots in this area came from the Army (Father Carolan **H3.8**; Father McIvor **WT4.50.B**; Father McLaughlin **H13.5 paragraph 9**)

ii) No nail bombs exploded in this area at all. (Father Carolan **H3.2 paragraphs 8 to 9**; **H3.9**; Father McLaughlin **H3.13**; Reverend Brother Egan **H8.1**, Father McIvor **H11.9**, **WT4.53 D-E**)

iii) There were no weapons near Damien Donaghy or John Johnston when they were shot. (Father Carolan **H3.9**, Father McLaughlin **H13.5 paragraph 10**,)

5.7.22 **Sector 2**

i) No nail, petrol or acid bombs exploded in this area whilst Bishop Day was there (Bishop Daly **Day 75/57/19 to Day 75/58/3**)

ii) During the period Bishop Daly tended to Jackie Duddy there were no shots fired towards the soldiers position with the exception of the pistol shots fired by OIRA4, of which the Paratroopers were unaware. (Bishop Daly **H5.4 paragraph 18**, **H5.6 paragraph 24**)

5.7.23 **Sector 3**

(i) Apart from the pistol man witnessed by Father O'Gara at the northern end of Kells Walk, no other fire was directed at the Paras in this area. Again this gunfire was unseen and unnoticed by the Paras. (Father O'Gara **H19.5** to **H19.6**)

(ii) Michael Kelly was shot first on the Rubble Barricade. (Fathers Bradley **H1.41** and O'Keefe **H21.21**, **H21.46 paragraph 13**)

(iii) After John Young, Michael McDaid and William Nash were shot on the Barricade, firing was so intensely directed at this area that the priests could not get access to them (Fathers Bradley **H1.12 paragraph 28**, **H1.9 paragraph 23 to H1.10 paragraph 24** and O'Keefe **H21.47 paragraph 16**)

(iv) When John Young, Michael McDaid and William Nash were shot it is submitted that even if weapons had been present at the Barricade the civilians present could not have removed them due to the concentration of fire (Fathers Bradley **H1.12 paragraph 28**, **H1.9 paragraph 23 to H1.10 paragraph 24** and O'Keefe **H21.47 paragraph 16**).

(v) There were no missing casualties on the Rubble Barricade (Fathers Bradley **H1.41** and O'Keefe **H21.22**, **H21.46 paragraphs 13 to 15**)

(vi) There were no gunmen, nail bombers or petrol bombers on the Rubble Barricade (Fathers Bradley **Day 140/180/15 to Day 140/182/9** and O'Keefe **H21.21**, **H21.52 paragraph 34**)

(vii) There was no firing from the Rubble Barricade or explosions in Rossville Street (Fathers Bradley **Day 140/180/15 to Day 140/182/9**, **H1.41** and O'Keefe **H21.21**, **H21.52 paragraph 34**)

(viii) Kevin McElhinney was unarmed as he crawled from the Rubble Barricade to the entrance of Block1. Nor was anyone else crawling from the Rubble Barricade to Block1 who was armed (Father O'Keefe **H21.22**, **H21.47 paragraph 17**)

(ix) There was no-one firing from the entrance to Block1 (Father O'Keefe **H21.52 paragraph 34**)

(x) John Young, Michael McDaid and William Nash were initially denied spiritual aid (Fathers Mulvey **WT4.28F to WT4.30A**, **H15.13** and Irwin **H9.6**)

(xi) John Young, Michael McDaid and William Nash were denied medical aid (Fathers Mulvey **H15.13** and Irwin **H9.6**)

5.7.24 **Sector 4**

(i) There were no armed men at the southern end of Glenfada Park North (Fathers Bradley **H1.42** and O'Keefe **H21.22**, **H21.52 paragraph 34**)

(ii) There was no firing at soldiers in Glenfada Park (Fathers Bradley **Day 140/180/15 to Day 140/182/9** and O'Keefe **H21.48 paragraph 18**)

(iii) There were no nail bomb explosions or petrol bomb explosions in Glenfada Park North (Fathers Bradley **Day 140/180/15 to Day 140/182/9** and O'Keefe **H21.52 paragraph 34**)

(iv) There were no missing casualties in Glenfada Park North (Fathers Bradley **H1.42** and O'Keefe **H21.80**)

(v) William McKinney, Joe Mahon and Jim Wray were denied spiritual aid by the Anti-tank Platoon in Glenfada Park North (Fathers Bradley **H1.14 paragraph 33** **H1.42** and O'Keefe)

(vi) There were no missing casualties in Abbey Park (Fathers Mulvey, McLaughlin **H13.2**, **H13.7 paragraph 24**; Father O'Doherty **H17.8**)

5.7.25 **Sector 5**

i) There were no missing casualties in Sector 5 (Father O'Gara **H19.6**)

5.8 IRA Evidence

5.8.1 Introduction

This section is intended to set out the position of the Families and Wounded whom we represent in respect of evidence in relation to the involvement of both wings of the IRA on Bloody Sunday. Our clients have always been clear that it was essential that all witnesses who had anything to contribute to establishing the truth must provide that evidence to the Inquiry. On any appraisal of that evidence, it is clear that whatever the IRA involvement it had no impact on what occurred in the areas where our clients were killed and wounded.

5.8.2 On 27th November 2000 in the course of his opening statement, Counsel for the Soldiers complained for the first time about what he perceived as being a wholly and exceptional process of one-sided discovery **Day 051/7/12 to Day 051/7/15**.

5.8.3 The Families of the deceased and Wounded have consistently called for all those who had relevant evidence to give to come forward and tell the Tribunal. Arthur Harvey QC on 8th February 2001 made the following appeal during a pause in the evidence of Mr William Harley:

> "...If the truth of what occurred on 30th January 1972 is ever to be established, told and acknowledged, now is the time to do it.
>
> By "our clients", I refer to all of the 27 families represented by this Inquiry and urge anyone whoever has anything to contribute, to

come forward and do so now and, indeed, are deeply saddened that some individuals have not done so.

This morning the Tribunal offered an opportunity to interested parties to make suggestions which would assist the Tribunal in establishing that truth.... We believe that there are genuine positive steps that we can take in conjunction with this Inquiry which will assist... I genuinely believe that there is a deep-seated commitment of these families which has to be brought home and brought to bear on those who are reluctant, for whatever reason, to come forward which they must realise, they must acknowledge, as this Tribunal stated, the only vindication of what occurred in relation to these families must be the whole truth, even its unpalatable aspects." **Day 077/87/12 to Day 077/89/11**

5.8.4 On the same day the Families made a strong appeal through the media that it was incumbent on former members of the IRA to give evidence to the Inquiry.

5.8.5 An article published three days later in The Sunday Tribune stated that a number of Official IRA members would come forward after a direct appeal by the journalist Eamonn McCann. When he gave evidence, Mr McCann said:

"I went to a number of people at that point and after the appeal which had been made here, and put it to them, telling them that I proposed to write about this and asking them to speak to me and I put it to them in robust terms that many people in Derry would not understand if they did not come forward." **Day 087/55/2 to Day0 87/55/8**

5.8.6 Mr McCann in his evidence said that his belief was that the only people who could provide the Tribunal with accurate reliable information as to the activities of the IRA on Bloody Sunday were members of the IRA

and that no-one other than the members of those organisations could give credible accounts of what they did **Day 087/55/9 to Day 087/56/2**. The witness confirmed that he had been aware of the feelings of the Families in relation to this aspect for a very long time. He further acknowledged that the Families had been exceptionally anxious to use whatever moral or other persuasive forces they had available to them to get these witnesses to come forward **Day 087/56/20 to Day 087/57/12**.

5.8.7 The position of the Families represented by Madden & Finucane was accurately summarised by Mr McCann when he was questioned by Arthur Harvey QC:

> "I think it is the feeling of the families that for as long as IRA members do not come forward, then for as long as IRA members do not come forward, then they are in effect polluting the truth about Bloody Sunday by not clearing up what they are doing." **Day 087/57/13 to Day 087/57/17**

5.8.8 During the period of 2001 to 2003 the Tribunal on a number of occasions voiced its disquiet at the fact that there had been a dearth of evidence coming from those persons who had been members of the IRA at the relevant time. Lord Saville made a direct appeal on 20th June 2002 **Day 224/158/3 to Day 224/159/12**.

In addition:

(i) The Lawton team again set out their concerns by way of a detailed written submission on 16th April 2003.

(ii) Lord Saville repeated his request for witnesses who fell into this category to come forward on 8th July 2003 **Day 358/1/1 to Day 358/3/19**.

(iii) We received on 10th July 2003 from the Inquiry two lever arch files of Intelligence material that are found in the INT bundle.

(iv) Counsel for the Soldiers again raised, this time orally, their unease in respect of the lack of evidence about the activity or inactivity of IRA on 24th September 2003 **Day 371/220/1 to Day 371/229/6**.

(v) In reply on the same date Counsel for the Tribunal Mr Clarke QC informed the interested parties that the Intelligence documents that are found in INT bundles were the result of a major exercise that took place with the assistance of the Security Agencies and the PSNI. Much of that material was the direct result of the antecedents exercise, although some was not. Mr Clarke QC further informed us that once the material was assembled and redacted, the Inquiry embarked upon a process of communicating with relevant individuals, who could be traced in an effort to obtain statements from them and also, where relevant, addressing with them any Article 2 considerations that arose in relation to the deployment of that material. By that stage the Inquiry was in contact with a number of individuals who had instructed solicitors with a view to providing statements and giving evidence **Day 371/229/10 to Day 371/232/5**.

(vi) During the Autumn and Winter of 2003 and indeed throughout the first two months of 2004 after the conclusion of the antecedent exercise, the Inquiry obtained a significant amount of written evidence from former members of the Official and Provisional IRA and Na Fianna.

5.8.9 In a letter dated 11th March 2004 the Solicitor to the Inquiry confirmed the position in respect of the Inquiry's efforts to secure the co-operation of 82 witnesses who were or may have been involved in the Official IRA, the Provisional IRA and Na Fianna at the relevant time. It emerged that the Inquiry managed to trace 68 potential witnesses who may have been in a position to assist. Of this number, 50 co-operated with the Inquiry to the extent that they were asked to do so

and whilst two were not willing to be interviewed by Eversheds, they still attended to provide oral evidence. We were informed that 7 apparently refused to co-operate, including PIRA9 who is to be referred to the High Court for his disobedience of a witness summons. Of the other six, two are resident outside of the jurisdiction and the remaining four were considered not sufficiently important to issue a witness summons.

5.8.10 Red Mickey Doherty, who later died, was among seven who were unable to assist for medical reasons.

The remainder are set out in the letter, which was sent to all the interested parties.

5.8.11 This represents a significant engagement by these witnesses with the Inquiry. It is generally acknowledged that this was the first time that Republicans have of their own accord given information publicly in respect of the structures, practices, modus operandi, weaponry and operational activity of the organisation to what they would consider as being a British Legal body (Evidence of PIRA 24 Officer Commanding Derry Command Provisional IRA) **Day 427/114/2 to Day 427/114/12**.

5.8.12 The Inquiry heard from and tested orally evidence from over thirty witnesses who had evidence relevant to either the IRA or Na Fianna.

5.8.13 Evidence was given and tested in respect of the following areas:

(i) Extent of weaponry, membership, intelligence, structures and modus operandi;
(ii) The extent of assurances that were provided to NICRA;
(iii) Orders for the day;
(iv) Movements on the day;
(v) Armed activity on the day and deployment of weapons;
(vi) So-called "Missing Casualties";
(vii) The role and access of Na Fianna to weaponry and explosives;

(viii) Relationship with the opposite wing of the IRA and "joint operations"

(ix) The use of the Rossville Flats as a prime location for snipers

5.8.14 In light of this evidence it is submitted that:

(i) There was no intention by the IRA to use this Civil Rights March to attack the British Army.

(ii) The activities and actions of either wing of the IRA did not, in any meaningful way, impact on the activities and actions of the Paratroopers. Rather, there appears to have been a number of attacks on the Resident Battalions on the City Walls and at Barrack Street.

(iii) The activities and actions of either wing or the IRA did not, in any meaningful way, impact on the murders and wounding of our clients.

(iv) OIRA1 fired his shot at the Paras on the northern side of William Street after the shooting of Damien Donaghy and John Johnston. In all probability this was the "drainpipe shot". It is difficult to speculate upon the precise impact that the incident involving the "drain pipe shot" and OIRA1 would have had upon the events of the day. It should be recalled that within the timescale of events this incident occurred some time before troops entered the Bogside. The Tribunal's attention is drawn to the fact that when soldiers directly involved in this particular incident supplied initial accounts about their experiences on the day, all of them chose to omit any reference to the experience. There is an obvious inference to be drawn from the failure of the Paratroopers who were in the vicinity of the Presbyterian Church to record this in their first RMP statements. Clearly on the evening of Bloody Sunday, they did not attach the same significance to this event, which was later

represented as an incident of greater importance, when it came to the provision of subsequent accounts. In no sense did they regard it as the opening shot in a gunbattle.

(v) Neither wing of the IRA opened fire from the Rossville Flats on the Paratroopers as they entered the Bogside.

(vi) The only firing that was directed towards the Paratroopers in Sector 2 was by OIRA4 who opened fire with his handgun and this was unnoticed by all the Paratroopers. It is clear from all the military evidence that his presence did not in any way cause or contribute to the actions of soldiers already within the vicinity of Rossville Flats. It will be recalled that Jackie Duddy had already been shot and it is therefore difficult to envisage how the event could cast any blame or responsibility on the deceased or wounded.

(vii) The only firing that was directed towards the Paratroopers in Sector 3 was from the man with the handgun that fired from the northern end of Kells Walk and who was witnessed by Father O'Gara. Like the OIRA4 incident, this firing was again unnoticed by the Paratroopers in Rossville Street.

(viii) The incident concerning Father O'Gara's gunman has yet to be explained in evidence by an IRA witness.

(ix) There was no firing by the IRA from the Rubble Barricade or from the entrance to Block 1 or from the southern end of Block1.

(x) There was no firing by the IRA at Paratroopers in Glenfada Park North or Abbey Park.

(xi) There was no firing by the IRA at Paratroopers from the area of Joseph Place or Sector 5.

(xii) There were no youths with nail bombs in Glenfada Park North.

(xiii) There was no armed activity by Na Fianna at all on Bloody Sunday.

(xiv) No nail bombs were thrown or exploded at all on Bloody Sunday.

(xv) No petrol bombs were thrown or exploded at all on Bloody Sunday.

(xvi) No acid bombs were thrown or exploded at all on Bloody Sunday.

(xvii) There seems little doubt that both wings of the IRA made a deliberate decision to distance themselves from the march itself. All the evidence appears to imply that the subsequent response by members of both wings of the IRA is consistent with an organisation that had been caught "on the hop". Many of their members gave evidence to the effect that they had attended the demonstration in an individual capacity. This evidence went unchallenged. There has been other evidence to suggest that members of the Provisional IRA were subjected to recrimination and criticism for what was perceived by some as an abject failure to protect the community.

(xviii) It will be recalled that when OIRA1 discharged a "retaliatory" round, he was surrounded by a group of people included three Provisionals, Sean Keenan, PIRA1 and RM1 who vigorously challenged his use of a weapon irrespective of the reasons. Similarly in relation to the OIRA4 incident, Gerry Doherty, a member of the Provisional IRA assisted in preventing OIRA4 from discharging further shots whilst in the vicinity of the Chamberlain Street gable. It is respectfully submitted that these

incidents fall considerably short of identifying any combined or planned military response to the presence of the Parachute Regiment on the streets of Derry. In fact they actually suggest the opposite to be the case.

(xix) It is remarkable that, given the speed with which members of the Parachute Regiment seized control of the entire area, they remained unable or incapable of arresting anyone in possession of a firearm. In addition, they failed to recover an abandoned firearm, a nail bomb, blast bomb or even a petrol bomb.

5.8.15 We deal below with evidence from civilian and media witnesses concerning the presence of civilian gunmen or nail bombers on Bloody Sunday but by way of conclusion it is respectfully submitted that the actions or activities of both wings of the IRA had little or no impact on the tragic events of Bloody Sunday. The absence of any independent or corroborating evidence to suggest otherwise, for example the capture of a firearm, the death of an IRA Volunteer or a press or military photograph confirming the presence of any armed resistance to the Paras seems to provide conclusive proof that any allegation to the contrary is patently untrue.

Appendix 1

FS 1 · 206

Appendix 1

SIB OFFICERS

NAME CIPHER	RANK	STMT	DAY	COMMENTS
INQ 1383	Lt. Col. (Assistant Provost Marshall)	C1383.1	304	Responsible for provision of evidence to Widgery Tribunal: **G114B.743.3**
INQ1898	Major (Deputy APM (Complaints))	C1898.1	N/A	Responsible for provision of evidence to Widgery Tribunal: **G114B.743.3**
INQ3	Major (Deputy APM (Special Duties))	C3.1	256	RUC/RMP policy agreement re interviewing of soldiers by RMP
Rowley	Major	CR1.1	252	Current Officer Commanding SIB in NI
INQ1870	Captain OCSIB in NI	**NONE**	N/A	Too ill to be interviewed
John Wood	Warrant Officer Class 1 RSM of 178 Provost Co.	CW1.1	383	Prepared "Brief for Investigators". In effective charge of statement-taking until 31 January. Interviewed A, B, P, Q, T, Z, AA, AD, AL.
INQ1835	Warrant Officer Class 2	C1835.1	N/A	"In charge of the whole [statement-taking] process" as from 1 February, per W.O. Wood (**Day 383/142/16 to Day 383/142/18**). Interviewed 027 *inter alia*
INQ1831	Sergeant Major	C1831.1	N/A	Based at Ebrington, the only regular investigator stationed in Derry. Took P's 2nd statement
INQ1868 / Brobson	Corporal	C1868.1	275	Aide to SIB. Took statements from E, F, G, H, J, M, Y, 119, 102,103,107, 111, 142, 151, 153 & 161.
INQ1855	Corporal	**NONE**	N/A	Dec'd. Took statements from C, D, F, K, N, O, R, V, AC, AD, AB & AA.
INQ2052	Corporal	C2052	252	Aide to SIB. Based at Ebrington Took statements from 134 12, 25, 105, 115, 117, 118, 123, 140, 152 & 154
INQ2064	Corporal	C2064.1	N/A	Took statements from 156, 124, 167, 143, 146, 149, & 116
INQ2035	Not Known	C2035.1	N/A	Took statements from U and 033 on 4th February re pistol man who allegedly fired from Rossville Flats doorway at Alex Nash
INQ2120 (Dec'd)	Not Known	None	N/A	Took statements of G and (on 4th February) 018 re shots of F& G at Rossville Flats (018 now says details of this statement were put in by the RMP **B1491.005 paragraph 42**)) Also took statement of 006 who says RMP wrote in details and "we just agreed" – **Day 334/56/17 to Day 334/56/18**
INQ2210	Not Known	**NONE**	N/A	Took 037's statement on 4th February supporting U and 033 Re Pistol man's alleged shots at Alex Nash from Rossville Flats doorway (037 now says statement was not true, details came from RMP: **Day 357/158/12 to Day 357/158/17**

FS 1 . 207

6. HISTORICAL BACKGROUND

6.1. Introduction and Summary of Submissions

6.1.1. No examination of the circumstances surrounding the march that took place in Derry on 30th January 1972 would be complete without some comment on and analysis of the historical background to that march and the political context in which it took place. This has been recognised by the Tribunal who have commissioned and received reports from two academics, Professor Arthur of the University of Ulster and Professor Bew of Queens University, Belfast.

6.1.2. This section provides an analysis and critique of the experts' reports as well as a short narrative of the events that shaped Northern Ireland in general and Derry in particular between the formation of the state and the end of 1971.

6.1.3. The reports provided by the two experts engaged by the Inquiry are of some assistance in providing a context in which the events leading up to Bloody Sunday can be placed. So far as the political decisions that were made in the weeks and months before Bloody Sunday are concerned however, they are not a substitute for the documents in the Tribunal's possession and the evidence it has heard. A more detailed study of the immediate political context in which relevant decisions were made and the march took place appears at section seven.

6.1.4. As far as the historical background to the events of Bloody Sunday is concerned it can be seen in the background to the civil rights campaign in Northern Ireland and the policies and actions of the Stormont government since the formation of the state.

6.1.5. Unionist government of Northern Ireland was characterised by a determination to maintain the unionist and Protestant ethos of the state.

This led to discrimination against the Catholic minority in all areas of life. In Derry, public employment, housing and the local government franchise were areas of particular grievance, such grievances found to be justified by the Cameron Commission.

6.1.6. The actions of the Northern Ireland administration and their effects were exacerbated by the failure of the UK government and Parliament to intervene on questions relating to the government of Northern Ireland.

6.1.7. As a result a civil rights movement was established in Northern Ireland, composed of many different and mainly local groups. One of the methods employed by the movement for drawing awareness to its campaign was marches. These began in 1968 and met with fierce opposition from the Unionist government and people in Northern Ireland.

6.1.8. The reaction to the civil rights campaign in Northern Ireland and the marches held by that movement brought divisions within Unionism to the fore. Many characterised the civil rights movement as a front for subversive activity designed to overthrow the Northern Ireland state and were opposed to any move towards reform.

6.1.9. Violent disturbances and public disorder became more and more frequent in Northern Ireland. Media coverage of the civil rights campaign led to pressure on the UK government which, in turn, put further pressure on the Northern Ireland government to introduce reforms which would satisfy the minority.

6.1.10. Also at this time the composition of the RUC and the 'B Specials', their perceived unity of purpose with certain elements of unionism and their actions in the policing of marches and public disturbances led to a total loss of confidence within the Catholic community for the police. This was particularly apparent in areas such as the Bogside in Derry.

6.1.11. Particularly serious disturbances and violence between the police and civilians at the "Battle of the Bogside" in Derry in 1969 led to the deployment of troops there and in Belfast shortly afterwards. While initially welcomed by most of the Catholic people, support amongst them for the troops soon waned and turned to hostility with their increasingly aggressive actions including the shooting of civilians in disputed circumstances with apparent impunity, house searches and the use of CS gas and rubber bullets.

6.1.12. The deployment of troops in Northern Ireland meant that the UK government could no longer stay outside the affairs of Northern Ireland and became increasingly and directly involved in the search for a solution.

6.1.13. The split in the republican movement and the escalation of the IRA campaign brought further pressure on the Northern Ireland government from unionists. Perceived lack of progress on security led to the resignations of Prime Ministers O'Neill and Chichester-Clarke by which time "the Troubles" were well under way. The introduction of internment exacerbated the situation and breathed new life into the, at that stage dormant, civil rights movement. Its renewed campaign of marches began at the very end of 1971 and it was the events arising out of such a march on 30th January 1972 that became Bloody Sunday.

6.2. The Experts

6.2.1. Professor Arthur's report can be found at **E6** and Professor Bew's at **E7**. The experts' comments on each others report and their responses to these comments and to questions from the interested parties can be found at **E17**. Neither Professor Arthur nor Professor Bew has given oral evidence before the Tribunal. A brief outline of the background was also provided by counsel to the Inquiry, Christopher Clarke QC in his opening statement **Day 1/23/8 to Day 1/31/10**.

6.2.2. Professors Arthur and Bew were requested to provide expert advice on the "political and other relevant circumstances prevailing in Northern Ireland in the period prior to Bloody Sunday." They were informed that the Tribunal wished to have "a dispassionate account of these circumstances concentrating on the period from the start of the troubles, with particular reference to the months leading up to 30 Jamuary 1972, including for example discussion of the civil rights movement, internment and the reactions to it. The state of order in Londonderry and in the rest of Northern Ireland in the preceding months would also be relevant as background."[1]

6.2.3. By way of letter dated 24th August 1998 we raised a query about the appointment of Professor Bew and his ability to provide a "dispassionate account" as follows

> "Mr Bew has been reported in the press as being a member of the so-called "Cadogan Group" which has close links with the Unionist Party. The group has been described as part of a Unionist Party advisory team. Perhaps you would ask Mr Bew if, indeed, he is a member of this group and to declare his party political affiliations before he is engaged"

6.2.4. The letter also stated that, so far as we were aware, "Mr Arthur is not so linked with any political party but again perhaps he can likewise be asked about his political affiliations before engagement". No reply was received to that letter.

6.2.5. The final version of Professor Arthur's report was delivered to the Inquiry in January 2000[2]. The preface to Professor Bew's report is dated January 2000[3]. Both authors were furnished with the first version of Bundle G in September 1999, at the same time as the interested parties, and with an

---

[1] Draft letter of instruction to Professors Arthur and Bew received under cover of letter from Ann Stephenson to the interested parties 13th August 1998.
[2] Inquiry response to questions arising from Professor Arthur's report **E17.8 paragraph 1**
[3] **E7.0002**

updated version of the bundle in March 2000[4]. The reports were therefore based on the material available to their authors, at the very latest, in January 2000. In January 2000 Bundle G comprised 3 volumes of documents, that being the second generation of the bundle. The Tribunal will be aware that Bundle G has, at time of writing, reached generation 34 and comprises 6 volumes.

6.2.6. At the outset therefore we submit that both reports can only be of value in providing a historical context in which the events leading up to Bloody Sunday can be placed. Since the reports were delivered the Inquiry has undertaken almost four years of investigation including hearing evidence from a large number of witnesses and the assimilation of hundreds of thousands of documents. While there is merit in using the reports as a guide to historical background, as to which the Tribunal has heard relatively little evidence, they are of lesser assistance when it comes to examining the immediate political and military context in which the events of Bloody Sunday occurred, which the Tribunal, having heard the evidence and examined all of the available documentation, can do for itself[5].

6.2.7. Professor Arthur states that the "major concern of his paper" is the "security and political milieu which operated in Northern Ireland in the period before Bloody Sunday" **E6.0006**. He appears to have approached the task allocated to him by the Inquiry from a broad historical perspective with some reliance on the documents provided to him by the Inquiry where appropriate. Professor Bew on the other hand, after providing some historical background by way of introduction, embarks on a narrative and analysis of the (at that stage incomplete) Bundle G documents.

6.2.8. Professor Bew accepts that himself and Professor Arthur approached their task in different ways. Professor Arthur appears to recognise that his function in providing a report to the Tribunal is to supply a backdrop

[4] Inquiry response to questions arising from Professor Arthur's report **E17.8 paragraph 1**

against which the Tribunal's task can be conducted and not to abrogate that task by attempting to reach conclusions about why the events of 30th January 1972 took place. He therefore does not presume to reach such conclusions. Professor Bew, on the other hand, concludes his report by reaching at least three definite conclusions from the material which was supplied to him. Quite apart from the fact that these conclusions are based on incomplete material it is submitted that reaching such conclusions goes beyond the task for which the experts were appointed by the Tribunal.

6.2.9. Indeed Professor Bew's approach to his task and the conclusions he reaches are all the more surprising when it is remembered that in the preface to his report he states

6.2.10. "I should emphasise that the conclusions in the latter part of the report...are drawn on the basis of the papers included in the Planning and Intelligence Bundle which has been circulated to the interested parties. I have not seen other potentially relevant material, notably some security service papers, and that inevitably tempers the firmness of my conclusions" **E7.0002**.

6.2.11. Professor Arthur's analysis of the historical background to Bloody Sunday emphasises the following points

i) The historical significance of Derry to unionists and its strategic importance to the British;
ii) The post-war political, economic and social realities in the city which he describes as "bleak" due to gerrymandering, unemployment, housing, emigration, the high birth rate and the concentration of modernisation in the area East of the Bann;
iii) The localised and vibrant nature of the civil rights movement
iv) The events of 1969, including the attack on the Peoples Democracy (PD) march from Belfast to Derry, the establishment of Free Derry, the death of Samuel Devenney, the deployment of troops on the streets in Northern Ireland and the split in the Republican movement

v) The actions of the RUC as outlined in the Hunt and Cameron reports and the transfer of responsibility for security to the GOC

vi) The events of 1971 in Northern Ireland generally including the escalation of the IRA campaign and the nature of army operations. In Derry, the deaths of Beattie and Cusack and the introduction of internment

vii) The failure of the British Conservative government which came into power in 1970 to take action in respect of Northern Ireland due perhaps to lack of time on the part of the Prime Minister and lack of interest on the part of the Home Secretary

6.2.12. Professor Bew emphasises

i) The psyche of Derry unionists

ii) Gerrymandering

iii) Tension between border unionists and other, more liberal, unionists in the East of Northern Ireland

iv) Unemployment in Derry and west of the Bann generally

v) The concerns of certain influential Derry unionists that industrial development in the city should not come at the expense of unionist hegemony

vi) The housing problem in the city which was exacerbated by the allocation of housing to Catholics only in the South Ward

vii) The recommendation of the Lockwood committee that Northern Ireland's second university be situated in Coleraine and not in Derry

viii) The British interest in Northern Ireland, which by the time of the election of Edward Heath's government in 1970, is said to be that Britain has no selfish, strategic interest of its own in Northern Ireland, its actions there are based on the will of the majority of the people in Northern Ireland.

6.2.13. Professor Bew then addresses the documents provided to him by the Inquiry. It is surprising, especially given the Inquiry's letter of instruction,

that Professor Bew's paper contains little reference to the civil rights movement, and no analysis of its emergence, character or actions.

6.2.14. From a reading of their reports and follow up comments it is clear that the experts engaged by the Inquiry fundamentally disagree on some of the issues. Professor Bew, in his comments, accepts much if not all of the content of Professor Arthur's report **E17.1 paragraphs 1 to 2**. Professor Arthur, on the other hand, has produced a robust critique of Professor Bew's report which he indicates presented him "with several difficulties" **E17.2 paragraph 1** not least of which were Professor Bew's "interpretation of many aspects of the historical background", his report's "elision of history" and inadequate presentation of some of the evidence **E17.2 paragraph 1**. Professor Arthur's overall impression is that Professor Bew's report "is not a measured piece of work" **E17.2 paragraph 1**.

6.2.15. As to his particular criticisms, Professor Arthur considers Professor Bew's assertions that there were genuine attempts by the NI government to address the unemployment problem in Derry to be unsupported. He further considers that Professor Bew exaggerates the dichotomy between the frontier mentality and liberal unionism **E17.2 paragraph 5** and that he exaggerates the radicalism of Nationalism in Derry and, on this issue, extrapolates from a few explicit examples to make more generalised points. **E17.2 paragraph 5**.

6.2.16. Professor Arthur has further commented that the second section of Professor Bew's report relies too heavily on the documents provided by the Inquiry and, as a result, lacks perspective. In addition, he considers that that section contains a number of contradictions and that some of Professor Bew's judgments therein are questionable **E17.2 paragraph 5**.

6.2.17. Professor Arthur notes in particular two claims made by Professor Bew which he describes as "astounding" **E17.2 paragraph 4** and "amazing" **E17.2 paragraph 6** respectively. The first is Professor Bew's claim that

"The Catholic complaint about housing in the city [i.e. Derry] was not based on the fact that houses were not allocated to Catholics but that Catholics were only allocated houses by the Corporation in the South Ward where a new Catholic household would not threaten unionist control of the corporation" **E7.0012**. Professor Arthur comments "it was as if Catholics would rather forego housing altogether unless it embarrassed the unionist corporation. It takes no account of the nature of overcrowding in the South Ward and a serious lack of housing." **E17.2 paragraph 4**.

6.2.18. The second is Professor Bew's claim that "The army's conventional though not absolute reluctance to use lethal force – before Bloody Sunday – had set a gold standard which was then used to condemn its activity on Bloody Sunday" **E7.0024**. Professor Arthur counters "The logic appears to be that if the army had used the lethal force it used on Bloody Sunday before that date, then it could not have been turned into a propaganda effort after Bloody Sunday. It does not seem to me to be unreasonable that the reason why people were so shocked by the events of Bloody Sunday was because they had made the assumption that in a liberal democracy certain civilised standards were upheld". After references to the deaths of Annette McGavigan, Beattie and Cusack, William McGreanery and Kathleen Thompson, Professor Arthur concludes on this issue "Given the circumstances surrounding these deaths I would be surprised if anyone in nationalist Derry were under any illusions about the army's use of lethal force and would not have been impressed by the so-called 'gold standard'" **E17.2 paragraph 6**.

6.2.19. Professor Arthur also criticises Professor Bew's evidence which he says is based on "a select reading of State papers....". Finally, he is scathing about Professor Bew's "..implicit assumption of Bloody Sunday as propaganda..."**E17.2 paragraph 7**.

6.2.20. Professor Bew's reply acknowledges that Professor Arthur appears to "be unhappy with the broad thrust of my analysis. This is to suggest that on

the basis of these papers there is no firm evidence of a conspiracy stretching to the British cabinet and the most pressing causes arise out of a "local dialectic". However he provides no real challenge based on the papers here to such an analysis." **E17.3 paragraph 2**. However, Professor Bew goes on to admit that there are certain things which would be relevant to such an analysis which are "beyond my remit but not beyond the remit of the Enquiry" **E17.3 paragraph 2**.

6.3. Historical Background

6.3.1. Whatever their differences, the experts appear to agree, and we submit, that from the foundation of the state of Northern Ireland in 1921 its government was characterised by a determination to preserve the Unionist and Protestant nature of the state and its institutions. As a result the minority Catholic/Nationalist population was shamelessly discriminated against. This was accepted as "common knowledge" by Sir Edward Heath, British Prime Minister at the time of Bloody Sunday, when he gave evidence before the Tribunal **Day 283/75/25 to Day 283/76/23** and Lord Carrington who admitted that "The Catholics had considerable and legitimate grievances" **Day 280/1/25 to Day 280/2/1**.

6.3.2. The system for elections to the Northern Ireland Parliament at Stormont, a simple majority 'first past the post' system, meant that the government was comprised of members of the Unionist Party alone. As the report of the Cameron Commission noted the Government of Northern Ireland had "since it was established been a Unionist (and therefore Protestant) Government"[6].

6.3.3. Further, manipulation of the electoral arrangements at local government level in certain areas provided for unionist majorities in areas which, in terms of population, had natural Catholic majorities. Such a situation pertained in Derry. In addition voting in local government elections was restricted to "occupiers of dwelling houses and their spouses, and thereby

excluded sub-tenants, lodgers and children, so that about a quarter of those entitled to vote at Stormont elections were not entitled to vote in local elections" **Day 1/24/1 to Day 1/24/5**.

6.3.4. As noted by Professors Arthur and Bew, the second largest city in Northern Ireland and sited on its western edges, Derry was and is of tremendous historical, political and strategic importance to Unionists. In order that they might retain control of local government in Derry (where the population was 60% Catholic), and hence of Derry itself, electoral boundaries introduced in 1936 for that very purpose were rigorously adhered to with no alteration to allow for population changes or housing needs[7].

6.3.5. The Cameron Commission's report, which included in its work an examination of the electoral arrangements in Derry, accepted that the complaint that in these areas the electoral system was weighted against non-Unionists was "abundantly justified"[8]. While similar arrangements existed in other parts of Northern Ireland the Commission considered Derry to be the "most glaring case"[9].

6.3.6. Again, as pointed out by Professors Arthur[10] and Bew[11], discrimination against Catholics in the allocation of housing and public employment was widespread. The Cameron Commission found that:

> "Council housing policy has also been distorted for political end in the Unionists controlled areas to which we specifically refer. In each, houses have been built and allocated in such a way that they will not disturb the political balance. In Londonderry County Borough a vast programme has been

---

[6] *Disturbances in Northern Ireland* Report of the Commission appointed by the Governor of Northern Ireland Cmd. 532 September 1969 at paragraph 10

[7] As to the background to the change to the electoral boundaries see Professor Arthur's report at **E6.0010 to E6.0011**

[8] At paragraph 134

[9] At paragraph 134

[10] At **E6.0015**

carried out in the South Ward – and Catholics have been rehoused there almost exclusively. In recent years housing programmes declined because the Corporation refused to face the political effects of boundary extension, even though this was recommended by all its senior officials....[12]"

6.3.7. The Cameron Commission also found that within Unionist controlled councils powers of appointment were used "in a way which benefited Protestants"[13] and that in Derry in October 1968 "only thirty per cent of Londonderry Corporations administrative, clerical and technical employees were Catholics. Out of the ten best-paid posts only one was held by a Catholic..."[14]

6.3.8. Quite apart from this, the general employment situation in Derry was appalling. In February 1967 unemployment in Derry stood at 20.1%. This at a time when the British average was 2.6% and the average in Northern Ireland was 8.1%[15]. In November 1971 the figure was 13.2% while the Northern Ireland average was 8.4%. Even this figure masked the reality that in Derry male unemployment stood at 18.3% while the figure for female unemployment was 4.8%[16].

6.3.9. It is also clear that the experts are in agreement that the unemployment situation in Derry was clearly not helped, and may have been deliberately hindered, by the lack of inward investment to the city. Professor Arthur cites the reports of the Matthew[17], Benson[18] and Lockwood[19] commissions

---

[11] At **E7.0005**
[12] at paragraph 137. The south ward included the Bogside.
[13] at paragraph 137
[14] at paragraph 137
[15] See Professor Arthur's report at **E6.0018**
[16] **E6.0032**. No figures for the rates of unemployment broken down by religion have been given although in *Northern Ireland, The Political Economy of Conflict* Bob Rawton and Naomi Wayne (1988) the Northern Ireland unemployment figures for 1971 are given as 17.3% of Catholic men unemployed compared to 6.6% of non-Catholic men. For women the figures were 7% for Catholics and 3.6% for non-Catholics at Appendix 6
[17] "The Matthew Commission reported in 1963 with plans to curb the growth of the Belfast region through the use of a stop line and the creation of seven growth centres and a new city linking the twin towns of Portadown and Lurgan" **E6.0017**

as examples of the isolation of Derry and the area west of the Bann[20]. It is further common case that the fears of unionists in Derry that an increase in opportunities for employment in the city could lead to an influx of workers from the south, thereby destabilising the finely balanced unionist control of the city were, at the very least, of some influence in bringing this situation about[21].

6.3.10. In addition to these socio-economic effects of Unionist rule in Northern Ireland the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 **LAW2.1-21**.provided wide powers in respect of the maintenance of order and preservation of peace in the jurisdiction. The Cameron Commission noted the "remarkable width" of these powers and that certain of them "are in conflict with the Universal Declaration of Human Rights, in particular Article 10 (against arbitrary arrest) Article 12 (the right to be presumed innocent until proven guilty) Article 13 (against subjection to interference with personal privacy, home or correspondence and Article 20 (freedom of opinion and expression)"[22].

6.3.11. As has been seen, during the life of the Northern Ireland government, the UK Parliament and government adopted a policy of non-intervention in relation to matters that were said to be "internal" to Northern Ireland[23].

6.3.12. The Unionist government in Northern Ireland therefore had an unfettered discretion in relation to the creation and implementation of such policies as it wished on matters allocated to it under the Government of Ireland Act without fear of censure or sanction from London **Day 283/76/7 to Day 283/76/15**.

---

[18] "...the Benson report on Northern Ireland's railways (Cmd.458) advised that the railway system should be streamlined in line with Lord Beeching's reforms for Britain" **E6.0017**

[19] "...in 1965 the Lockwood Report (Cmd. 475) recommended the building of a new university in Coleraine" **E6.0017**. See also Professor Bew's report at **E7.0013**, **E7.0014**

[20] **E6.0017**

[21] See Professor Arthur's report at **E6.0018** and Professor Bew's at **E7.0010 to E7.0012**

[22] at paragraph 9

[23] See the discussion of the constitutional position in this regard and the Convention in the House of Commons in **section eight**

6.4. The Civil Rights Movement

6.4.1. It was a combination of the policies devised and implemented by the Northern Ireland government since the creation of the state, the determination to maintain the status quo with the resulting consequences for the Catholic population of Northern Ireland and the policy of non-intervention by the British government that led to the birth of the civil rights movement.

6.4.2. A number of theories have been advanced for the timing of its emergence such as the growth of a "Catholic middle class" and the use of street demonstrations in other parts of the world at that time to press for change[24]. Whatever the reason for the timing, it is clear, as recognised by Professor Arthur, that in the late 1960s the emerging civil rights "movement" encompassed a number of regional and local groups having broadly the same aim but in some cases different strategies.[25]

6.4.3. The Northern Ireland Civil Rights Association was formed after a meeting in Belfast on 29th January 1967. As acknowledged by Professor Kevin Boyle, former press officer for NICRA giving evidence before the Tribunal, it was a "very broad brush affair" involving "many strands", the initiative having come from the Republican Clubs and the local Communist Party **Day 123/93/5 to Day 123/93/22**[26]. Quite apart from this movement towards a Northern Ireland wide group, a number of autonomous local groups were already well established e.g. the Campaign for Social Justice in Northern Ireland based in Dungannon.

6.4.4. Professor Boyle has indicated that "NICRA was a political movement which was an important initiative on civil liberties and was not party political or subversive." **Day 123/98/10 to Day 123/99/6**. Further, it took

---

[24] See for example *Violence and Civil Disturbances in Northern Ireland in 1969* Report of Tribunal of Inquiry Cmd. 566 ("The Scarman Report") at paragraph 1.3 at Appendix 1. Also Professor Arthur's report at **E6.0020**

[25] **E6.0019 to E6.0020**

as its model the London-based National Council of Civil Liberties. As events unfolded the organisation grew throughout Northern Ireland and developed branches changing from essentially a Belfast based organisation **Day 123/10511 to Day 123/105/23**.

6.4.5. The aims of NICRA were outlined in its constitution as "to assist in the maintenance of civil liberties, including freedom of speech, propaganda and assembly. The Association shall advance measures for the recovery and enlargement of such liberties and shall take steps as the Association shall deem necessary to that end." [27].

6.4.6. It has been noted that:

> "These objectives said nothing about concrete grievances over discrimination in housing, employment and the electoral franchise. They underline the character of NICRA at this stage as an organisation which, like the NCCL, was concerned with the defence of legal and constitutional rights and the grievances of individuals, not with militant protest."[28]

6.4.7. Professor Boyle was also a member of another group which had been set up to press for change, Peoples Democracy – "an alliance of student socialists and the unaligned" **KB2.10 paragraph 5**, **Day 123/107/13 to Day 123/107/16**. Largely because of its age profile, he says, Peoples Democracy was more radical and it would be fair to say that they viewed NICRA as middle aged and middle class **Day 123/108/14 to Day 123/108/21**.

---

[26] See also the similar evidence of Leonard Green, a former Mayor of Derry **Day 52/101/21 to Day 52/102/18**

[27] See the Constitution and Rules of NICRA at Appendix X of the Cameron Report

[28] *Politics in the Streets: The Origins of the Civil Rights Movement in Northern Ireland* by Bob Purdie (1990) Blackstaff Press (out of print). Chapter 4 The Northern Ireland Civil Rights Association. This extract can be found at http://www.cain.ulst.ac.uk/events/crights/purdie.htm

6.4.8. The Manifesto of the Peoples Democracy group made a number of demands including calls for "one man, one vote", an end to repressive legislation including the repeal of the Special Powers Act and a centrally drawn up points system for the allocation of housing.[29]

6.4.9. In addition, during the course of the civil rights campaign a number of local groups were set up in Derry. These included the Derry Housing Action Committee (DHAC), the Derry Citizens Action Committee (DCAC) and the Derry Citizens' Defence Committee (DCDC).

6.4.10. The Derry Housing Action Committee (DHAC) was a small radical group set up in November 1967 to campaign for improvements to housing in Derry. The group was made up of radical socialists, republicans and nationalists. One of the prominent members of the group was Eamon McCann. The tactics of the group were to take direct, non-violent, action against those organisations responsible for housing in Derry, particularly the private landlords and Londonderry Corporation which was responsible for much of the publicly rented housing in the area.

6.4.11. The Derry Citizens' Action Committee (DCAC) was established on 9 October 1968 and was made up of representatives from a number of groups which at that time operated in Derry. Ivan Cooper was the first chairman and John Hume was deputy chairman. The DCAC organised a number of protests in Derry in 1968 and 1969.

6.4.12. Derry Citizens' Defence Committee (DCDC) was set up in July 1969 with the aim of defending the Catholic areas of Derry against what it viewed as attacks by members of the Royal Ulster Constabulary (RUC) and the 'B'-Specials. The DCDA was active in erecting barricades, organising patrols of what became known as 'Free Derry'.

6.4.13. It had been hoped by some that a campaign for civil rights could be a unifying factor that would transcend party political and other divisions

[29] This manifesto, dated February 1969, appears as Appendix XII to the Cameron Report

"Here was...this new civil rights movement arguing for change, for democratic civil rights changes for the whole community, but it met resistance, largely led by the Loyalist groups, in particular by Ian Paisley....it was an age of innocence; there was a hope that these new ideas of civil rights could be the basis for solidarity and co-operation between both traditions, but it was not, it was not so" (Evidence of Professor Kevin Boyle **123/107/20 to Day 123/108/10**)

6.4.14. Unionists did not accept the premise of the civil rights movement and opposed the reform it sought. Attempts to undermine the movement and the legitimacy of its aims were made by characterising it as a front for violent and subversive elements. Giving oral evidence before the Tribunal Lord Kilclooney, the former Minister of State at the Northern Ireland Ministry of Home Affairs John Taylor, made it clear that the Unionist view of the civil rights campaign was that it was a means of overthrowing Northern Ireland and forcing Northern Ireland into a united Ireland **Day 196/102/12 to 196/102/24**. He further indicated that it is still his view of the people who attended civil rights demonstrations that while some would have had a genuine concern for civil rights most "would have been people who wanted a united Ireland" **Day 196/103/5**.

6.4.15. That such views were widely held is also clear from the findings of the Cameron Commission. In its report that Commission accepted the legitimacy of many of the causes championed by NICRA and stated

6.4.16. This catalogue of grievance deserves, in our judgment, to be seriously regarded in any analysis of the immediate causes of the disturbances. We disagree profoundly, having heard much evidence, with the view which professes to see agitation for civil rights as a mere pretext for other and more subversive activities...[30]

FS 1 · 224

[30] at paragraph 146

6.4.17. There appear to have been two distinct stages to the civil rights movement in Northern Ireland. The first from the time of the formation of NICRA in 1967 to 1969 during which period reforms were promised and/or introduced that appeared to meet some of the demands of the civil rights campaign. The second was prompted by the introduction of internment in August 1971 and spawned the rent and rates strike and a new round of marches at the very end of that year and into the next, including the march in Derry on 30th January 1972.

6.5. 1968

6.5.1. Following the incident in Caledon, Co. Tyrone where a Catholic family squatting in a house were evicted and a new house in the same area allocated to a 19 year old unmarried Protestant woman who worked for a local Unionist Parliamentary candidate, the first civil rights march was organised from Coalisland to Dungannon in August 1968.

6.5.2. Police originally raised no objection to the march. The Cameron Commission's report notes that Mr John Taylor MP (now Lord Kilclooney), among others, told police that there would be trouble if the procession entered Market Square in Dungannon and concludes "We think it is to be inferred from [his] own evidence that whether these local Unionist leaders would have organised, they at least would not have discouraged, the organisation of a counter demonstration if the march had been allowed to enter Market Square. Such counter demonstration, if organised, would almost certainly have led to an outbreak of violence – as persons occupying positions of such public responsibility cannot have failed to appreciate."[31]

6.5.3. As it happened, Ian Paisley's Ulster Protestant Volunteers advertised a public meeting to be held in Market Square on the same day as the

[31] at paragraph 31

march.[32] Police took a decision to re-route the march and the marchers dispersed after holding a meeting.

6.5.4. The organisation of loyalist counter demonstrations to coincide with planned civil rights marches was to become a frequent occurrence during the life of the civil rights movement. Indeed such a demonstration had been planned, by the Democratic Unionist Association in Derry, for Bloody Sunday although it was cancelled on 29th January, the day before the march. The effect of such a tactic was to immediately cause a policing issue around the civil rights march and to heighten the potential for disorder.

6.5.5. A second civil rights march took place in Derry on 5th October 1968. It was organised by NICRA and the DHAC (Derry Housing Action Committee). The march was banned but a significant number of people defied the ban to march in any event. The marchers were subjected to the indiscriminate use of batons and water cannon when they became trapped between two cordons of police.[33] Professor Arthur notes that it was "the [NI] Cabinet's decision to table a motion of congratulation to the RUC for their action which caused real outrage".[34] The nature of the Cabinet's support for the police is thrown into sharp relief when it is remembered that the Cameron Commission's verdict on the RUC action was that

> "The police handling of the demonstration in Londonderry on 5 October 1968 was in certain material respects ill co-ordinated and inept. There was use of unnecessary and ill controlled force in the dispersal of the demonstrators, only a minority of whom acted in a disorderly and violent manner."[35]

---

[32] The Constitution and Rules of the Ulster Protestant Volunteers and its governing body the Ulster Constitution Defence Committee can be found as Appendix IX to the Cameron Report

[33] See paragraph 51 of the Cameron Report

[34] **E6.0021**

[35] Cameron Report. Summary of Conclusions; paragraph 14

6.5.6. During this time Prime Minister Terence O'Neill began to consider options for reform that might pacify those involved in the civil rights movement. As a result of a meeting with British Prime Minister Harold Wilson a five point plan was produced which included provision for a points system for the allocation of public housing, revision of the Special Powers Act and the abolition of Londonderry Borough Council and its replacement by a non-elected Development Commission. These proposed reforms were announced in November 1968 and although they were not seen as any more than "empty gestures" by NICRA[36] their announcement was closely followed by Captain O'Neill's "Ulster at the Crossroads" television address in December 1969. NICRA decided to give O'Neill one last chance and they declared a "truce" for one month without marches or demonstrations to give the promised reforms a chance to work and to attempt to defuse the growing chances of sectarian violence.[37]

6.5.7. Many unionists opposed O'Neill's plans for reform and saw him as capitulating in the face of pressure from UK Prime Minister Harold Wilson and the Labour government.

> "The year ended peacefully. In the period from August to December the civil rights campaign had managed to split the Unionist cabinet, arouse concern at British cabinet level, bring thousands of people demanding civil rights on to the streets and produce a general public awareness of the lack of democracy and a political programme for its introduction. On the negative side it had aroused extreme Protestant reaction as a result not only of the marches but also of the Government's political reactions and it had given rise to an impatient group of students seeking instant revolution in a text book society. In the light of the influence of the organisation since its beginnings, this four

[36] From *"We Shall Overcome".... The History of the Struggle for Civil Rights in Northern Ireland 1968 - 1978* by NICRA (1978) at Appendix 5
[37] Ibid.

month period put NICRA in the vanguard of the struggle for civil and human rights in N. Ireland." [38]

6.6. 1969

6.6.1. 1969 began with another march, this time organised by the Peoples Democracy group. They set out on New Years Day 1969 to march from Belfast to Derry but met with fierce resistance from unionists along the way, culminating in a serious attack at Burntollet bridge just outside Derry.

6.6.2. Allegations were made that police did not adequately protect the marchers from attack. Further allegations were made that police mingled freely with attackers at Burntollet and that they failed to take any or adequate action against those who were clearly involved. An internal inquiry into these allegations against the police headed by County Inspector Baillie was held in private and its report never published.[39]

6.6.3. Professor Arthur has noted

> "A few hours later when the depleted PD marchers arrived in Derry rioting against the police began. At 2.00 a.m. the following morning a police contingent invaded the Bogside and wreaked havoc"[40]

6.6.4. The Cameron report concluded that:

> "Available police forces did not provide adequate protection to People's Democracy marchers at Burntollet Bridge and in or near Irish Street, Londonderry on 4th January 1969. There were instances of police indiscipline and violence towards persons unassociated with rioting or

[38] Ibid.
[39] Scarman Report paragraph 1.5
[40] **E6.0025**

disorder on 4th/ 5th January in Londonderry and these provoked serious hostility to the police, particularly among the Catholic population of Londonderry, and an increasing disbelief in their impartiality towards non-Unionists"[41]

6.6.5. Specifically in relation to the night of 4th/5th January the Commission reached the "unhesitating conclusion" that:

> "...a number of policemen were guilty of misconduct which involved assault and battery, malicious damage to property in streets in the predominantly Catholic Bogside area giving reasonable cause for apprehension of personal injury among other innocent inhabitants, and the use of provocative sectarian and political slogans."[42]

6.6.6. In the aftermath of the Burntollet march the legend "You are now entering Free Derry" was painted on the gable wall of a house in the Bogside area of Derry, barricades were erected and vigilante groups were formed to ensure the defence of the area. Free Derry was established.

6.6.7. In March and April 1969 a number of public utilities near Belfast were damaged by explosions. At first these explosions were blamed on the, at that stage dormant, IRA. In fact it soon became clear that it was the work of Protestant paramilitaries. The Scarman report concluded "We are satisfied that, though the perpetrators of these outrages cannot, with one exception, be identified they were the work of Protestant extremists who were anxious to undermine confidence in the government of Captain O'Neill. At the time it was widely thought that the explosions were the work of the IRA, though it is quite clear now that they were not."[43]

---

[41] Cameron Report. Summary of Conclusions; paragraph 15
[42] at paragraph 177
[43] Scarman Report paragraph 1.13

6.6.8. There was further violence in Derry in April 1969 following the banning of a proposed march from Burntollet to Derry. On 19th April 1969, during the midst of such disturbances, the RUC entered the Bogside and the home of Samuel Devenney. During the course of what can only be described as a savage attack Mr Devenney was severely beaten by police officers and a number of his children and a family friend present in the house were also beaten. Mr Devenney died in July 1969.

6.6.9. Although this time period was, strictly speaking, outside its remit, the Cameron Commission felt that it would be unrealistic, given its task, to ignore it. Their report said:

> "...we were presented with a considerable body of evidence to establish further acts of grave misconduct among members of the RUC including, on this occasion also, serious allegations of assault occasioning personal injury and of malicious damage to property. We regret to say that there appears to us to be ample *prima facie* evidence to support such charges and we are definitely of the opinion that it is in the interest of the RUC and of the public that these should be rigorously probed and investigated."[44]

6.6.10. Despite this recommendation it was only a year after the attack on Mr Devenney that Sir Arthur Young, then head of the RUC, announced that Scotland Yard detectives, headed by DCS Kenneth Drury, were being brought in to take over an inquiry into allegations of police brutality in the Devenney case.

6.6.11. The Police Ombudsman for Northern Ireland investigated aspects of the incident involving the Devenney family as a result of a complaint from them in 2001. During the course of this investigation her office was provided with a copy of the previously unavailable "Drury report". That

report found no evidence that the police action in the Devenney house "could be justified in any way" and stated that such "code of conduct can never be condoned in any force responsible for the preservation of law and order".[45]

6.6.12. Northern Ireland Prime Minister Terence O'Neill had called a general election for Northern Ireland for February 1969 in an attempt to bolster his position which was coming under intense pressure from Unionists, particularly within his own party. As a result of O'Neill's policies Brian Faulkner had resigned as Deputy Prime Minister for Commerce in January 1969. Although his party was successful in those elections deep divisions still existed within the party itself. On 28th April 1969, after the attacks on the public utilities, Terence O'Neill resigned as Prime Minster of Northern Ireland. He was succeeded by Major James Chichester-Clark on 1st May 1969.

> "One of the new Prime Minister's first acts was to announce an amnesty for all offences connected with demonstrations since 5 October 1968, one consequence of which was to release Dr Paisley and Major Bunting from goal. On 8 May the Civil Rights Association announced the suspension of its civil disobedience campaign in view of the amnesty."[46]

6.6.13. By July 1969 it was clear that the police no longer had the ability to police the Bogside area of Derry.[47]

> "The agenda was shifting away from civil rights towards RUC brutality and the need to defend nationalist areas" [48]

---

[44] at paragraph 180
[45] See press release on the results of the investigation by the Police Ombudsman for Northern Ireland 4th October 2001 available at www.policeombudsman.org
[46] Scarman Report paragraph 1.13
[47] Scarman Report paragraphs 10.4 and 10.5

6.6.14. However the most serious disturbances were yet to take place there. Tension was high in all areas in the approach to the marching season. Disturbances took place in some areas of Belfast and in Derry on 12th July 1969. There were also serious Protestant riots in Belfast in early August in which "determined"[49] attempts were made by those involved to enter Catholic areas.

6.6.15. A decision was taken to allow the Apprentice Boys parade planned for 12th August 1969 in Derry to proceed. The Scarman report delivered to Parliament in April 1972 concluded that "The disturbances which have troubled Northern Ireland since the summer of 1969 are certainly related to the violence which began in Londonderry on 12 August 1969".[50]

6.6.16. On 12th August 1969 rioting began in Derry and police, joined by a significant number of Protestant civilians, entered the Bogside. Given the actions of the police in Derry in the previous months it is hardly surprising that Lord Scarman noted that "thereafter there was complete unanimity in opposition to the police force". [51]

6.6.17. Commonly known as the "Battle of the Bogside" the following days saw more and intense disturbances in Derry as the people of the Bogside attempted to prevent further incursions by police and others. During the night of 12th August 1969 CS gas was used against the crowds.

6.6.18. As a result of concerns about the unprecedented situation in Derry, Irish Taoiseach Jack Lynch addressed the people of Ireland. He called on the British government to request an UN Peacekeeping Force, announced the setting up of field hospitals on the border and declared that the Irish

---

[48] *Northern Ireland The Politics of War and Peace* Paul Dixon (Palgrave, 2001) at page 86 at Appendix 4

[49] Scarman Report paragraph 1.18

[50] at paragraph 10.2

[51] Scarman report at paragraph 11.28

government will "no longer stand by and see innocent people injured or even worse".

6.6.19. By 14th August 1969 the police were no longer able to continue and "exhausted and discredited"[52] they were, that afternoon, relieved by the deployment of the army on the streets of Derry.

6.6.20. The violence spread across Northern Ireland. Unprecedented disturbances in areas of Belfast led to a number of civilian deaths and to the deployment of the army there on the afternoon of 15th August 1969[53].

6.6.21. A direct response to these events was the meeting in London between the UK and Northern Ireland Prime Ministers on 19th August 1969 after which it was announced that the GOC Northern Ireland would, with immediate effect, assume overall responsibility for security operations. In addition, the two Governments agreed to a joint Declaration on the principles which should govern their future actions. These included the following:-

(i) A commitment that Northern Ireland should not cease to be a part of the United Kingdom without the consent of the people of Northern Ireland

(ii) An affirmation from the United Kingdom Government that responsibility for affairs in Northern Ireland is entirely a matter of domestic jurisdiction.

(iii) That the UK government had ultimate responsibility for the protection of those who live in Northern Ireland and that troops would be withdrawn when law and order was restored.

(iv) In the context of the commitment of troops to Northern Ireland the Northern Ireland Government re-affirmed "their intention to

[52] **E6.0033**
[53] See Parts VII and VIII of the Scarman Report

take into the fullest account at all times the views of Her Majesty's Government in the United Kingdom, especially in relation to matters affecting the status of citizens of that part of the United Kingdom and their equal rights and protection under the law".

(v) The UK government welcomed the movements made by the Northern Ireland government towards reform and both Governments agreed that it was vital that the momentum of internal reform should be maintained.

(vi) "The two Governments ... have re-affirmed that in all legislation and executive decisions of Government every citizen of Northern Ireland is entitled to the same equality of treatment and freedom from discrimination as obtains in the rest of the United Kingdom irrespective of political views or religion. In their further meetings the two Governments will be guided by these mutually accepted principles."

(vii) A commitment to take all possible steps to restore normality to Northern Ireland to ensure the progression of economic development.

6.6.21.1. Move towards reform appeared to continue apace and, following a visit by the Home Secretary James Callaghan to Northern Ireland at the end of August 1969, it was announced that the Government of Northern Ireland had:

"sought the co-operation of the Home Secretary in setting up Joint Working Parties of officials of the two Governments to examine the extent to which the Government of Northern Ireland's present practice or pledged commitments adequately ensure:

(i) the fair allocation of houses by public authorities;

(ii) the avoidance of any discrimination in any form of public employment and;

(iii) the promotion of good community relations by methods including: the prohibition of incitement to religious hatred and to report to the Government of Northern Ireland within a matter of weeks."[54]

6.6.22. Given the events of that year and particularly those of August 1969 the actions of the police in Northern Ireland had become a focus of attention. Many of the civil rights marches drew media attention, and confrontations between marchers and the police were televised.

6.6.23. The composition of the police reinforced the belief now held by many that they were a partisan force that would be used to suppress the political demonstrations of those opposed to the Northern Ireland government.[55]

6.6.24. On 26th August 1969 the Advisory Committee on Police in Northern Ireland was appointed "to examine the recruitment, organisation, structure and composition of the Royal Ulster Constabulary and Ulster Special Constabulary and their respective functions and to recommend as necessary what changes are required to provide for the efficient enforcement of law and order in Northern Ireland".

6.6.25. The resulting report[56] published in October 1969 noted that as far as the RUC was concerned "Roman Catholics only constitute approximately 11% of the members...and of this percentage the great majority are probably men whose fathers had served in the police. The net percentage of Roman Catholic recruits from outside these sources is thus very small indeed".[57]

---

[54] Text of a Communiqué issued on 29 August 1969 at the conclusion of the visit of the Secretary of State for the Home Department to Northern Ireland (Cmnd. 4158) at Appendix 3

[55] Scarman Report paragraph 1.13

[56] *Report of the Advisory Committee on Police in Northern Ireland* October 1969 ("The Hunt Report") (Cmd. 535)at Appendix 2

[57] paragraph 120

6.6.26. In 1969 the only remaining class of the original three Ulster Special Constabulary classes was "Class B". The "B Specials" had always been a part time force whose members were recruited from and deployed in the areas in which they lived. In 1969 they numbered around 8,000 men and were deployed for military type duties such as mounting armed guards of certain installations and road checks.[58] It was common knowledge and confirmed by the Hunt report[59] that among the force "no Roman Catholic is a member".

6.6.27. The Hunt report recommended that the RUC be relieved of all military type duties and that the Ulster Special Constabulary be replaced by a locally recruited part time force under the control of the G.O.C.[60]

6.7. 1970

6.7.1. At the Sinn Fein Ard Fheis in January 1970 the party split, leaving what became known as Official Sinn Fein and Provisional Sinn Fein. A similar split had occurred in the IRA at the end of 1969, and for the same reasons, when the army convention voted to end the policy of abstentionism.

6.7.2. In June 1970 a general election in the UK saw the formation of a Conservative government under Edward Heath. Reginald Maudling was appointed Home Secretary.

6.7.3. July 1970 brought increased street disturbances in Belfast and after an arms find in the Falls Road area the army sealed the district and imposed a curfew which lasted from 3rd July until the morning of 5th July when it was broken by a march of women and children carrying food through army lines. During the curfew intensive searches were carried out of houses in the area. There were numerous allegations of ill-treatment of residents and three civilians were shot dead by the army

[58] Hunt Report paragraphs 151 - 157
[59] at paragraph 163
[60] paragraph 183

"While this may have been regarded as a success from a purely military perspective, politically it represented a turning point in the relationship between the army and the nationalists, convincing many in the Catholic population that the army had adopted an adversarial attitude towards them."[61]

6.8. 1971

6.8.1. 1971 saw increased action by the IRA. Twenty eight people had died in 1970. In 1971 the death toll was one hundred and eighty. Ninety four were civilians, forty four were soldiers, eleven were RUC and five UDR. Twenty three republican and three loyalist paramilitaries were killed. Of the deaths, republican paramilitaries were responsible for one hundred and seven and the army for forty five, loyalist paramilitaries for twenty two and the RUC for one.[62]

6.8.2. Apart from this there was a large increase in the number of shooting incidents and explosions the figures for which stood at 213 and 153 respectively in 1970 and rose dramatically to 1,765 and 1,022 in 1971.[63] Rioting also intensified as the year went on[64].

6.8.3. The attendant pressure on the Northern Ireland government from those within its own party and others such as Ian Paisley was fierce as a result of the increasing disorder. March 1971 brought the resignation of Major Chichester-Clarke and the elevation three days later, after a party leadership election, of Brian Faulkner to the post of Prime Minister.

---

[61] *Lost Lives* McKittrick, Kelters, Feeney and Thornton (Mainstream Publishing 1999) page 53
[62] *Lost Lives* page 61
[63] **E6.033**
[64] See for example 8th Brigade Operational Directive 2nd July 1971 **G1.1 to G1.19 at G1.2** and Cabinet Joint Intelligence Committee Special Assessment on Northern Ireland 24th June 1971 **G1AC.19.1.12 to G1AC.19.1. 14 at G1AC.19.1.13**

6.8.4. In addition, the Army, originally welcomed as the protectors of the Catholic people, were now regarded with hostility – a feeling which increased throughout 1971:

> "...the temptation to get results by almost any means became a very high priority and a premium was put on improving local intelligence. Hence increasing house searches: 'It was announced in Stormont that 1,183 houses and flats in Belfast had been searched by security forces between 30 November 1971 and 9 January 1972. In 47 of them arms, ammunition and radio equipment were found'. That means that nothing was found in 1,136 residences. We can imagine that the occupants were not best pleased by these incursions. In addition, the use of riot-control agents such as CS gas and rubber bullets antagonised local communities. More pertinently, it was the nature of the Army 'as a closed institution unaccustomed to direct contact with the civilian population [which] increase the likelihood that individual soldiers would be guilty of misconduct...Individual soldiers...soon realised that any breaches of discipline would be concealed by their colleagues or condoned by their officers.'"[65]

6.8.5. The shooting of civilians by the army in disputed circumstances raised the temperature even further. On 8th July 1971 Seamus Cusack and Desmond Beattie were shot dead by soldiers in Derry. Their deaths aroused much controversy not least because, contrary to eyewitness reports, the army claimed that the two men were armed with a rifle and nail bombs respectively when shot[66]. Acquitting the soldier who shot Seamus Cusack of murder Mr Justice Gibson later concluded that Cusack was probably

---

[65] **E6.0034**. Footnotes omitted

[66] See for example, 8th Brigade INTSUM No. 75, 17th July 1971 **G3B.48.2 to G3B.48.13 at G3B.48.11 and G3B.48.12**

not armed.[67] The SDLP, then the opposition at Stormont, withdrew from the Parliament after their call for an independent inquiry into the deaths was rejected by the NI government.

6.8.6. Others killed by the army in Derry in controversial circumstances in the latter part of 1971 were Hugh Herron on 9th August, Annette McGavigan on 6th September, William McGreanery on 14th September and Kathleen Thompson on 6th November.

6.8.7. Perhaps the most significant event. to take place in 1971 was the introduction of internment. Operation Demetirus (Internment) was launched across Northern Ireland on the morning of 9th August 1971[68]. It provoked widespread rioting and disturbances with 13 people shot dead on 9th August alone, nine of them by soldiers. The fiercest disturbances came in north and west Belfast. After the initial disturbances had subsided the apparently random nature of the many arrests, the fact that the power was initially exclusively directed at Catholics and the actions of soldiers during the arrest operations led to sustained protests against the use of internment and calls for it to be brought to an end. Quite apart from the use of the power of internment itself, allegations of ill-treatment began to emerge from those who had been arrested.

6.8.8. Professor Kevin Boyle in his evidence to Tribunal stated:

> "In the period between 1970 and the end of 1971 the Civil Rights Association did not organise many mass demonstrations. However, following the introduction of internment in August 1971, the movement was resuscitated." **Day 123/110/2 to Day 123/111/1**.

---

[67] *Lost Lives* page 76

[68] Further consideration will be given to the political context in which internment was introduced and its effects in **section seven**

6.8.9. NICRA's first response to the introduction of internment was Professor Boyle's presence at a meeting on the morning of 9th August 1971 in Dungannon with various politicians. That meeting called for civil disobedience and initiated the rent and rates strike **Day 123/111/2 to Day 123/111/13**

6.8.10. While the rent and rates strike was co-ordinated by NICRA there was, at that time, no plan to take the protests on to the street. Professor Boyle has said that it was not confrontation with the security forces that the association feared but rather the violent side of loyalism **Day 123/112/24 to Day 123/113/5**. This fear was well founded given the events of the previous months.

6.8.11. When the rent and rates strike failed to have the desired effect NICRA issued an ultimatum to the authorities that marches would be held unless internment was ended without further negotiations.

> "We intend to encourage more and more methods of expressing total withdrawal from the State and we also intend bringing the civil disobedience campaign into the streets in a programme of marches throughout Northern Ireland. The campaign will begin on New Year's Day with a mass rally march to Falls Park in Belfast" NICRA press release December 1971 **GEN 5.25**.

6.8.12. The march organised for 30th January 1972 in Derry was part of this campaign.

Appendix 1

FS 1 · 241

HMSO 29



Violence and Civil Disturbances in Northern Ireland in 1969

Report of Tribunal of Inquiry

THE HON. MR. JUSTICE SCARMAN (*Chairman*)
MR. G. K. G. LAVERY
MR. W. MARSHALL

Volume 1

Presented to Parliament by Command of
His Excellency the Governor of Northern Ireland
April 1972

BELFAST
HER MAJESTY'S STATIONERY OFFICE
£3 NET—for two parts
[Not sold separately]

Cmd. 566

FS 1 · 242

UNIVERSITY LIBRARY

FS 1. 2423

SBN 337 10566 9

TABLE OF CONTENTS

	Page
THE SUBMISSION	1
PART I—GENERAL SURVEY	
Chapter 1—The course of events	5
Chapter 2—Origin and nature of the disturbances	10
Chapter 3—The RUC and the USC	14
PART II—ATTACKS ON PUBLIC UTILITIES AND POST OFFICES MARCH/APRIL 1969	
Chapter 4—The attacks	20
Chapter 5—Responsibility	22
PART III—THE INITIAL DISTURBANCES	
Chapter 6—Belfast: May–July	25
Chapter 7—Londonderry: Mid-July disturbances	31
Chapter 8—Dungiven: June and July	40
Chapter 9—Belfast: Early August	47
PART IV—THE LONDONDERRY RIOTS	
Chapter 10—Londonderry: 15 July–10 August	63
Chapter 11—Londonderry: 11 and 12 August	67
Chapter 12—Londonderry: 13 and 14 August	77
PART V—THE SPREAD OF THE RIOTS	
Chapter 13—Political pressures on 13 August	86
Chapter 14—Dungannon and Coalisland	88
Chapter 15—Newry	107
Chapter 16—Dungiven	112
Chapter 17—Ardoyne and Crumlin Road	114
Chapter 18—West Belfast	116
PART VI—THE ARMY	
Chapter 19—Official discussions about deployment of the Army in early August	128
Chapter 20—Constitutional implications of calling in Army ...	130

Page

PART VII—THE BELFAST RIOTS: 14 AUGUST

Chapter 21—The West Belfast riots: Principal features 133
Section 1—Introduction 134
Section 2—Trouble in Divis Street 134
Section 3—Dover Street up to the death of Herbert Roy ... 137
Section 4—Percy Street up to about 1 a m 142
Section 5—Dover Street and Divis Street: Deaths of Patrick Rooney and Hugh McCabe 146
Section 6—Conway Street and Cupar Street 149
Section 7—Percy Street after 1 a m 155
Section 8—The burning of Conway Street 159
Section 9—Detailed consideration of the death of Patrick Rooney 162
Section 10—Detailed consideration of the death of Hugh McCabe 167
Section 11—Police use of Browning guns in the Divis Street Falls Road area 172

Chapter 22—Crumlin Road and Ardoyne riots: Principal features 176
Section 1—Preliminary: 5 p m–10 30 p m 177
Section 2—The Hooker Street riot 178
Section 3—The riot in Herbert Street: the death of Samuel McLarnon 184
Section 4—The riot in Butler Street: the death of Michael Lynch 187
Section 5—General 188

PART VIII—THE BELFAST RIOTS: 15 AND 16 AUGUST

Chapter 23—Divis Street/Lower Falls 190
Chapter 24—Decisions of the police and the Army 193
Chapter 25—Clonard 195
Chapter 26—Ardoyne and Crumlin Road: 15 August 209
Chapter 27—Ardoyne and Crumlin Road: 16 August 219

PART IX—BELFAST OUTSIDE THE RIOT AREAS

Chapter 28 222

Page

PART X—ARMAGH

Chapter 29 226

PART XI—CROSSMAGLEN

Chapter 30 239

PART XII—SOCIAL COST

Chapter 31 241
Section 1—Deaths 241
Section 2—Personal injuries 241
Section 3—Damage to property 244
Section 4—Damage to licensed premises 244
Section 5—Intimidation 246
Section 6—Displacement of persons 246

FS 1. 244

The total estimated cost of the preparation of this Report (including legal fees and the expenses of witnesses) is £460,250, of which £7,975 represents the estimated cost of printing and publication.

To His Excellency
Baron Grey of Naunton, GCMG, KCVO
Governor of Northern Ireland

THE SUBMISSION

1. On 27 August 1969 both Houses of Parliament of Northern Ireland resolved that it was expedient that a Tribunal be established for inquiring into a definite matter of urgent public importance: that is to say, the acts of violence and civil disturbance which occurred

(1) during the month of March 1969 at the electricity substation, Castlereagh;

(2) during the month of April 1969 at Kilmore, Co Armagh; Silent Valley, and Annalong, Co Down, and Clady, Co Antrim;

(3) during the month of April 1969 at or near ten Post Offices in the City of Belfast;

(4) during the months of July and August 1969 in the cities of Londonderry and Belfast;

(5) during the months of July and August 1969 in the town of Dungiven;

(6) during the month of August 1969 in the City of Armagh and in the towns of Coalisland, Dungannon and Newry; and

(7) during the 17, 18 August 1969 at Crossmaglen, Co Armagh;

and resulted in loss of life, personal injury or damage to property.

2. By Warrant of Appointment, also dated 27 August 1969, Your Excellency appointed the three signatories to this Report to be a Tribunal for the purposes of the inquiry mentioned in the Resolution of the two Houses of Parliament, and further appointed the first signatory to this Report as chairman of the Tribunal. The Warrant provided that the Tribunals of Inquiry (Evidence) Act 1921 should apply to the Tribunal.

3. By a further Warrant given on the 11 December 1970 Your Excellency varied the terms of the Warrant of Appointment of 27 August 1969 by revoking the appointment of Mr Lavery and Mr Marshall in so far as their appointment related to the acts of violence and civil disturbance which occurred—

(1) during the month of March 1969 at the electricity substation, Castlereagh;

(2) during the month of April 1969 at Kilmore, Co Armagh; Silent Valley, and Annalong, Co Down, and Clady, Co Antrim;

(3) during the month of April 1969 at or near ten Post Offices in the City of Belfast;

(4) during the months of July and August 1969 in the town of Dungiven;

(5) during the month of August 19[illegible] in the towns of Coalisland, Dungannon and Newry; and

(6) during the 17, 18 August 1969 at Crossmaglen, Co Armagh;

but not further or otherwise and by declaring that in relation to the acts specified above the Tribunal should consist of the Chairman alone.

4. The effect of the Resolutions of the two Houses of Parliament and the two Warrants of Appointment is, therefore, as follows. A Tribunal consisting of all three of us has been established to inquire into the acts of violence and civil disturbance which occurred in 1969 during the months of July and August in the Cities of Londonderry and Belfast and during the month of August in the City of Armagh. Our Chairman, sitting alone, has been the Tribunal established for inquiring into all the other acts of violence and civil disturbance listed in the Resolutions of the two Houses of Parliament.

5. Accordingly, the inquiry into the disturbances in Londonderry, Belfast and Armagh has been conducted by all three signatories to this report. The inquiry into the other matters has been conducted by our Chairman alone. Nevertheless, for the sake of clarity and continuity of exposition, we have incorporated the findings of these two inquiries into one report. In so far as the report deals with the acts of violence and civil disturbance occurring in Londonderry, Belfast and Armagh, it is the report of all three of us and the findings are those of the Tribunal of three. In so far as the report deals with the other matters, the report and its findings are the responsibility of our Chairman.

6. The application to our proceedings of the Tribunals of Inquiry (Evidence) Act 1921 meant that our inquiry was to be judicial in character. We were given thereby powers, rights and privileges vested in the High Court in respect of the enforcing of the attendance of witnesses, examining them on oath and the compelling of the production of documents. We came under an obligation not to refuse to allow the public to be present at our proceedings, unless in our opinion it was in the public interest expedient to sit in private for reasons connected with the subject-matter of the inquiry or the nature of the evidence. We were given power to authorise representation by counsel, solicitor, or otherwise of persons appearing to be interested in our proceedings. Witnesses called before us were entitled to the immunities and privileges of a witness before the High Court.

7. A number of procedural problems of varying importance had to be resolved by the Tribunal and some of them are discussed in Appendix I. But we would emphasise that throughout our inquiry we have borne in mind the judicial and public character conferred upon our proceedings by the application of the Act of 1921. In particular, we were concerned to ensure that persons, whose conduct was criticised in written statements furnished by those whom the Tribunal proposed to call as witnesses, should be given notice of the allegations against them and have a full opportunity, with the aid of legal representation if necessary, of dealing with them.

8. The Parliamentary Resolutions do not in terms require us to make any report. But Your Excellency's Warrant of Appointment empowered us to make reports from time to time as we judge expedient. We have decided to make only

one report. It will be observed that on some, but not all, of the matters referred to us we have made findings. We would emphasise that we have considered ourselves entitled to make findings only in those instances in which we have felt sure that we know the truth. We have been at pains to indicate those matters on which we have made positive findings.

9. We first sat in Belfast on 5 September 1969. We conducted hearings in Londonderry in the months of September to December 1969. To hear witnesses concerned with the Armagh and Newry disturbances, and the Crossmaglen incident, we sat in Armagh. All other hearings were conducted in the Royal Courts of Justice, Belfast, where we sat, though not continuously, from January 1970 to the end of June 1971. The Tribunal inspected the scene of each disturbance covered by the report. The details of the hearings and the witnesses called are set out in Appendix IV.

10. The Tribunal was greatly assisted in its work by both solicitors and counsel instructed to appear before it. But for the skilled and sustained work of both counsel and solicitors instructed on behalf of the Tribunal, an investigation as complex and detailed as this inquiry proved to be could never have been completed. We are equally indebted to counsel and solicitors who appeared for those to whom we gave leave to be represented: their thorough cross-examination of witnesses and well prepared final submissions illumined much that was obscure, and ensured that a full hearing was given to all persons affected by the inquiry. The list of representations is to be found in Appendix VII.

11. We wish to record the admiration and appreciation that we feel for the work of our Secretary, Mr. A. J. Green, our Assistant Secretary, Mr. W. T. McCrory, our legal assistant, Mr. J. A. W. Strachan of the English Bar, and the administrative and clerical staff. Their dedicated work over a period exceeding two years calls for more than the personal thanks of the three of us: it needs to be recognised as a public service of outstanding merit. The best tribute, however, is quite simply to place on public record that our staff have consistently and often under severe pressure devoted to the work of the Tribunal the zeal and intelligence that we, citizens of the United Kingdom, have come to expect of our civil service.

12. Copies of the record of our proceedings, which includes the evidence, the exhibits and the final submissions of counsel, together with a detailed chronology prepared by the secretariat for the use of the Tribunal, have been deposited with the British Museum, the Public Record Office of Northern Ireland, Queen's University, Belfast, New University of Ulster, and the Institute of Advanced Legal Studies, University of London.

LESLIE SCARMAN

A J GREEN (*Secretary*)

GEORGE K G LAVERY

W T McCRORY (*Assistant Secretary*)

WILLIAM MARSHALL

4 *February* 1972

FS1-246

FS1.242

PART I—GENERAL SURVEY

INTRODUCTORY

Terms and abbreviations

1.1 A few remarks are needed about terms. We have not been able to avoid describing groups as Catholic or Protestant. These terms are used only as labels indicating well understood community identifications. No more meaning should be given to the terms than that.

Members of the RUC and USC are referred to in the report by their titles during the disturbances.

At that time the basic RUC ranks were Constable, Sergeant, Head Constable, District Inspector, and County Inspector. The RUC was headed by the Inspector General, assisted by the Deputy Inspector General. The Belfast force was controlled by the Commissioner for Belfast, and a Deputy Commissioner. In the report we normally abbreviate basic titles to Const, Sgt, HC, DI, and CI. We sometimes refer to the IG, DIG and D/Commissioner.

The basic ranks in the USC were Special Constable, Special Sergeant, Sub-District Commandant, District Commandant and County Commandant. In the report we normally abbreviate these titles to S/Const, S/Sgt, SDC, DC and CC. There were also full-time Sergeant Instructors. These are normally described as Sgt/Instructors.

CHAPTER 1—THE COURSE OF EVENTS

Antecedent events

1.2 An accurate assessment of the 1969 disturbances requires some knowledge of events in the Province since unrest developed in 1968. These initial events have been described in the Report of the Cameron Commission*, and we feel we can deal with them briefly.

1.3 In June 1968 the local Member of Parliament (NI), exposed a case of house allocation in Caledon in which there was discrimination in favour of an unmarried Protestant girl. The agitation which started over this case caught the imagination of the non-Unionist minority in the Province and greatly increased the standing and influence of the Northern Ireland Civil Rights Association†. Events elsewhere in the world, particularly perhaps the student riots in France in the early summer of that year, encouraged the belief that a policy of street demonstrations at critical places and times could achieve results, if only because they would attract the attention of the mass media. The Government of Northern Ireland felt the pressures that NICRA and others were able to

*Disturbances in Northern Ireland, Cmd 532. 1969: hereinafter referred to as Cameron.
†Hereinafter referred to as NICRA.

create, and responded first by outright resistance, and then by concessions. Thus Mr Craig, the then Minister of Home Affairs (NI), banned a demonstration scheduled to take place in Londonderry on 5 October. The ban was defied and a violent clash between police and demonstrators occurred. Further unrest followed in Londonderry. Then a reform programme was announced by the Government in November; but it was regarded as inadequate by the minority, and did not efface or diminish their feeling that the police would be used as a partisan force to suppress the political demonstrations of those opposed to the Northern Ireland Government.

1.4 Undoubtedly, the Government was faced with a familar dilemma. If it stood firm it attracted violent opposition. Yet to promise reform after threats to law and order was a recipe to encourage further demonstrations and counter demonstrations, and to increase rather than diminish the risk of confrontations between minority groups and the police. In 1969 this dilemma of the Government became more pronounced.

1.5 "The Peoples Democracy" (the origins of which are described in Cameron, chapter 5) staged a march from Belfast to Londonderry. It reached Londonderry on 4 January after harassment and violence at Burntollet Bridge. A riot followed in Londonderry, which gave rise to allegations of police violence and partiality. The police were excluded from the Bogside area of the city for a few days because of the high feeling against them. The Government announced an inquiry by County Inspector Baillie into the allegations against the police, but the announcement did little to assuage feeling. The investigation was held in private and the report was not published. But there is no doubt that some breakdown of police discipline did occur on 4/5 January.

1.6 The reform programme had left opposition activists dissatisfied, but at the same time it had evoked hostility from some Protestants. Of their counter-demonstrations the most notable was one organised by Dr Paisley and others in Armagh on 30 November 1968. Later he and Major Bunting were convicted of unlawful assembly for their part in this affair and sentenced to three months' imprisonment. Their appeal was heard on 26 March 1969 and dismissed.

1.7 There had been a Stormont general election in February, after which Captain O'Neill remained Prime Minister, although in his own constituency he had defeated Dr Paisley only by a narrow majority. There were serious Catholic riots in Londonderry on 19 and 20 April, in which a Mr Devenny was seriously injured.* Again there were *prima facie* grounds for supposing that some police indiscipline had occurred. There were also some consequential disturbances in Belfast.

1.8 While the Catholic minority was developing confidence in its power, a feeling of insecurity was affecting the Protestants. They became the more determined to hold their traditional summer parades, particularly those in Londonderry and Belfast. In these circumstances sectarian conflict was to be expected, unless the police were strong enough to prevent it.

*He died three months later—We refer to his death and funeral in Chapter 10 at page 64.

1.9 But the police were not strong enough. The overall strength of the RUC was approximately 3,200. It included a Reserve Force of 8 platoons which was used for riot control. Each of these platoons had about 30 members. In addition to the RUC there was available the USC, whose total strength was about 8,500. Of the USC some 300 had been fully mobilised for duties with the RUC. The rest were part-time volunteers, who, for reasons to which we refer later, could not be effectively used in the event of sectarian conflict. No other police were available: in particular, in 1969, it was not, in practice, possible to reinforce the RUC from other police forces in the UK.

1.10 Behind the police stood the Army. While in the last resort the Army is available to support the civil power, its use creates as many problems as it solves. Moreover, in Northern Ireland there is the added problem that, while law and order are the responsibility of the Northern Ireland government,* the operational control of the Army has always remained with the UK government.

1.11 Thus, when sectarian disturbances erupted in 1969, the only effective instrument of control available to the Northern Ireland government was the RUC. If they called out the USC, they ran the risk of deepening the conflict: if they called for the aid of the Army, they had to submit to the operational control of Whitehall. We are satisfied that these difficulties were present in the minds of the Minister for Home Affairs (NI) and his police advisers and influenced their decisions in July and August.

Outline of the disturbances

1.12 The "definite matter of urgent public importance" which the Tribunal was established to investigate might appear to include all the acts of violence and civil disturbance occurring between March and August 1969. Any such interpretation of the two resolutions would be false. Serious disturbances did occur during this period which are not included in the resolutions. To mention three instances, serious disturbances occurred in Londonderry during April, in Lurgan and Strabane during August, but are excluded from our inquiry.

1.13 On the last day of March and during the month of April there occurred a number of explosions at electricity and water installations in the Province. We are satisfied that, though the perpetrators of these outrages cannot, with one exception, be identified, they were the work of Protestant extremists who were anxious to undermine confidence in the government of Captain O'Neill. At the time it was widely thought that the explosions were the work of the IRA, though it is quite clear now that they were not. On 28 April Captain O'Neill resigned and on 1 May was succeeded by Major Chichester Clark. One of the new Prime Minister's first acts was to announce an amnesty for all offences connected with demonstrations since 5 October 1968, one consequence of which was to release Dr Paisley and Major Bunting from gaol. On 8 May the Civil Rights Association announced the suspension of its civil disobedience campaign in view of the amnesty.

*Government of Ireland Act 1920. Sections 4 and 8, subject however to the saving in section 75.

FS1.248

1.14 Although for a time the Province enjoyed a more peaceful atmosphere, tension was still high, particularly in areas where Republican feeling ran strongly—Londonderry and the Ardoyne district of Belfast. In May there were some disturbances in the Ardoyne near Hooker Street, and on the 29th of that month there was a meeting between the Ardoyne Citizens' Action Committee and senior police officers.

1.15 Meanwhile, the Protestant community was determined, notwithstanding the agitation of the minority groups, to hold its traditional summer ceremonies. The danger of the situation was that, as a result of recent events, the minority was not inclined to let the marches go by without protest. This feeling was naturally more acute in certain areas where there was a difficult local situation. Thus, in June there were troubles associated with an Orange church parade and a ceremony of unfurling a new banner at the Orange Hall in Dungiven, a predominantly Catholic town. But the situation did not become serious in the Province as a whole until July, when the approach of the traditional marches of the 12th heightened tension everywhere. Disturbances which arose by way of minority response to Protestant marches occurred on 12 July in Londonderry, Dungiven, and in Belfast in the neighbourhood of Unity Flats and in the Ardoyne.

1.16 The full consequences of these disturbances were not understood at the time but only emerged in the course of evidence before the Tribunal. In Londonderry, where the disturbances had been particularly severe, the Derry Citizens' Action Committee,* which was associated with, but not part of, NICRA, and had been the focal point of the expression of minority views and actions, was superseded by a more aggressive body known as the Derry Citizens' Defence Association. This body took over the function of "defence" of the Bogside.

1.17 Protestants too were becoming more turbulent. Angry Protestant crowds had with difficulty been dissuaded from entering Dungiven on 12 and 13 July to protect the Orange Hall. In Belfast there was high feeling, out of all proportion to the incident itself, as a result of a minor injury to a boy in the procession that passed Unity Flats on 12 July. At the same time the Shankill Defence Association, a body recently formed and previously of no great influence, began to emerge on the streets under the leadership of Mr McKeague. This body was active in assisting Protestant families to move out of Hooker Street and there is evidence which we accept that it encouraged Catholic families to move out of Protestant streets south of the Ardoyne. This movement constituted a retreat into their own areas by outlying members of the two communities, for the sake of security.

1.18 There was serious rioting by Protestants on the Shankill Road near Unity Flats in the early days of August. In the course of these riots, the Protestant mobs made a determined attempt to invade Unity Flats, and also appeared in force on the Crumlin Road. They were successfully resisted by the sustained efforts of the police, who incurred the anger of some sections of Protestant opinion by their baton charges up the Shankill Road. It is significant that during these Protestant riots of early August two senior policemen, the Commissioner and Deputy Commissioner for Belfast, concluded that the police were unable

*Hereinafter referred to as DCAC. The responsible record of this organization is discussed in Cameron.

any longer to control serious disturbances in the City of Belfast. Both these officers felt the time had come to call the Army to the aid of the civil power.

1.19 On 12 August the traditional Apprentice Boys' Parade was due to take place in Londonderry. The Minister of Home Affairs and his senior police advisers had to decide whether or not to ban it. Believing that all sections of responsible opinion in Londonderry were anxious to keep the peace and that, in particular, the Apprentice Boys on one side, and the Bogside leaders on the other had made detailed arrangements for stewarding, the Minister decided not to intervene, but to allow the parade to proceed. The parade itself was well controlled and orderly but, as it passed through Waterloo Place, some stones were thrown out of William Street in the direction of the police and the parade. The stone-throwers were young hooligans, but their actions released the strong feeling of the Bogside to an extent that the few stewards available were quite unable to control. From this small beginning developed not only three days of disturbance in Londonderry, but the many disturbances elsewhere, including in particular the very serious disorders in Belfast.

1.20 It must be remembered that people were influenced not only by such major events as the Londonderry riot, but also by their own local situations. For instance, the Civil Rights Association had been picketing the Local Authority Offices in Dungannon for many months. On 11 August they were forestalled by the Protestants. Later that evening, after a meeting of the Civil Rights Association, a Catholic riot developed which was dispersed only after baton charges by the police down Irish Street. There were allegations of police brutality and there is no doubt that these allegations disturbed not only the Catholic population of Dungannon, but also the people living in the neighbouring village of Coalisland. On 12 August there was a serious riot in Coalisland, while on the 13th rioting again broke out in Dungannon.

1.21 On the 13th the disturbances spread to other centres. There was serious trouble in the Falls Road area of Belfast. At the same time there were riots in Dungannon, Dungiven, Newry and Armagh. The scale of the riots in Londonderry was such that they were beyond the ability of the police to suppress or control. It became clear to those in authority that the aid of the Army would have to be sought. At five o'clock on 14 August the Army entered Londonderry.

1.22 We are satisfied that the spread of the disturbances owed much to a deliberate decision by some minority groups to relieve police pressure on the rioters in Londonderry. Amongst these groups must be included NICRA, whose executive decided to organise demonstrations in the Province so as to prevent reinforcement of the police in Londonderry. We were told that they intended to exclude Belfast from their plans; but we have no doubt that some activists, so far from accepting the decision, did co-operate with some in Londonderry to call for demonstrations in Belfast. There is clear evidence of such a call being made in Divis Street on the 13th.

1.23 On the night of the 14th, the worst violence of the 1969 disturbances occurred in Belfast, notably in the Ardoyne and on the Falls Road. The police, who believed by now that they were facing an armed uprising, used guns, including Browning machine-guns mounted on Shorland armoured vehicles. Four Catholics were shot dead by police fire: one Protestant was killed by a shot fired by a rioter in Divis Street. Catholic houses were burnt by Protestants,

FS 1. 249

especially in the Conway Street area. The only clear evidence of direct IRA participation in these riots occurred at St Comgall's School in Divis Street, where automatic fire was directed against the police. On the same night there was a riot in Armagh, as a result of which a Catholic man was killed by USC fire.

1.24 By the morning of 15 August the police were exhausted. They failed to control the violence which broke out that day on the Crumlin Road and in the Clonard area of the city. Nor did they prevent the burning of factories by Catholics and public houses by Protestants. It has to be admitted that the police were no longer in control of the city. On the evening of the 15th, the Army entered the Falls Road, but not the Crumlin Road, which was the scene of a serious confrontation between Protestants and Catholics. Two people—one Protestant and one Catholic—died by civilian shooting in Belfast on 15 August. Catholic houses were burnt that night by Protestants at Bombay Street (Falls Road area) and Brookfield Street (Crumlin Road). On the evening of 16 August, the Army entered the Crumlin Road and thereafter the disturbances died away. In some riot areas barricades remained. Defence committees began to exercise *de facto* authority in several Catholic areas. So far as the Falls Road district is concerned we are satisfied that the disturbances produced the committees rather than the committees the disturbances.

CHAPTER 2—THE ORIGIN AND NATURE OF THE DISTURBANCES

2.1 It is possible to reach some general conclusions as to the origin and nature of the riots and other disorders which disturbed the Province in the spring and summer of 1969. At the time both the Prime Minister (NI) and Cardinal Conway* issued public statements. On 14 August the Prime Minister declared in the House of Commons:—

> "This is not the agitation of a minority seeking by lawful means the assertion of political rights. It is the conspiracy of forces seeking to overthrow a Government democratically elected by a large majority. What the teenage hooligans seek beyond cheap kicks I do not know. But of this I am quite certain—they are being manipulated and encouraged by those who seek to discredit and overthrow this Government".†

On 23 August the Cardinal, together with the Bishops of Derry, Clogher, Dromore, Kilmore, and Down and Connor, issued a statement which included the following:—

> "The fact is that on Thursday and Friday of last week the Catholic districts of Falls and Ardoyne were invaded by mobs equipped with machine-guns and other firearms. A community which was virtually defenceless was swept by gunfire and streets of Catholic homes were systematically set on fire.
>
> We entirely reject the hypothesis that the origin of last week's tragedy was an armed insurrection".‡

The conspiracy theory

2.2 In our judgment there was no plot to overthrow the Government or to mount an armed insurrection. But, although there was no conspiracy in the

*Catholic Primate and Archbishop of Armagh.
†Appendix (A) (i).
‡Appendix (A) (vi).

sense in which that term is normally used (for it is not possible to identify any group or groups of persons deliberately planning the riots of 1969), yet it would be the height of naivety to deny that the teenage hooligans, who almost invariably threw the first stones, were manipulated and encouraged by persons seeking to discredit the Government. While accepting that the major riots that occurred in Londonderry, Belfast, Armagh and Dungannon were not deliberately planned, we are satisfied that, once the disturbances started, they were continued by an element that also found expression in bodies more or less loosely organised, such as the People's Democracy, and various local Defence Associations, and in associating themselves with bodies such as NICRA and the several Action Committees. The public impact of the activities of this element was tremendously enhanced by the coverage given by the mass media of communication.

2.3 The matters remitted to us do, however, include some acts of violence which were planned. The explosions at the public utility installations in March and April resulted from the criminal conspiracy of certain extreme Protestants concerned to undermine confidence in Captain O'Neill's administration. It is highly probable, though direct evidence is lacking, that the bomb attacks on the Belfast post offices in April were planned by Republican elements as a diversionary tactic to relieve the Bogside where heavy rioting was in progress. Finally, the attack on the Crossmaglen police station in August was an IRA operation planned and carried out from a base in the Republic.

2.4 But the riots are a different matter. Neither the IRA nor any Protestant organisation nor anybody else planned a campaign of riots. They were communal disturbances arising from a complex political, social and economic situation. More often than not they arose from slight beginnings: but the communal tensions were such that, once begun, they could not be controlled. Young men threw a few stones at some policemen or at an Orange procession: there followed a confrontation between police and stone-throwers now backed by a sympathetic crowd. On one side people saw themselves, never "the others", charged by a police force which they regarded as partisan: on the other side, police and people saw a violent challenge to the authority of the State. These attitudes were the creature of recent events. Their own interpretations of the events of 1968 and early 1969 had encouraged the belief amongst the minority that demonstrations did secure concessions, and that the police were their enemy and the main obstacle to a continuing programme of demonstrations, while the same events had convinced a large number of Protestants that a determined attempt, already gaining a measure of success, was being made to undermine the constitutional position of Northern Ireland within the United Kingdom. In so tense a situation it needed very little to set going a major disturbance.

The IRA

2.5 Undoubtedly there was an IRA influence at work in the DCDA in Londonderry, in the Ardoyne and Falls Road areas of Belfast, and in Newry. But they did not start the riots, or plan them: indeed, the evidence is that the IRA was taken by surprise* and did less than many of their supporters thought they should have done.

*A letter from the head of RUC Special Branch to the Minister of Home Affairs is set out at Appendix V (C).

FS 1. 250

2.6 The IRA had, we were assured, [illegible] for subversion*: no doubt, it always has had: but, in so far as it participated in the disturbances under review, its members joined in after they had begun. The incident of the shooting from St. Comgall's School, in its timing and its uniqueness, illustrates the point: as do the violent and futile actions of the IRA in Newry and Crossmaglen.

2.7 There is evidence, however, of preparations for "defence" by the DCDA in Londonderry, a body which certainly included some IRA members. But, as our review of the Londonderry disturbances reveals, the basic pattern was reaction to, and not the initiating of, the course of events. The DCDA did not organise the disturbances: but it made quite elaborate preparations to keep the police out of the Bogside, if necessary by violence, in the event of disturbances erupting on the streets. The true difference between the IRA in Belfast and the DCDA in Londonderry was that the DCDA was ready, while the IRA was not.

NICRA

2.8 The NICRA did not plan the rioting but it did help to spread the disturbances on 13 August. Several of its prominent members were Republicans and there were various links with IRA personalities. We accept the statements of Mr Kevin Boyle and Mr Frank Gogarty† that they regarded the August disturbances as disastrous. When Mr Boyle was asked whether they provided an opportunity which might be exploited to attain his ends, he said:—

> "No, quite the reverse. I am quite convinced that the events in August 1969 put back my ideals much further than they put back the Unionist Government's."

But equally we accept Mr Gogarty's own assessment of his Association's responsibility for the Protestant backlash of 14 and 15 August:—

> "In this matter I am afraid that we all on the Executive under-estimated the strength of militant Unionism at this time, and had we foreseen the holocaust which did occur in mid-August we most certainly would not have entered on such an enterprise as we did, but . . . we underestimated the influence which possibly many right-wing Unionist politicians had when they slandered our Association as subversive. We did not really believe that this slander would have been believed as strongly by many Protestants as it seems it was."

In that sense NICRA bears a heavy, albeit indirect, responsibility for the horrors that occurred on 14 August.

Politicians of the opposition

2.9 There is no evidence to implicate the leaders of the political opposition. Men like Mr Hume, Mr Ivan Cooper, Mr G Fitt, however strong their words on a political platform, consistently opposed violence. The political feeling they engendered no doubt played a part in the build-up of the tension which gave rise to the disturbances, but, where speech is free, this is a danger that has to be accepted. Miss Bernadette Devlin was, however, an exception. Although her participation was limited, her principal activity being associated

*Appendix V (B).

†Mr Gogarty was Chairman of NICRA. Mr Kevin Boyle was Press Officer of NICRA, a law lecturer and prominent member of People's Democracy.

with the burning and the manning of the Rossville Street barricade in Londonderry, she must bear a degree of responsibility, once the disturbances had begun, for encouraging Bogsiders to resist the police with violence. Yet her role was a minor one, and we have no evidence that she was a party to any plot to subvert the state or stir up insurrection.

The Protestant invasion theory

2.10 Protestant participation in the disorders under review was largely that of violent reaction to disturbances started by Catholics, though there were exceptions.* Their reaction was particularly fierce in Belfast in mid-August, when it took the form of violent eruptions into Catholic areas—the Falls, Divis Street, and Hooker Street. These eruptions, the course of which we trace in detail later in the Report, may with some justice be described as "invasions"—given the "ghetto" pattern of so much of Belfast.

2.11 Yet when one looks at the Protestant side of the sectarian divide, it is not very different from the Catholic side. There was no province-wide organisation sponsoring a policy of disturbance. The Orange Order and its lodges were determined to hold their parades and ceremonies, although well aware of the risks of violent reaction. Many Orangemen enjoyed provoking their opponents —just as those opponents enjoyed jeering at and disrupting Orange processions. The opportunities for communal disturbance were plentiful: but, while many Orangemen did little or nothing to reduce them, there was no riot or battle plan.

2.12 The only centre where there was evidence of a Protestant organisation actively participating in the riots was Belfast. Members of the Shankill Defence Association participated in the disturbances on the Crumlin Road and in the Falls, including the Protestant eruptions into Divis Street, Clonard and Brookfield Street, which led to the burning of Catholic homes; but this is not to say that the organisation planned the burnings, and we have no acceptable evidence that it or any other organisation was party to any such plan. The truth, we believe, was simply that, at a time when communal feeling was high, violent events released violent passions which men such as Mr McKeague did nothing to assuage and which proved to be beyond the ability of the people's leaders or the police to control.

2.13 Nevertheless, just as on the other side of the sectarian divide loomed the sinister shadow of the IRA, so among the Protestants there lurked extremists eager to identify themselves with the Ulster Volunteer Force of 1912, the year of the "Ulster Covenant".† The evidence suggests that these men really directed their activities against the moderates of the Unionist party, paying little or no attention to the IRA or the political Opposition. Thus, the public utility explosions in April, which the Tribunal is satisfied were the work of these extremists, were directed against the Unionist government of the day.

*e.g. Belfast 2-4 August.

†The graffiti "UVF" appear as frequently on the blank walls of Belfast and other centres as do the graffiti "IRA". But the phenomenon establishes nothing, since on both sides of the sectarian divide there are to be found many to whom the distinction between myth and fact is not always visible.

FS 1.251

2.14 Our inquiry and the evidence t[illegible]ave not revealed the existence of any "UVF" organisation comparable with the command structure of the IRA. Nevertheless it is to be noted that in 1966 the Government of Northern Ireland placed the UVF on the list of illegal organisations, where it still remains.

2.15 The name of Dr Paisley has been linked with these extremists. A major submission made on behalf of some who were represented before the Tribunal was to the effect that Dr Paisley by his actions and speeches must be held largely responsible for the disturbances. Those who live in a free country must accept as legitimate the powerful expression of views opposed to their own, even if, as often happens, it is accompanied by exaggeration, scurrility, and abuse. Dr Paisley's spoken words were always powerful and must have frequently appeared to some as provocative: his newspaper was such that its style and substance were likely to rouse the enthusiasm of his supporters and the fury of his opponents. We are satisfied that Dr Paisley's role in the events under review was fundamentally similar to that of the political leaders on the other side of the sectarian divide. While his speeches and writings must have been one of the many factors increasing tension in 1969, he neither plotted nor organised the disorders under review and there is no evidence that he was a party to any of the acts of violence investigated by us.

General conclusion

2.16 Thus, a study of the Protestant side of the disturbances reveals the same basic pattern as that of the Catholic—communal disturbances erupting without plan or premeditation during a summer when the traditional Protestant marches and ceremonies, following immediately after the massively publicized and vividly remembered events of the period August 1968 to April 1969, provided a series of occasions for the eruption of violence which neither the political leaders nor the forces available to the NI Government could prevent or suppress.

2.17 One final comment needs to be made. The absence of any sustained heavy shooting by civilians, save for the firing from St. Comgall's school on the night of 14/15 August, was a feature of the disturbances. While weapons were fired on occasions by Protestants and by Catholics the rarity of organised gunfire, which is well evidenced by the very few police casualties attributable to bullet or pellet injury, combines with the other more direct evidence discussed in this chapter to support the conclusion that in 1969 there was no organised campaign of armed insurrection by one side or of armed vengeance by the other.

CHAPTER 3—THE RUC AND THE USC

The RUC

3.1 In a very real sense our inquiry was an investigation of police conduct. Criticism was directed against the higher direction of the RUC, the manner of their employment on the streets during the disturbances, the use of CS gas, the use of guns, and the behaviour of individual policemen. We deal with these criticisms as they arise for consideration in our detailed discussion of the disturbances. At this stage we direct attention only to criticisms of general importance.

3.2 Undou[illegible]istakes were made and certain individual officers acted wrongly on occasions. But the general case of a partisan force co-operating with Protestant mobs to attack Catholic people is devoid of substance, and we reject it utterly.

3.3 We are satisfied that the great majority of the members of the RUC was concerned to do its duty, which, so far as concerned the disturbances, was to maintain order on the streets, using no more force than was reasonably necessary to suppress rioting and protect life and limb. Inevitably, however, this meant confrontation and on occasions conflict with disorderly mobs. Moreover, since most of the rioting developed from action on the streets started by Catholic crowds, the RUC were more often than not facing Catholics who, as a result, came to feel that the police were always going for them, baton-charging them —never "the others".

3.4 In fact the RUC faced and, if necessary, charged those who appeared to them to be challenging, defying, or attacking them. We are satisfied that, though they did not expect to be attacked by Protestants, they were ready to deal with them in the same way, if it became necessary. The Shankill riots of the 2/4 August establish beyond doubt the readiness of the police to do their duty against Protestant mobs, when they were the disturbers of the public peace.

3.5 But it is painfully clear from the evidence adduced before us that by July the Catholic minority no longer believed that the RUC was impartial and that Catholic and civil rights activists were publicly asserting this loss of confidence. Understandably these resentments affected the thinking and feeling of the young and the irresponsible, and induced the jeering and throwing of stones which were the small beginnings of most of the disturbances. The effect of this hostility on the RUC themselves was unfortunate. They came to treat as their enemies, and accordingly also as the enemies of the public peace, those who persisted in displaying hostility and distrust towards them.

3.6 Thus there developed the fateful split between the Catholic community and the police. Faced with the distrust of a substantial proportion of the whole population and short of numbers, the RUC had (as some senior officers appreciated) lost the capacity to control a major riot. Their difficulties naturally led them, when the emergency arose, to have recourse to methods such as baton-charges, CS gas and gunfire, which were sure ultimately to stoke even higher the fires of resentment and hatred.

3.7 There were, in our judgment, six occasions in the course of these disturbances when the police, by act or omission, were seriously at fault. They were:—

(1) The lack of firm direction in handling the disturbances in Londonderry during the early evening of 12 August. The "Rossville Street incursion" was undertaken as a tactical move by the Reserve Force commander without an understanding of the effect it would have on Bogside attitudes. The County Inspector did understand, but did not prevent it. The incursion was seen by the Bogsiders as a repetition of events in January and April and led many, including moderate men such as Father Mulvey, to think that the police must be resisted.

FS 1.252

(2) The decision by the County Inspector to put USC on riot control duty in the streets of Dungannon on 13 August without disarming them and without ensuring that there was an experienced police officer present and in command.

(3) The similar decision of the County Inspector in Armagh on 14 August.

(4) The use of Browning machine-guns in Belfast on 14 August and 15 August. The weapon was a menace to the innocent as well as the guilty, being heavy and indiscriminate in its fire: and on one occasion (the firing into St Brendan's block of flats where the boy Rooney was killed) its use was wholly unjustifiable.

(5) The failure to prevent Protestant mobs from burning down Catholic houses:—

(*a*) in the Conway Street area on the night of 14/15 August:
members of the RUC were present in Conway Street at the time, but failed to take effective action;

(*b*) in Brookfield Street on the night of 15/16 August:
a police armoured vehicle was in the Crumlin Road when Brookfield Street was set on fire, but made no move.

(6) The failure to take any effective action to restrain or disperse the mobs or to protect lives and property in the riot areas on 15 August during the hours of daylight and before the arrival of the Army.

3.8 The conduct which we have criticised was due very largely to the belief held at the time by many of the police, including senior officers, that they were dealing with an armed uprising engineered by the IRA. This was what all their experience would have led them to expect: and when, on 13 August, some firing occurred and a grenade was thrown in Leeson Street, Belfast, their expectation seemed to them to have materialised. In dealing with an armed uprising, the usual restraints on police conduct would not be so strong, while more attention would naturally be given to the suppression of the insurgents than to the protection of people's lives and property. In fact, the police appreciation that they had on their hands an armed uprising led by the IRA was incorrect. Direct IRA participation was slight; and there is no credible evidence that the IRA planned or organised the disturbances.

3.9 But there was a more fundamental cause for these failures. Police strength was not sufficient to maintain the public peace but the Inspector-General acted in August as though it was. The Commissioner and Deputy Commissioner for Belfast had learnt the lesson, at the time of the Protestant riots in early August, when they reached the view that, without the aid of the Army, order could not be ensured on the streets of Belfast. But it is clear from the advice given to the Minister of Home Affairs (NI) on the issue whether or not to ban the Apprentice Boys' parade and from his own evidence given to the Tribunal that the Inspector-General did not share this view. It was not until he was confronted with the physical exhaustion of the police in Londonderry on the 14th and in Belfast on the 15th that he was brought to the decision to call in the aid of the Army. Had he correctly appreciated the situation before the outbreak of the mid-August disturbances, it is likely that the Apprentice Boys' parade would not have taken

FS-1-253

place and the [illegible] would have been sufficiently reinforced to prevent disorder arising in the city. Had he correctly appreciated the threat to Belfast that emerged on 13 August, he could have saved the city the tragedy of the 15th. We have no doubt that he was well aware of the existence of political pressures against calling in the Army; but their existence constituted no excuse, as he himself recognised when in evidence he stoutly and honourably asserted that they did not influence his decisions.

3.10 The criticisms we have made should not, however, be allowed to obscure the fact that, overall, the RUC struggled manfully to do their duty in a situation which they could not control. Their courage, as casualties and long hours of stress and strain took their toll, was beyond praise; their ultimate failure to maintain order arose not from their mistakes, nor from any lack of professional skill, but from exhaustion and shortage of numbers. Once large-scale communal disturbances occur they are not susceptible to control by police. Either they must be suppressed by overwhelming force, which, save in the last resort, is not acceptable in our society and was not within the control of the NI Government; or a political solution must be devised. There are limits to the efficiency of the police and the criminal law: confronted with such disturbances the police and the ordinary processes of the criminal law are of no avail.

The USC

3.11 There were grave objections, well understood by those in authority, to the use of the USC in communal disturbances. In 1969 the USC contained no Catholics* but was a force drawn from the Protestant section of the community. Totally distrusted by the Catholics, who saw them as the strong arm of the Protestant ascendancy, they could not show themselves in a Catholic area without heightening tension. Moreover they were neither trained nor equipped for riot control duty.

3.12 Nevertheless the USC was the only reserve† available to the NI Government if events should develop which over-extended the RUC. Accordingly, in July the Minister for Home Affairs (NI) had authorised their use in riot control without firearms, but with batons. After USC protest, he revised the instruction by allowing officers and NCOs to carry arms.

3.13 On 13 August the Prime Minister indicated in a broadcast that USC would not be used for riot control but on the 14th an instruction was issued to the effect that they could be so used, but equipped "where possible" with batons. It was not until the 15th that USC were expressly instructed to report for duty with their firearms.

3.14 The effect of the difficulties and the instructions set out above was that the USC were largely held in reserve in July and only hesitantly committed in August. They were not used at all during the July disturbances in Londonderry but did appear on the streets of Dungiven on 13 July when a party of USC without provocation fired over the heads of a crowd emerging from the Castle ballroom.

*Report of the Advisory Committee on Police in Northern Ireland, Cmd 535 (the Hunt Report).

†Save for the Army, which was not, however, under NI control. See Part VI.

3.15 When in early August the Sh[illegible]ts exposed the weakness of the police when threatened by Protestant as w[illegible]as Catholic rioting, the decision was taken to use the USC for patrol duties in the Shankill. They were successful in this predominantly Protestant area at a time when the RUC were not welcome —because of their firm action against the Protestant mobs at the beginning of the month. The USC performed their patrol duties unarmed.

3.16 Until 14 August USC were also used in Belfast to protect licensed premises which, being largely Catholic owned and managed, were at risk from Protestant hooligans when communal tension was high. Again, they did the job well—as is evidenced by the destruction of so many public houses as soon as they were withdrawn.

3.17 On 14 August, the day that a broadcast call for their report to duty to their nearest police station went out, USC appeared on the streets of Londonderry, Belfast, Dungannon, Armagh, and Newry.

3.18 In Londonderry they appeared in some numbers at Waterloo Place and Bishop Street. They did not carry firearms. Their arrival in Waterloo Place caused consternation among the Catholics: but, in fact, they did little or nothing. In Bishop Street they were used to restrain a Protestant crowd in the Fountain. There is some evidence of special constables misbehaving themselves in this area by participating in an exchange of petrol bombs and missiles with a Catholic crowd. There is however nothing to justify any general criticism of the USC in the few hours that it performed riot duty on the streets of Londonderry.

3.19 On 13 August USC, who had arrived to assist the hard-pressed police in Coalisland, fired without orders into a riotous crowd but were immediately ordered to stop, which they did. On the 14th in Dungannon and Armagh armed parties of USC opened fire on Catholic crowds, causing casualties, including one death at Armagh.

3.20 In Coalisland there were extenuating circumstances, in as much as the police party was under severe pressure from a riotous mob which heavily outnumbered them. In Armagh, deprived of police leadership, USC personnel panicked, but there was no justification for firing into the crowd. In Dungannon, the Tribunal has been at a loss to find any explanation for the shooting, which it is satisfied was a reckless and irresponsible thing to do. As in Armagh, so also in Dungannon there was an absence of police leadership at the critical time.

3.21 Their employment in Belfast on 14th revealed their helplessness in a communal disturbance. Instructed to hold back Protestants who attempted to penetrate down such streets as Dover and Percy streets into the Falls/Divis district, they failed. Confronted with a small Catholic mob moving up the Catholic end of Dover Street, they fought it back. The scale of the fighting increased, and became a sectarian riot, in which the USC had only an incidental part. In Percy Street some members of the USC and some Protestant civilians co-operated in trying to drive a Catholic crowd back to Divis Street. When eventually Protestants erupted into Divis Street they stood about helplessly while their presence convinced the Catholics that "the Bs" were spearheading the assault.

3.22 There [illegible]vidence that the USC, who were used to hold back Protestants in the Disraeli Street area, participated in the rioting inside the Ardoyne.

3.23 In reviewing the conduct of the USC it is necessary to distinguish between Belfast and the rest of the Province. When USC were used for riot control duty outside Belfast they showed on several occasions a lack of proper discipline, particularly in the use of firearms. But in Belfast on 14 August their presence in Dover Street and Percy Street, while evoking the hostility of the Catholics, was unable to restrain the aggression of the Protestants.

3.24 A little-publicised but important contribution made by the USC to the events under review was by way of the mobilisation of some 300 of them into the RUC. About 80 of them had been mobilized for duty as members of the Reserve Force several months earlier. The Reserve Force led the "Rossville Street incursion" into the Bogside on 12 August and provided the armed Shorlands which were used in the Belfast riots. But there are no grounds for singling out mobilised USC as being guilty of misconduct. The incursion into the Bogside and the use of Browning machine-guns in Belfast were RUC, not USC, responsibilities.

FS 1 . 254

PART II.—ATTACKS ON PUBLIC UTILITIES AND POST OFFICES MARCH/APRIL 1969

CHAPTER 4—THE ATTACKS

4.1 Between 30 March and 25 April there occurred five incidents of damage by explosion to water and electricity supply installations and a number of petrol bomb attacks on post offices. The Tribunal was required by the terms of the joint resolution to investigate these incidents, each of which was a criminal attack upon property. The investigation has proved unfruitful, partly from lack of evidence, partly because, after the Tribunal had been established, prosecutions were brought against a number of men in respect of three of the five incidents of damage to the water and electricity supply installations. With the exception of one man who pleaded guilty and was sentenced to twelve years' imprisonment, the prosecutions failed, leaving to the Tribunal the difficult decision whether to re-open the investigation or to leave the verdicts undisturbed. For the reasons given later, the Tribunal decided not to disturb the verdicts.

4.2 The attacks caused extensive damage to property, but there is no evidence of personal injury or loss of life. Electricity supply was maintained notwithstanding the damage to two installations: but the water supply to the city of Belfast was substantially diminished for about ten days.

The attacks (in chronological order) upon the electricity and water installations

30 *March*

4.3 At 3 55 am a series of explosions damaged the electricity sub-station at Castlereagh, some six miles from the centre of Belfast. Four charges of explosive were used, access having been gained by the removal of one of the railings so as to provide a gap through which a man could pass. A fuse tape was passed through the gap.

20 *April*

4.4 In the early hours of the morning there were two incidents. Explosions damaged an electricity pylon at Kilmore, County Armagh, and the Silent Valley reservoir in County Down.

4.5 At Kilmore four charges were laid but the work was inexpert, and the damage done was minor. Nevertheless, the force of the explosions moved the pylon two feet from its original position and broke one of the 13 high-tension wires it carried.

4.6 At Silent Valley a quantity of explosive was placed inside a tunnel through which passed two pipes, linking the reservoir with the overflow channel. The resulting explosion damaged control valves, and the pipe system linked to them. The blast caused the escape of a great volume of water from the reservoir.

24 *April*

4.7 At about 12 10 am a severe explosion fractured the water pipeline at Templepatrick*, Co Antrim, at a point where it runs close to the main Belfast-Antrim road. The pipe lost all the water coming through it.

*Templepatrick is the place referred to in the parliamentary resolutions as Clady.

25 *April*

4.8 At about 2 00 am at Annalong, some 4 miles from Silent Valley, an explosion damaged a water pipeline where it was carried by a bridge across Dinneywater. Four charges were laid and the pipe was attacked at two joints about 20 ft apart. More explosive than was needed was used, but only one arch of the bridge was damaged. The pipe was fractured and the water it contained was lost.

4.9 The expert evidence indicates that these explosions were the work of men whose knowledge was limited to the use of explosives in quarrying operations. Damage done to the two electricity installations did not disrupt electricity supply, but the cost of repair and reinstatement was heavy.

4.10 The damage done to the water installations was more serious, since it constituted a threat to the water supply of Belfast. The Silent Valley explosion cut off 28 m gallons a day from the city, the total daily supply from all sources being 45 m, of which an undamaged Silent Valley provided 30 m. When a few days later the Templepatrick pipeline was fractured, there was an additional loss of 4½ m gallons a day. The damage at Annalong, however, had no effect on supply.

4.11 The Water Commissioners managed to restore to the city a full supply of water within 10 days of the explosion at Silent Valley. This was a fine piece of work, but meantime the domestic consumer was severely rationed. The figure for repair, reinstatement and consequential damage was some £40,000.

The attacks on the post offices

4.12 Eleven post offices were attacked, 10 in Belfast and one in the outskirts of the city at Finaghy. They were "hit-and-run" attacks, all on one night, that of 20/21 April. With the exception of Finaghy, which was at 4 am, all occurred within the period of one hour. The details are:—

Approx. Time	*Place*	*Method of Attack*
10 45 pm	171 Oldpark Road	Petrol Bomb: by youths using a car.
10 59 pm	253 Grosvenor Road	Burnt: a youth involved.
11 00 pm	N. Queen Street	Petrol Bomb.
11 00 pm	Durham Street	Gutted by fire.
11 02 pm	101 Falls Road	Petrol Bomb.
11 16 pm	Ballynafeigh	2 Petrol Bombs.
11 20 pm	164 Ormea Road	Petrol Bomb.
11 20 pm	126 Albert Bridge Road	Petrol Bomb by youths.
11 26 pm	175 Cromac Street	Petrol Bomb by youths.
11 30 pm	272 Newtownards Road	Fire.
4 00 am	163 Upper Lisburn Road, Finaghy	Petrol Bombs.

FS1 . 253

CHAPTER 5—RESPONSIBILITY

Responsibility for the post office attacks

5.1 The Tribunal has no evidence, other than that of the police, as to who perpetrated the attacks or the reason for them. Detective HC Laird told the Tribunal that the police had positive intelligence that they were the work of the IRA. He added:—

> "We have good reason to believe that a request was made to IRA leaders in Belfast from someone in Londonderry at the time for some such action to be taken in Belfast to take the police away from Londonderry where rioting was taking place at the time."

The timing of the attacks and their concentration on one type of target indicate that they were planned. The fact of serious rioting in Londonderry on 20 April supports the police view as to their purpose. Nobody has come forward to offer any other explanation. But the Tribunal has not the evidence to justify a finding, since for security reasons, which it fully accepts as valid, it has not tested judicially the reliability of the intelligence upon which the police view is founded.

Responsibility for the electricity and water supply explosions

5.2 At the time of the explosions and for months thereafter, the police, the Tribunal was told, kept an open mind as to who was responsible. Nevertheless, it was widely believed that they were the work of the IRA. They appeared to fit into a campaign of violent attack upon the very existence of the province of Northern Ireland—its social and economic life as well as its capacity through the police to maintain law and order. But by October a different picture had emerged. On 19 October 1969 a severe explosion damaged the electricity sub-station at Ballyshannon in the Irish Republic. A man was severely injured by the explosion and later died of his injuries. He was Mr Thomas McDowell, a quarry foreman from Kilkeel, his home being less than one mile from the Silent Valley reservoir. The circumstances of the Ballyshannon explosion and Mr McDowell's injuries pointed strongly to his complicity in the attack: but he died without making a statement.

5.3 Shortly after the Ballyshannon explosion the police got a firm lead, as a result of which they interviewed Mr Samuel Stevenson of Belfast. He made a number of statements to the police, in the course of which he referred to the three explosions near Belfast (Castlereagh, Kilmore, and Templepatrick) and to the two explosions at Silent Valley and Annalong. His statements suggested that Mr McDowell was involved at Silent Valley and Annalong, and that some other men, whom he named, were concerned with him and Mr McDowell in the attacks at Castlereagh, Kilmore, and Templepatrick.

5.4 Mr McDowell was already dead, and no further evidence has come to light in connection with the Silent Valley and Annalong explosions. He had the means (access to, and a quarry-man's knowledge of, explosives used in quarrying), the opportunity, and, if Ballyshannon be a guide, the will to commit these offences: but the only direct evidence is the word of Mr Stevenson.

5.5 In so far as the other explosions are concerned, the Crown instituted criminal proceedings against the men named by Mr Stevenson as well as against Mr Stevenson himself. On 5 December 1969 Mr Stevenson pleaded guilty to offences against the Explosive Substances Act 1883 in connection with the explosions at Castlereagh, Kilmore and Templepatrick and was sentenced to 12 years' imprisonment. Five men were charged with conspiring with Mr Stevenson and Mr McDowell to cause the explosion at Templepatrick and on 20 February were found not guilty. Five men were charged with a similar offence in respect of the Kilmore explosion and on 4 March 1970 found not guilty. Finally on 6 March 1970 two men charged with conspiring with Mr Stevenson and Mr McDowell to cause the explosion at Castlereagh were also found not guilty. Thus, the explosions at Castlereagh, Kilmore, and Templepatrick have been the subject of charges against a number of men of conspiracy with Mr Stevenson and Mr McDowell: in each case Mr Stevenson gave evidence: and all the men accused were acquitted after a jury trial.

5.6 Faced with the fact that, notwithstanding Mr Stevenson's evidence, the juries in these conspiracy trials had acquitted the defendants, the Tribunal inquired if there was any fresh evidence that might throw light on these matters. But Detective HC Laird told the Tribunal that there was none.

5.7 Three courses were, therefore, open to the Tribunal:—

(i) to use its compulsory powers to call Mr Stevenson and the acquitted men, and then to subject them to an inquisition designed to seek the Tribunal's own answer to the questions of responsibility determined in the criminal trials;

(ii) to call Mr Stevenson, but not those he implicated, and to attempt an assessment of the value of his evidence;

(iii) to leave the verdicts undisturbed.

5.8 Had fresh evidence been available, it would have been the duty of the Tribunal to examine it and to review all the circumstances, even though such a course might have led to a conclusion that differed from the verdicts of the juries. But, in the absence of fresh evidence, the Tribunal took the view that it was not in the interests of justice to substitute its own assessment of Mr Stevenson's evidence for those of the juries. Moreover, the Tribunal's finding would have been based on a view reached after a process inquisitorial in character and without the full safeguards of criminal trial, and would have deprived the men concerned of the benefit of a jury's verdict already obtained.

5.9 The decision to prosecute the men implicated by Mr Stevenson was taken at a time when the Tribunal was already charged with the task of investigating the explosions, and must be interpreted as indicating that by then criminal trial was considered appropriate. There remained the possibility that after the trials fresh evidence might become available, in which event investigation by the Tribunal would have been appropriate. But the possibility did not materialise.

EXH. 256

5.10 For these reasons the Tribunal is not able to make any findings as to the identity of those who caused these explosions. Certain facts are, however, clear. All five explosions were the work of Protestant extremists, among whom must be included Mr Stevenson. Their purpose was to strengthen the campaign to topple the then Prime Minister, Captain O'Neill, from power and to secure the release from gaol of Dr Paisley and Major Bunting. Their intentions were realised: Captain O'Neill resigned on 28 April and Dr Paisley and Major Bunting were released from gaol on 6 May under the terms of a general amnesty.

FS1. 257

PART III

CHAPTER 6—BELFAST: MAY–JULY DISTURBANCES

6.1 In May trouble began to develop in the Ardoyne district of Belfast. This period is outside the Tribunal's terms of reference for Belfast but a brief account is essential background for our account of the main disturbances in July and August.

6.2 The Ardoyne district is a Catholic area in west Belfast. The part of it with which the Tribunal was concerned is a working class area located on the north side of the Crumlin Road, near the Holy Cross Church. It is roughly defined by Brompton Park, by the industrial area east of Flax Street and by the Crumlin Road. There were about 24 Protestant families in Hooker Street, which had originally been a Protestant street, but otherwise the population was predominantly Catholic. On the south side of the Crumlin Road opposite Hooker Street there is a number of small streets of which Disraeli Street is roughly the geographical centre. They were inhabited predominantly by Protestants, though Catholic families were to be found, prior to the disturbances of 1969, in Chief Street and here and there in some of the other streets. The Crumlin Road formed a frontier between the two communities, and conflict usually developed in the area where Hooker Street and Disraeli Street face each other. A focus of conflict was the Edenderry Inn, which stood on the city side of the Hooker Street/Crumlin Road corner*.

6.3 The Ardoyne is part of the Oldpark constituency which is represented at Stormont by Mr Vivian Simpson, MP (NI), of the Northern Ireland Labour Party. The RUC reckoned that there were only about 20 IRA members in the area. The hard core of troublemakers consisted of a tiny criminal element unrepresentative of the community. On the other hand it was an area where hostility to the police once aroused would take a political colour, and there is ample evidence that political and sectarian tension had increased before the disturbances began. In this the Ardoyne reflected the situation which had developed in Northern Ireland since the summer of 1968.

6.4 The area fell within the RUC's C district. The senior police officer was District Inspector Montgomery who had been appointed in May 1969. The overall strength of the police in C district was 130. There were police stations at Oldpark and Tennent Street, and a report centre at Ligoniel. In normal circumstances only about 13 police would have been engaged at any one time in car or patrol duty.

Ardoyne—The events in May

6.5 Violence in the Ardoyne began at the Edenderry Inn on the evening of 16 May. This was a Friday. A customer, who had gone upstairs to the lounge bar, was said to have been injured in a drunken fall down the stairs. One of the patrons called an ambulance and the publican called the police. A crowd

*The area is shown on the map at Appendix VIII (M).

gathered to watch the ambulance and a police ...obile patrol arrived in riot gear. A man was arrested. The Edenderry crowd then threw stones and other missiles at the police. Some damage was done to shops and premises on the other side of the Crumlin Road.

6.6 On Saturday, 17 May there was further trouble near the Edenderry Inn. Two uniformed constables had been doing a normal patrol of the Crumlin Road. At closing time they were paying attention to licensed premises and were standing opposite the Edenderry Inn. At about 10 30 pm a crowd came out of the Inn. They sang Republican songs for a few minutes and suddenly attacked the two policemen with pieces of iron grating, bricks, pieces of concrete and petrol bombs. Sergeant Gracey, who was present, gave evidence that there were 80 people in the crowd. People from the Hooker Street/Herbert Street area joined the Edenderry crowd, and its numbers increased to about 200. The police had reinforcements standing by, and about 70 men were brought to the area. The police used mobile patrols to disperse crowds in the side streets on the north side of the Crumlin Road. Order was restored between 11 30 pm and midnight. The rioters did some damage to property on the south side of the Crumlin Road. Several arrests were made.

6.7 On Sunday the 18th the police withdrew from the Hooker Street area, in the hope that this would reduce tension. However, stones were thrown at private cars and police landrovers had to be sent in to clear the crowd. Police patrols were resumed, but petrol bombs and missiles were thrown at them on Monday, 19 May, and two young men were arrested. During the next weekend—on Saturday, 23 May—there were again disorders involving patrons of the Edenderry Inn. Police with landrovers, and using riot gear, again dispersed the crowds into the streets on the north side of the Crumlin Road For the next few weeks no similar episodes were reported. But police reserves were held at Tennent Street police station every night.

6.8 The scuffles of May, minor though they were, harmed relations between the people and the police. Mr Wolseley, the Police Commissioner for the city, saw the danger and encouraged discussions between senior police officers and representatives of the Ardoyne community. In particular Mr Simpson, MP and Father Marcellus Gillespie, a priest of Holy Cross parish, had frequent meetings with the police. On 23 May both Mr Simpson and Father Gillespie attended a public meeting on waste ground at Hooker Street/Butler Street. This meeting was adjourned till Sunday, 24 May. It was then reconvened in Holyrood Hall, a church property. The platform party included several local Republicans and the meeting was under the auspices of the NICRA. The meeting decided to form a Citizens Action Committee. The members chosen were Mr Joseph Graham, Mr Anthony Cosgrove, Father Gillespie and Mr Simpson.

6.9 According to Father Gillespie "everyone present seemed to be of the opinion that the troublemakers were largely drunks, although there was a feeling that the police were not without blame in the matter as well. So they thought if they could control the hooligan element this would blow over." Responsible men were asked to try and ensure that the street corners on the Crumlin Road were kept clear after the bars closed.

FS1 . 258

6.10 The Action Committee, together with Mr Fergus Woods, Chairman of the Belfast CRA, met the City Commissioner of the RUC on 29 May. An agreed statement was issued. This indicated that the meeting's purpose had been to air views about the Ardoyne situation and it noted "with great satisfaction" the contribution of the residents to the continuance of the present peaceful situation. However it may have been at this meeting that DI Montgomery remonstrated with Father Gillespie about the appointment of vigilantes.

6.11 The Action Committee quickly became defunct. Mr Cosgrove and Mr Graham had no close connection with the Ardoyne district and were soon told by a crowd to get out of it and stay out. They both had political objectives opposed to the existing constitution of Northern Ireland and Father Gillespie agreed that their interest had been to form a committee in an area of potential supporters.

Unity Flats

6.12 Unity Flats* is the name of a complex of modern blocks of flats owned by the Belfast City Corporation, the first of which were completed in 1967 as part of a housing redevelopment scheme which is still in progress. The flats are situated at the junction of Old Lodge Road and Upper Library Street. They overlook Peters Hill which links the Shankill Road with the City Centre†. In July 1969 the flats were occupied predominantly, but not exclusively, by Catholics, many of whom had been resident in the area (then known as Carrick Hill) before its redevelopment. The Shankill Road (which is the westward continuation of Peters Hill) has long been a strongly Protestant area. The flats were therefore a flashpoint, particularly on occasions when groups of Shankill Road Orangemen had to pass them on their way to and from the City centre.

Unity Flats, 12 July

6.13 In the early hours of the morning of 12 July, some time after 2 am, an Orange band playing party tunes marched down Peters Hill and North Street from the Shankill Road direction. It seems that the band stopped for a short time outside the flats. Some of the residents of the flats were disturbed by the noise and they complained to the police who were accompanying the band. One witness asserted that the police told some residents that if they did not like it they should go to the South. Whether or not that is so it is clear that the police did nothing to disperse the bandsmen, but, instead, reminded the residents that they must expect this sort of thing on the night before the 12th. After the band had moved on towards the city centre, a group of people appeared outside the flats playing flutes.

6.14 There is no doubt that a number of the residents were angered by having their sleep disturbed by the noisy playing of what they regarded as provocative tunes. But it has not been suggested that 12 July 1969 was any different from previous years since it appears to have been the practice for loosely organised bands to parade around the city of Belfast in the early hours of the 12th. It seems

*Although the flats are situated in Belfast police district "D", "C" district takes over responsibility for policing the area when major processions are being held.
†The flats are shown on the map at Appendix VIII (M).

that the bands which passed the flats on this occasion were made up of people from the Sandy Row area who had been celebrating around the bonfires in the Shankill Road and were returning to Sandy Row.

6.15 During the morning a number of bands passed along Peters Hill and made their way via Townsend Street to Carlisle Circus which was the assembly point for the Orange procession. No 9 District Orange Lodge did not however assemble with the other Lodges at Carlisle Circus but, as in previous years, passed down the Shankill Road, Peters Hill and North Street where it linked up with the main procession. No 9 District Lodge and its bands passed the flats without serious incident although there was an exchange of jeering and abuse.

6.16 About 20 policemen were on duty in the vicinity of the flats during the morning and the same number took up position at about 6 30 pm to await the return of No 9 District Lodge from the Orange demonstration in Finaghy. Two policemen were posted on the public balconies (or open corridors) of the block of flats which overlook Peters Hill.

6.17 The main Orange procession passed along Royal Avenue in the direction of Carlisle Circus but, as in former years, No 9 District Lodge detached itself from the main procession at North Street and made its way towards the Shankill Road. Before No 9 Lodge reached the flats, a crowd of 100-200 supporters of the processionists had gathered at the mouth of Boyd Street, opposite the flats. The police did not allow people to congregate on the footpath between Boyd Street and Millfield or on the opposite footpath, immediately in front of the flats. There was an exchange of shouting and abuse between this crowd, in which there were two women wearing Union Jack dresses and marching up and down in a provocative manner, and an opposing crowd, mainly of women, in the forecourt of the flats. Elements of the crowds on both sides of the road appeared to be the worse for drink. At one point one of the women wearing a Union Jack dress ran across from the Boyd Street side of Peters Hill to the forecourt where she engaged in a brief struggle with a woman from the flats side.

6.18 When the procession reached the flats it was accompanied by a large number of supporters who swelled the crowd waiting at Boyd Street. Taking part in the procession were a number of Scottish bands which acted provocatively by marking time and shouting abuse until the organisers of the parade were able to move them on past the flats.

6.19 While the procession was passing the flats, a number of stones and bottles were thrown towards the parade by people standing in the forecourt and on the balconies. A child of 8 (Geoffrey Briggs) who was accompanying his father in the procession was injured below the eye by a piece of glass from a bottle which shattered on the roof of a car. A piece of glass also struck the boy's father.

6.20 After the first missiles had been thrown a section of the supporters of the procession tried to gain access to the forecourt of the flats, but this was prevented by the police. By this time it appears that the two policemen who had been posted on the balconies had left them to join other officers at the entrance to the flats where a crowd had gathered.

6.21 A number of witnesses observed the display of one or two small Tricolours* from the flats as the parade was passing.

6.22 At about 8 30 pm police reinforcements arrived in the form of 40 members of the Reserve Force under DI Gilchrist. As this party reached the flats stones and bottles were being thrown from the flats and stones were also being thrown towards the flats by the Protestant crowd on the opposite side of the road. Policemen were sent up on to the balconies, the crowd in front of the flats were moved inside and the Protestant crowd was shepherded up the Shankill Road. By midnight the area was quiet.

6.23 During the evening the police arrested a young man in Upper Library Street but he was released after representations had been made to DI Gilchrist by two Units Flats residents, Mr Largey and Mr Burns.

Ardoyne: Mid July disturbances

6.24 The police had taken special precautions on the Crumlin Road from the beginning of July. Several men were stationed along the south side, between Columbia Street and Chief Street. After about 7 pm there was at least a sergeant and four constables near Disraeli Street/Hooker Street.

6.25 In May all the serious trouble had arisen from the north side of the Crumlin Road, and Protestants had not been involved. On 9 July there had been a new development. It had been the insistent habit of a Mrs Gilmour, an elderly Protestant living in the predominantly Catholic Chatham Street, to display a Union Jack at about this time of year. This had caused irritation in the past and extra police attention had had to be given. In 1969 tension was greater. On 9 July the flag was torn down and some damage was done to Mrs Gilmour's house. This incident received much publicity. On 11 July a crowd gathered outside the house in Hooker Street of Mrs Gilmour's daughter and chanted threats such as "burn Minnie Baillie out" and "get Minnie Baillie out".

6.26 On 12 July there was trouble at the Edenderry Inn as two Orange Lodges returned from their annual procession during the early evening. The police had arranged beforehand with the bar manager that he would lock its doors as the two processions approached. The bar, however, would continue to do business. The manager carried out this plan, taking care to justify it to the customers as the instructions of his employer rather than the police.

6.27 As the first procession passed the Edenderry Inn a Tricolour was held up to a window. Some members of the Orange Lodge attempted to break ranks but were kept in line by stewards; and police successfully restrained some of the Protestant crowd on the south side of the Crumlin Road. Police then came over to the Inn where they spoke to the manager, who had meantime been locked out by the customers and was standing on the Crumlin Road. While the second procession was passing the Tricolour was again displayed. Afterwards the police went over to the bar and broke down the doors with batons.

*Flags of the Republic of Ireland.

FS1 . 239

After a struggle they arrested a Mr Deed[illegible] Mr Corrigan who, it was said, had been recognised holding the Tricolour up to the window. It was believed by many that Mr Deeds should not have been arrested: his arrest therefore had a place in the gradual broadening of hostility to the RUC in the Ardoyne.

6.28 With the wisdom of hindsight it is easy to criticise the police for reacting excessively to the Deeds/Corrigan incident. Having successfully restrained the angry Orangemen, they would have been wise to have done no more: but at the time they no doubt thought it would be easier to control the Protestants if they were seen to take action.

Ardoyne: Aftermath of the mid-July disturbances

6.29 Sectarian tension became more marked after 12 July. Protestant crowds formed every night opposite the Hooker Street area. Hooker Street was blocked each night by some form of barricade, with the tacit assent of the police. Speakers from outside the area, such as Mr McGlade, a Republican, and Mr McKeague, a Protestant extremist, were seen addressing meetings.

6.30 A feature of the mounting tension was the strange similarity of fears and apprehensions on the two sides. Mr Simpson (who himself worked tirelessly to lower tension and promote better community relations), recalled in evidence that Mr McGlade was calling on the people to keep together, to protect their area against strangers and all "who arrived into the area to make trouble". A new Action Committee had been formed: and vigilantes began night patrols—all this against a background of deepening distrust of the police. On the other side, Mr McKeague was publicly proclaiming his lack of confidence in the capacity of the police to protect Protestants, and offering to the inhabitants of the Disraeli Street area the services of the Shankill Defence Association, the membership of which, he claimed in evidence, had mounted in these months to something like 2,000.

6.31 During the second half of July there was extensive intimidation of individual Catholics living south of the Crumlin Road. No 15 Disraeli Street, owned by Catholics who were away on holiday, was burnt on 14 July while 35/40 police stood nearby unable, they felt, to prevent it. Four Catholic families moved across the Crumlin Road on about 15 July and forced an entry into the Butler Street school dining centre.

6.32 On the 18 July the police issued a statement:—

> "Police inquiries in the area reveal no evidence of any organised body of men threatening inhabitants in the Crumlin Road area. The police have been and are watching the area most carefully to ensure that nothing of this nature occurs."

It was an over-optimistic assessment of the situation: there may have been available at the time no evidence of any organised intimidation, but DI Montgomery knew intimidation was occurring and in July seven instances were reported to the police in "C" District.

FS1. 260

6.33 The[illegible] Protestant parallel on the other side of the Crumlin Road when Mrs Gilmou[illegible]s house was petrol bombed on 26 July, but the bulk of the intimidation in July was practised on Catholics, and a good many families felt it necessary to move.

6.34 The Tribunal has no evidence to support an inference of any organisation behind the intimidation of Protestants at this time. The Action Committee did little more than encourage the vigilantes and provide a valued opportunity for the discussion of problems and fears. Though barricades and weapons (including a few firearms) were to make their appearance on the Ardoyne side in the August riots, there is no evidence that the Citizens Action Committee played any part in these preparations. Nevertheless, the residents, old and young, most certainly did approve of the barricade building, which was done mainly by the young men of the district.

6.35 Equally, there is no direct evidence of Protestants organising the intimidation of Catholics and their expulsion from their side of the Crumlin Road. But the inflammatory leadership of the SDA provided by Mr McKeague, as described by himself in evidence, must have encouraged the bullying and expulsion of Catholics, even though he stoutly denied it.

6.36. The classic communal pattern emerges starkly from the evidence: the two communities exhibiting the same fears, the same sort of self-help, the same distrust of lawful authority. Catholics and Protestants were haunted by the same ghosts and retreated in fear to their respective ghettos while attributing to each other the responsibility and the blame. In the eyes of one the police were seen as the willing tools of a Protestant dominance, in the eyes of the other as a force whose leadership was "soft on rebels."

CHAPTER 7—LONDONDERRY: MID-JULY DISTURBANCES

7.1 Londonderry has always had to live with its place in Protestant tradition—a source of legitimate pride to one section of the community, but understandably viewed with indifference, if not active antipathy, by the other, who constitute the majority in the city*. Yet, certainly in recent years, it had been free of sectarian trouble. But in June 1969 the ugly spectre of sectarian trouble had showed itself. According to DI McAtamney, from June onwards incidents began to occur of stoning, breaking of windows, and "sectarian assaults". He put it this way:—

> "Stopping somebody in the street and asking him what religion he was. If he gave the wrong answer, he would be assaulted. We had not had that previously".

The DI regarded this development of sectarian trouble as a major factor in the situation that faced the police that summer. While recent events in the city and elsewhere in the province had strengthened Protestant fears and prejudices, specific grievances against the police were playing havoc with Catholic attitudes.

*Street plans of Londonderry are at Appendix VIII (B) and (C).

There had arisen and was increasing amo[illegible]n—especially in the Bogside—a profound disenchantment with the RUC. The events within the city in October 1968, January and April 1969 were so interpreted as to bring about a crucial loss of confidence in the impartiality of the RUC who were increasingly viewed as an offensive weapon of a hostile Protestant ascendancy.

7.2 It is not surprising, therefore, that on the eve of 12 July a sectarian disturbance should flash into life at the point where the Long Tower faces the Fountain. It is impossible—and of little or no importance—to establish who threw the first stone: the tinder was plentiful and perilously dry, awaiting the spark that in the prevailing tension the tiniest movement could set off.

7.3 During the evening of 11 July the traditional bonfires blazed in the Fountain. By midnight they had died down. Shortly afterwards two opposing crowds gathered in Fountain Street and Long Tower Street near their junction with Bishop Street. There was an exchange of missiles (stones and bottles: no petrol bombs) and a number of attacks and counter-attacks. The police arrived and, with the assistance of Mr Eamonn McCann and other Civil Rights activists, succeeded in separating and dispersing the two crowds. The police took the Protestants in hand, and moved them up Fountain Street: the Civil Rights leaders, in co-operation with the police, persuaded the Long Tower crowd to move back and disperse.

7.4 The violence on this night was not serious: nothing to indicate the imminence of the severe and prolonged rioting that ensued.

7.5 Two features of this minor riot are worthy of note. One is the language Mr McCann used in the successful effort to disperse the Long Tower crowd. He said to them—

> "that they really did not want to attack Fountain Street, that their reason for being there was that they wished to defend Long Tower Street and the Bogside area against any possible attack . . . that the best way they could do it was not to go outside Long Tower Street".

It is to be noted that this argument achieved its object. The second feature is the observation of DI Armstrong, who, at 2 am, after the riot was over, walked down Long Tower Street, and found that the residents were "highly annoyed" about the stone throwing and that the crowd which finally dispersed contained

> "people who did not live in Long Tower Street, a younger element".

FSI. 261

12/13 July

First Phase

7.6 The 12th July is less widely celebrated in Londonderry than elsewhere in the Province: the shops open and it is a normal business day. Orangemen leave the city to attend parades elsewhere: and on the 12th in 1969 they went to

Limavady. A[illegible]6 15 pm the Orangemen returned to Londonderry. Their procession was met by DI Armstrong at the junction of Abercorn Road and Bishop Street, it being in his mind to escort it past the flash-point of the Long Tower–Fountain Street junction. He observed it was preceded by a crowd of youths, not part of the procession. He classified them as "potential trouble-makers": they were wearing favours of different kinds—such as might well provoke the other side of the sectarian divide, should they be in a mood to be provoked.

7.7 Nothing happened—other than some jeering and cheering—until the procession reached the Mall Wall near the Walker monument, when a shower of stones came up and over the wall from the direction of the little houses that stand huddled in Nailor's Row below the Wall and outside it. The "potential troublemakers" flung them back at and down upon Nailor's Row where stood the stone-throwers—some 12 or 14 youths of the Bogside. Mr Paul Grace soon stopped them and got them away: the DI was equally successful with the youths on the Wall, and the affair ended, the procession dispersing quietly.

Second Phase

7.8 Shortly before 8 pm groups of youths appeared in the Bogside near Butcher's Gate: about 50 made their way through the gate into Butcher Street. Stewards of the DCAC were doing their best to force them back when DI Armstrong arrived in the street. He was greeted by a hail of stones, the first experience he had had of being stoned. The stewards, who were becoming fearful that with the best will in the world they would not be able to control these youths, suggested to him that he should withdraw the few police (1 sergeant and 6 constables) then in the Diamond:—

> "the purpose being that this crowd were obviously wanting to attack the police, and, if the police were not to be seen, this would make the job of the Civil Rights stewards more easy."

7.9 The police moved back to London Street. At this time a number of young people were on their way from the Fountain area to a dance in the Apprentice Boys' Hall. As they crossed Bishop Street from London Street to Society Street, they attracted the attention of the Bogside youths who, despite the efforts of the stewards, had by now forced their way into the Diamond. Save for the occasional stone thrown from the Diamond up Bishop Street, the trouble was limited to cat calls and jeers from both sides as the Protestant youths were escorted by police across the street. But the Diamond crowd was taking on a more formidable look: it had grown to 200, and now included some older men. At this point Miss Bernadette Devlin MP appeared and made her presence known to the police. If she were given a loudhailer—the crowd was very noisy—she said she would try to make herself heard and get the crowd back into Butcher Street. One was obtained for her but, as the DI wryly commented in evidence:—

> "It had no effect whatever on the crowd, if she spoke to them at all. The crowd in the Diamond became even more restive."

7.10 There was now an ugly develop[illegible]he Diamond crowd turned its attention to shops in Bishop Street, throwing s[illegible]es which broke their windows and then hurling the goods displayed in the shop windows up the street in the direction of the police. The police in London Street had been reinforced to a strength of about 30, the DI appreciating that it would soon no longer be possible to rely on the Civil Rights stewards alone to control the crowd. When the rioters —for this was what the crowd had now become—attempted to overturn a car in Bishop Street, the police were brought out of London Street and staged a baton-charge down towards the Diamond. Its effect was immediate: the rioters fled into Butcher Street and through the gate into the Bogside. The police halted at the gate, where they remained for the time being.

7.11 The baton-charge was necessary and executed with no more force than was called for by the situation. Unfortunately, a DCAC steward who with Mr Grace and others was trying to prevent the car from being overturned, was mistaken for a rioter and was struck by a police baton. This was an understandable, though regrettable, mistake on the part of the police, in respect of which it would be wrong to attribute blame.

7.12 The youths who created these disturbances achieved their objective when the police were compelled to emerge from London Street and make their baton-charge. But there is no evidence of a preconceived plan: and there is evidence, which we accept, that the DCAC stewards did their best to help the police.

Third Phase

7.13 Once outside Butcher's Gate the crowd continued to throw stones at the police sheltering behind the walls in Upper Magazine Street. Very few of the the police at this stage had shields or helmets: though protected by the walls, policemen were being hit by stones and by marbles which appeared to be discharged from catapults. Some of the police threw stones back at the rioters until they were stopped by order of the DI who at this time was, he said, "completely opposed to it".

7.14 The police, whose numbers were, in the DI's opinion, insufficient to take any effective action to disperse their attackers, remained on the defensive behind the walls. At about 11 15 pm a large propane gas cylinder was rolled up to Butcher's Gate by some of the crowd and ignited in the gateway to form, in effect, a fiery barricade. As its flames died away, the DI put some men on the walls in an endeavour to locate and suppress the catapulting, which had already felled 2 policemen: he also asked control to send up reinforcements and some shields. Both eventually arrived, but not in numbers sufficient to enable him to move to disperse the rioters.

7.15 While the police were held near Butcher's Gate, Fr Mulvey (a priest attached to St Eugene's Cathedral) observed what proved to be a significant movement by a part of the Bogside crowd. He had been a spectator of the confrontation between the police and two groups of young men at the gate and

had seen th[illegible] from the gas cylinder as they died away. He had also seen the exchange of [illegible]nes thrown between crowd and police over the wall. He had noted what was to become an all too common feature of rioting—the presence of spectators. In this situation he did his best to prevent the young men from erupting through the gate and endeavoured to persuade them to go home. But he had only a partial success. Some of the rioters did depart. Of these 15 to 20 went in a body down Waterloo Street—a movement which had very serious consequences.

7.16 These young men left Butcher's Gate in order to attack the Victoria police barracks in the Strand Road. As they entered Waterloo Place, they smashed the windows of adjoining business premises. There were no police on the streets but Fr Mulvey with others threw a cordon across Waterloo Place so as to prevent the youths moving towards the barracks. He succeeded in diverting them into Little James Street, whence they moved into Sackville Street which offered them what they wanted, another avenue for attacking the barracks. Fr Mulvey and some others held them there for a time, while they indulged in sporadic stone-throwing and window-smashing. There was also some looting. At about 12 15 am Fr Mulvey returned to Butcher's Gate via Waterloo Street, where he was narrowly missed by a brick which flew past his face. He is convinced it was thrown by a policeman on the wall. When he called out, the police ceased throwing stones, but the youthful mob continued. After yet another unsuccessful attempt to disperse them, he decided there was little more he could do, and left the scene.

7.17 There is a degree of conflict between the evidence of Fr Mulvey and CI Corbett, whose recollection is that a serious attack had developed against the police barracks before midnight. But the main course of events is clear. At about the time Fr Mulvey left Waterloo Place, and thereafter, a very serious and damaging riot began: it did not end until 5 am. The primary target of the rioters was undoubtedly the police station, although business and commercial premises in the Waterloo Place area sustained damage. CI Corbett told the Tribunal that shortly before midnight he requested permission of the Deputy I-G to use gas: permission was not, however, given and the request was not pursued. Shortly after midnight, petrol bombs were used for the first time. They were thrown, together with other missiles, at police vehicles which were moving along the Waterloo Place/William Street/Little James Street/Sackville Street quadrilateral in an attempt to disperse the rioters. Small barricades were now thrown up in these streets to obstruct the passage of police vehicles. In the result the police were thrown back on the defensive, seeking to prevent the rioters from breaking into the commercial area of the Strand Road. The riot died away in the early hours of the morning and all was quiet by 5 am.

13 July

7.18 During the day of Sunday the 13th there were very few police on the streets of the city: the reason was partly policy—keeping the police out of sight—partly fatigue and the casualties of Saturday night. In the early afternoon groups of youths began to gather at different points in the city: some were "loyalist", some were not. At about 3 pm some 50 young men moved down from the Diamond via Butcher's Gate to Waterloo Place. They were men of the Bogside coming to

ES1 . 262

swell a crowd of youngsters that was assembling in the Waterloo Place area. Mr Thompson, a journalist, estimated the number of this crowd to be of the order of 300: he saw it throwing stones at the windows of shop premises in Waterloo Place. He saw none of the "opposing faction", ie Protestants or "loyalists", present at all, and could see "no obvious reason" for the stone throwing. The stone throwers he put in the age group "14 up to 16 and 17": there were no police in view. Senator Claude Wilton and Brother O'Sullivan (Principal of the Christian Brothers School) spoke to members of the crowd in an attempt to restrain them: but they had no success and after a few minutes went away. County Inspector Corbett's comment on this crowd is revealing and, in our opinion, justified:—

> "the hostility was first not to the police and the DCAC stewards: it had been equally hostile . . . to Brother O'Sullivan. By the later stage they had thrown stones at some of the tourist traffic going along the street and it was a case that the crowd there was absolutely determined, come what may, that it was going to force police action against it".

Nothing, he said (and the Tribunal agrees with him), had occurred that afternoon to provoke them. Their behaviour was wanton aggression.

7.19 If it was their purpose to force the police into action against them, they succeeded. Shortly after 3 pm, police vehicles—4 or 5 Land Rovers and a water cannon—emerged from the Victoria RUC station, whereupon the crowd "raced up William Street". The police employed their strategy of containment, seeking to hold Waterloo Place while trying to keep William Street open by vehicle patrols and the occasional baton charge. They were continuously stoned by the crowd.

7.20 By early evening the crowd had added petrol bombs to the hail of missiles directed at the police. DI Armstrong came on duty at 7 pm: he

> "found the police under heavy attack again from stones, petrol bombs and all sorts of missiles coming from the Rossville Street intersection with William Street . . . The police could not advance . . . they were having great difficulty in even holding the position in William Street. There again I regret to say that the only way we could hold that position was by trying to throw back the stones that they were throwing at us".

A little later the police were driven out of William Street, one group forced back into Waterloo Place and another into Little James Street where at its junction with Sackville Street they came under heavy pressure.

7.21 Rioters now broke and entered Brewsters, commercial premises in Little James Street overlooking Sackville Street, and rained missiles from the upper windows until ejected by police action. The community centre, known as the Rossville Hall, near the junction of Rossville Street and William Street, went up in flames, a casualty from the petrol bombing. The fire was reported to the Fire Authority shortly after 9 30 pm but the police advised the brigade not to attempt to go to it—so fierce and dangerous was the riot. Not for another hour was the brigade able to get there: when it did, its arrival was assisted by the efforts of Mr James Doherty, then Chairman of the NI Nationalist Party, who

managed to get missile-throwing halted while the firemen tackled the blaze. But it was too late to save the Hall which with adjoining buildings was utterly destroyed.

7.22 The lull created by the intervention of Mr Doherty gave the police some respite. But as soon as the flames were out, the stoning was resumed: Mr Doherty felt he could do no more, and departed. Even the firemen were stoned. The rioters resumed their control of William Street, the police being held at Waterloo Place and in Little James Street. Barricades were constantly going up in William and Rossville Streets. Excavators from building sites were put across the streets, and in one place a plank construction studded with nails designed to puncture tyres was thrown across the roadway. The riot continued until shortly before 4 am when the crowds dispersed. In the course of the night the CI again requested permission to use gas, but this was refused by the Minister.

The shooting in Little James Street

7.23 At about 10 pm there was a shooting incident in Little James Street near its junction with William Street. A party of nine constables under the command of Sgt Flynn found themselves forced into Prince Arthur Street as rioters overran the police position in Little James Street. The sergeant intended to withdraw into William Street: but when he rounded the bend in Prince Arthur Street he was able to see that rioters already controlled its junction with William Street. Some of the crowd had followed his party as they retreated down Prince Arthur Street. Realising he was cut off, he mustered his men and attempted to make his way back to Little James Street. The hail of missiles was such that he could get no further than a cul-de-sac entry, down which his party was compelled to retreat. There being no escape, the sergeant ordered his men to draw revolvers, and himself fired one warning shot in the air. The mob, which had been advancing towards the police party, came to a halt. But it did not retreat: and stones continued to be thrown. The sergeant, therefore, ordered a volley to be fired into the air, which was done. The stone-throwing stopped: but the mob still held its ground. The sergeant ordered his men to bring their revolvers to the aiming position. The mob slowly backed up the street: on reaching Little James Street, it broke and made for William Street. As the police reached Little James Street, the sergeant fired a further warning shot and ordered them to run for cover in Sackville Street—which they did under a bombardment of missiles. Every member of this police party was hit during the episode: one was left behind, unable to move; but fortunately he was able to hide himself from the mob. The sergeant saw no rioter injured by gunfire, and heard no ricochet.

7.24 This account of the incident is substantially that given to the Tribunal by Sgt Flynn in evidence. He expressed the opinion that he had no alternative but to order the drawing of revolvers and the firing of warning shots. He emphasised that each time before there was firing he shouted to the crowd a warning of what he intended to do.

7.25 We now know that at about 10 pm a Mr Harkin of Claudy was struck in the leg by a bullet. It was later removed from his leg and submitted to test. Mr Price, a ballistics expert, told the Tribunal that it was a ·38 bullet which could

FS 1. 263

have been fired from a Webley revolver: [illegible] as physical evidence indicating it could well have ricocheted from a hard surface. Although all the revolvers used by the police party had been submitted to test, Mr Price was not able definitely to identify any revolver as having fired the shot, though he saw some indications pointing to a link with one police revolver. "I was unable to come to any real conclusions," he said.

7.26 Mr Harkin told the Tribunal he reached the city about 9 45 pm. He was walking down William Street, and when he was crossing over Little James Street, he was shot. As he was crossing, he saw 10 or 11 policemen in Little James Street and a dozen or so civilians taking a look at a "dumper" which was lying across the middle of the road. There were not more than "two dozen people" down Little James Street and "they were just standing there." All was quiet—no stone-throwing, no petrol bombs. He did see some police come out of an entry into Little James Street, and he thought there were 10 shots fired at least. When he was being taken to hospital, he remembered seeing another man who told him he had been shot in the ankle. This man was probably Mr John McCaul who did not give evidence but who was admitted to hospital with a suspected bullet wound to the right ankle. Mr Harkin's evidence as to the general situation existing in William Street and Little James Street at about 10 pm is so much at variance with the general picture that emerges from other evidence that the Tribunal must reject it. But it is clear that Mr Harkin was wounded in the leg by gunfire, and the Tribunal is satisfied that he was struck by a bullet fired by one of Sgt Flynn's party of police. Almost certainly it was a ricochet. It is not possible to say whether it resulted from a warning shot fired into the air or one fired into the crowd. In cross-examination Sgt Flynn was asked whether he could be sure that all the shots fired by his party were directly up in the air.

His answer was:

"This is something in circumstances like these that one can never be sure."

We find that Sgt Flynn, whose account of the incident we accept, was justified in the action he took. The evidence does not support a finding adverse to any of the police involved in the episode.

7.27 There is no evidence on this night of any sectarian conflict. Though here and there in the city some watchful Protestant groups showed themselves—so much so that the police were a little anxious at times lest there might be trouble in Bishop Street, near Butcher's Gate, in Shipquay Street and Guildhall Square —nothing developed.

7.28 Moreover there is positive evidence that until the news, no doubt in garbled form, spread of the police shooting in Little James Street, members of the Catholic community were appalled by the behaviour of the crowds, ready to lend the police a hand when they felt they could, and dissociating themselves from what was going on. The actions of Mr Paul Grace and the DCAC stewards, of Fr Mulvey, of Mr J Doherty, of Senator Wilton and Brother O'Sullivan speak as plainly as any words.

7.29 And at 5 pm the DCAC resorted to words, issuing a press statement which condemned the rioters and praised the police for their "commendable restraint". But after the news of the shooting there was a change. In the early

hours of 14 [illegible] e DCAC issued a second press statement condemning the use of firearms by the police: and Miss Devlin said in evidence that the incident—perhaps more strictly the version, whatever it was, that circulated in the Bogside—contributed to the fears of the people in August.

14 July

7.30 On the night of the 14th the trouble in the city altered in character and location. It became sectarian and it moved to Bishop Street where the Long Tower faces the Fountain. During the severe rioting in William Street on the nights of the 12th and 13th Bishop Street had seen all the indications of tension between the communities of the Fountain and the Bogside: but good stewarding had prevented any but the most minor disturbances.

7.31 During the afternoon of the 14th the police were getting reports of activity—or rather a sort of restlessness—in the two areas. At 9 28 pm Br O'Sullivan reported difficulty he and others were having in controlling a crowd that was assembling in Long Tower Street. By midnight tension was high—crowds barely held in the Fountain, in Long Tower and Henrietta Street, and at the Letterkenny end of Bishop Street. The numbers were formidable—over 500 Bogsiders near the Old Gaol and several hundred Protestants in the Fountain area. There was an exchange of missiles, including petrol bombs, and by 1 21 am a serious fire was seen in the Old Gaol. The more dangerous of the opposing crowds was that from the Bogside: it was they who set the gaol on fire, and if it had not been for the strenuous efforts of the DCAC stewards a major riot involving serious injuries and damage to property would have developed. Shortly after 2 am the Bogsiders were threatening to fire a heavy lorry stranded in Bishop Street. Though this was prevented, their stewards felt obliged to report shortly before 2 30 am that they could no longer control their crowd. The police then moved into the area, executed a baton-charge down Long Tower Street, and succeeded in dispersing the rioters. During this baton-charge Mr Aidan McKinney, a DCAC steward, suffered some personal injuries, not of a very serious nature. When the Tribunal was taking evidence in Londonderry, Mr McKinney had a malicious injury claim pending: we therefore decided not to investigate the matter at that stage. We are glad to record that justice has been done, Mr McKinney being awarded on 3 March 1970 agreed damages of £310. The matter did not in the context of our inquiry seem to us to merit re-opening thereafter.

7.32 Nevertheless, the incident, or the interpretation put by Bogsiders upon it, further exacerbated relations between police and the Bogside. Mr Green, for instance, was ready to praise the police for their conduct in Londonderry until he heard of the incident—when "it just seemed that they were lapsing into their old ways again".

Nature of the July riots

7.33 We agree with the submission made on behalf of the RUC that the Londonderry disturbances in July were of a wholly different character from the riots in August. Miss Devlin in evidence said there was a difference in attitudes between July and August. In July, she said, the people of the Bogside were angry, not frightened: in August they were frightened rather than angry.

FSI 264

This is one way of admitting that in J[illegible]en the police were stretched, having their hands full throughout the prov[illegible]e, the youth of the Bogside went, almost casually, on the offensive. In the absence of provocative action by Protestants (other than two very minor incidents on the 12th) or police, no other conclusion is possible. We accept that the DCAC and its stewards led by Mr Paul Grace did their best to stop the rioting: indeed, the DCAC by their first press statement showed that they were not afraid to condemn violence and to praise the police. Yet these disturbances did offer evidence of impending catastrophe: for they revealed the inability of the police, even when helped by stewards and supported by the Action Committee's policy against violence, to prevent riot in the city. The July riots were a warning of the dangers to be expected on 12 August. The civil rights movement, as Mr McCann put it, had put people on to the streets and then left them there.

7.34 It is clear that as the riot developed the desperately extended police force threw stones at the mob—"returning fire" as they would describe it. CI Corbett and DI Armstrong found this conduct "abhorrent but nevertheless essential". Fr Mulvey, a fair-minded man, condemned it: others, more prejudiced than he, must have been driven by it to an even greater bitterness and hostility towards the police than they already felt. Such tactical respite as police stone-throwing may have achieved was heavily outweighted by the hostility it provoked.

7.35 Yet the dilemma of the police must in fairness be stated. By throwing missiles and then running away, the rioters could keep themselves out of harm's way, frustrate police action and inflict casualties, so long as the police denied themselves the use of missiles. Reluctant to shoot and forbidden to use CS gas, the police picked up stones and threw them back in an attempt to disperse the mobs. In so doing they fell below the standards required of a disciplined force, and descended to the level of the rioters opposed to them; but their provocation was severe, their difficulties great, and they lacked effective means with which to defend themselves or to disperse the riot.

7.36 Responsibility for the July riots rests fairly and squarely upon hooligan elements in the Bogside. They began and then developed the disturbances. The most that can be said against the police is that in some of their counter-measures they stepped beyond the shadowy line that distinguishes what is justifiable conduct in suppressing a riot from what is not.

7.37 The USC were not involved and played no part.

7.38 During the July disturbances the first battalion the Prince of Wales' Own Regiment was moved from its base at Ballykinlar and placed on standby at Magilligan. This was a precautionary measure; at no time was the deployment of the military contemplated.

FS1.295

CHAPTER 8—DUNGIVEN: JUNE AND JULY

8.1 The Tribunal's task was to inquire into events in Dungiven in July and August 1969. But Dungiven has a history which makes it necessary to consider these events in a larger perspective, and in 1969 trouble began before July.

The backgr[illegible]

8.2 Dungiven is an ancient village in Co Londonderry.* It stands on one of the main routes between Londonderry and Belfast. Some areas of the surrounding countryside are inhabited by Catholics and some by Protestants. The Tribunal was told that many people from Gortnaghey, a Catholic area, had moved into Dungiven when housing development started there, and that by 1969 Dungiven's population was about 1,400 of whom only about ten per cent were Protestants. On the other hand the Boveva/Burnfoot area was inhabited by Protestants. The tendency was for Catholics to use Dungiven as a shopping centre whereas Protestants went to Limavady, a town of 5,000 about ten miles to the north. The small Protestant population of Dungiven was, however, well represented among the town's traders.

8.3 The area had attracted notoriety during the period between 1953 and 1962 because of tensions associated with the Boveva band, and its leader Mr William Douglas. The Tribunal heard evidence that Mr Douglas had made a series of efforts to obtain the right to parade in Dungiven, in the face of hostility from the inhabitants. As from June 1960 it was arranged that an Orange drumhead service should be held on the outskirts of Dungiven; the Boveva band paraded through Dungiven to this service playing hymn tunes. In 1961 a Dungiven Orange Lodge was formed. According to Mr Douglas this resulted from about 14 members of the Orange Order applying "basically on their own" to have permission to form a Lodge. The drumhead services attracted large numbers of Orangemen from other areas, and were normally held on the second Sunday in June. There were local objections which led to changes of date in 1961 and 1962, but after that the service became accepted as customary. In 1968 an Orange Hall was opened in Dungiven's main street. By this time the Lodge had about 75 members, of whom about 20 came from Dungiven itself: the Master was Mr W J McFarlane, whose farm is on the outskirts of Dungiven.

8.4 The hall was broken into in October 1968. Some damage was done and the Lodge's banner was stolen. By custom the Lodge had therefore to unfurl a new banner. In 1969 the Lodge's programme of marches and ceremonies was a full one: it included the customary drumhead service on 8 June, the unfurling of the new banner on 28 June, and a "walk" on 12 July. This was the very stuff of provocation to Dungiven Catholics in the inflamed conditions of 1969.

8 June—Drumhead service

8.5 A meeting in Limavady on 26 March had revealed the underlying tension. Called by "civil righters", it was broken up by Protestants. The police were alive to the dangers and, when they learnt on 5 June that two Gaelic football matches had been arranged in Dungiven for the afternoon of the 8th, they opened discussions with the two sides. On the 5th there was a conversation between HC Irwin and Mr Ivan Cooper† in the course of which the Tribunal is satisfied that the MP told the policeman that a Republican element in Dungiven had met to organise opposition to the Orange parade and that some people

*For street plan see Appendix VIII (D).

†MP for the Stormont parliamentary constituency of mid-Londonderry.

had been told to bring arms with them. Police took the warning seriously and attempted to persuade the Orangemen to alter their route: but they had no success.

8.6 The parade to the service took place as planned. There was no trouble save for a few stones thrown from the Gaelic field. But, after it was all over, a police constable was assaulted at a street corner by a number of young men, some of whom were later prosecuted.

28 June—The unfurling ceremony

8.7 The next incident arose from the procession connected with unfurling the new banner on 28 June. The route of the walk was to be the same as on the 8th. A general meeting of Dungiven citizens was convened, at which the first seven speakers stated that in their opinion the march should be stopped. But Mr Robinson of Dungiven Republican Club, Fr Doherty* and Mr Cooper argued that the Orange Order should be entitled to hold their demonstration. The meeting decided to form a Dungiven Action Committee, and a majority of the committee went along with a proposal from the floor that their protest against the demonstration should be non-violent and passive.

8.8 A number of steps were taken to make the protest effective. Members of the People's Democracy made themselves responsible for preparing and putting up banners and posters. These expressed such slogans as "You can march†. Can others". "We believe in civil rights. Do you". Mr Kevin Boyle prepared a leaflet which was circulated in Dungiven by members of People's Democracy. The leaflet advocated peaceful protest, although the terms it used were somewhat ambivalent. It noted that "There can be many legitimate objections to the Orange Order" but suggested that "At this time we feel the most effective way of making a protest is in a non-violent fashion". It was also arranged to provide some buses to take people to a Civil Rights meeting at Strabane.

8.9 Meantime the Dungiven Citizens Action Committee organised the closure of businesses in Dungiven on 28 June. An initial meeting voted against closure by 17 votes to 16. However at a second meeting that decision was reversed. Mr Cooper and Mr Boyle denied that threats of violence were required to achieve general closure but they agreed that pressure was put on individuals. Fr Doherty said that in the event nearly all the grocery and confectionery businesses closed but that two or three public houses did not. The businesses opened again in the evening, the 28th being a Saturday.

8.10 The Orangemen duly held their ceremony on the 28th, and most Dungiven residents made their protest by keeping off the streets, some of them going to Strabane. About 2,000 people, including 30 or 40 bands, took part in the procession, which was uneventful save for one minor incident at the

*A Catholic Priest in Dungiven.

†Mr McFarlane recalled this as "We allow you to walk" and D I Harrison as "We allow you to march because of civil rights".

FS1 . 266

beginning. S[illegible]angemen (not Mr Douglas or Mr McFarlane) wanted the banners removed before the procession passed. As each of the banners was taken down there was tremendous cheering, and Fr Doherty, for one, was afraid that there might be trouble from the Dungiven residents. But there was not. Later, people were ready to criticise the police for not intervening either to prevent the banners being taken down or to prosecute those concerned. But the policy of restraint paid off: there was no trouble.

8.11 There was more trouble in Dungiven on 12 July. Members of Dungiven Lodge assembled at the Orange Hall, and at about 9 15 am moved off down Main Street, led by the Boveva band. A group of 15 or 20 people emerged from O'Neill's entry and sat down in the road in front of the procession. Then a hostile car drove towards the band, but turned back and eventually double parked. Its driver joined the group who were sitting down. The procession stopped.

8.12 There were about 110 police in Dungiven. DI Harrison told the demonstrators that "If you wish to make a protest you have now protested and the procession has been stopped" and he asked them to get up and leave the road. Some of the protesters apparently said that this was not a traditional march and "why can't they get into the bus at the Orange Hall and drive away from the Orange Hall rather than parade through the town". There was now an impasse, which the police had to resolve. The sitters down had refused to move and DI Harrison was told that the procession was about to continue. He therefore ordered the sitters down to be removed. This was done, in his judgment, with very little violence, although Sgt Mills drew his baton and a certain amount of struggling was involved. The sitters down claimed that they had been roughly treated, but the evidence is not convincing. Some people were eventually prosecuted for their part in the affair.

8.13 After the Orangemen had moved off, there was tension in Dungiven. A couple of Orange supporters were attacked in Main Street. By 11 am most of the police had gone to Limavady, where an Orange demonstration was being held. Windows of the Orange Hall were now broken and at some point during the day its flag was pulled down. Plans were made in Dungiven to stop the Orangemen from holding a march to the Hall on the return journey.

8.14 News that the Hall had been attacked reached the Orangemen at Limavady at lunchtime. The extent of the damage was exaggerated. There were at least 6,000 Orangemen at the demonstration and there were suggestions that they should take action themselves in Dungiven. Mr Douglas and Mr McFarlane gave evidence that they advised against such a course, and in fact nearly all the Dungiven Orangemen debussed some way from the Hall when they returned in the late afternoon.

8.15 During the evening there was an outbreak of sectarian violence which could have been much more serious than in the event it was. Some time after 9 pm groups of people started to attack the Orange Hall. The police, and the local Catholic priests, went to the scene. The priests told the police that the attackers would leave if the police did. At this stage there was a crowd of 300.

There were now only about 50 police in Dungiven because men had had to be switched to Londonderry. The police accordingly withdrew. Fr Doherty described how for the next few hours there were sporadic attacks on the Hall. He himself was called back on various occasions, and was several times involved in putting out fires. Twice his group tried to call the fire brigade, but were told that the brigade dare not come. The street cleared at about 2 am, and as a result of Fr Doherty's efforts the Orange Hall was still standing.

8.16 Meantime a large group of Orangemen had gathered at McFarlane's farm. By the late evening there may have been about 400 people there. The police heard rumours that they were to be joined by Orangemen from a distance, and made efforts to prevent this happening. Mr McFarlane and Mr Douglas went to the police station and said "they had a problem with a lot of Orangemen who wanted to protect the Hall". The police asked them to use their influence to keep these people out of Dungiven. Mr Douglas and Mr McFarlane successfully did so. But for the efforts of the local Catholic clergy, the Orange leaders and the police there would almost certainly have been a violent sectarian conflict.

Night of the 13/14 July

8.17 Tension persisted on the following day. DI Harrison told his County Inspector that the Orange Hall needed protection, and that the Orangemen were prepared to protect it themselves. Initially he was told that police protection to the Hall could not be provided, but at about 9 pm he was told to put a party into the Hall for its protection.

8.18 This change of policy, on a day when there was serious rioting in Londonderry, was the result of a meeting that afternoon in Belfast between local Orange leaders and the Minister of Home Affairs. The Orange representatives told him that they felt the police had not done enough to protect the Hall, and that they were afraid that, if no action was taken by the authorities, "then action could very well and was very likely to be taken by a section of the community and this would make for a lot more trouble."

8.19 Accordingly almost all the police in Dungiven, under the command of Head Constable Irwin, were sent to the Hall at about 10 pm. Arrangements were made for police reinforcements from other towns, but these had not yet arrived. The police at the Hall had crash helmets but no other riot equipment, although they brought fire extinguishers. It was a Sunday evening and Dungiven was crowded with people who were attending the regular dance at the Castle ballroom. The police saw a crowd gathering on the Maghera side of the Orange Hall at about 10 25 pm. Stoning started at about 10 45 pm. Into this situation arrived two police tenders bringing reinforcements. They drove down Main Street from the Maghera direction and reached the Hall just after 11 pm. The tenders were attacked, and the men inside rushed into the Orange Hall. Because of a crowd further down the street the drivers did not attempt, as originally intended, to drive the tenders to the police station. The total police party at the Hall had now risen to about 50.

S1 267

The Death of McCloskey

8.20 The police now launched a baton charge to clear the street. There was no time for detailed instructions, but Head Constable Irwin led a dozen men about 30 or 40 yards up the street. The crowd turned and ran but he was then "rather shocked" to see that there were about 200 people in that direction and brought his group back to the Hall. Sgt McLaughlin gave evidence that he was the second policeman to leave the Orange Hall and was immediately behind Head Constable Irwin. He led a party of six police round a tender parked in front of the Hall and then downwards across the street towards Hasson's shop. The crowd stampeded down the street and into an entry. Sgt McLaughlin then saw a man lying on the footpath just below Hasson's shop. He was lying on his back with his head facing towards the entry. At that stage the police had made contact with no member of the crowd and he was in front of the other police. Sgt McLaughlin then saw two young women approaching the man and he asked them what had happened. One of them said "They knocked him down" and nodded towards the crowd who were running down the street. The man was not unconscious, but there was foam round his mouth. He was muttering unintelligibly and the girls were trying to swing him round to get his head in the direction of Hasson's doorway. A few feet away from the man on the ground there was a struggle in Hasson's doorway between a policeman and a man called McCracken who was later arrested and prosecuted. The man on the pavement was Mr Francis McCloskey and he died on the next day. It was not until then that Sgt McLaughlin realised that he had been seriously injured.

8.21 Police evidence was also given by Sgt Walker. He had been ordered to remain at the Hall and his evidence was to the effect that there was a crowd of 40 or 50 youths on the road above the Orange Hall, and rather more in the other direction. There was also a large crowd of onlookers. The police emerged at a run from the Hall, but then moved up and down the street in a sort of shuffle. The crowd moved away quickly at first but stopped within 50 yards on the Maghera side and not far beyond Hasson's shop on the other. It was before the police arrived at Hasson's shop that he first saw a man lying on the ground. He thought the crowd at first over-estimated the number of police present, and then forced the police back to the station by throwing stones. It was his evidence that the police never made physical contact with the crowd but he could not positively swear that this did not happen. He also testified that, in addition to the civilian, he saw policemen as well on the ground. It is interesting that in Sgt Walker's opinion it was the presence of police which attracted a crowd to the Orange Hall that evening.

8.22 The death of Mr McCloskey became a *cause celebre* in Northern Ireland. It was widely alleged that he had been batoned by police and that he was an inoffensive, elderly man who had been a victim of police brutality. His death occurred in the same week as that of Samuel Devenny, who was widely believed to have been the victim of a brutal police assault in Londonderry in April. It therefore had its place in the development of Catholic attitudes towards the police.

8.23 The Tribunal received a great deal of evidence dealing with the death of Mr McCloskey. Unfortunately, the evidence was no longer fresh (taken, as

it was, nearly two years after the ev[illegible] and recollections had not been improved by such innocent, though confusing events as the taking of statements by Mr Ivan Cooper and the proceedings at the inquest. For example, one witness, who had told Mr Cooper that "two or three policemen knocked the old man down with several blows of their batons", said in evidence to the Tribunal

> "I had seen two or three policemen at the time. There was one I remember flinging his baton but I don't know whether it hit McCloskey or not. I didn't really see them—the policemen—hit him. It isn't true".

Such is the confusion of the evidence that it is not possible to make any precise finding as to how he died.

8.24 Certain facts are, however, clear. He fell down near Hasson's shop entrance at a time when police with batons drawn were chasing a crowd which had been stoning policemen. He died from a blow on the back of the head which could have been caused by a baton or equally due to his head striking the ground. He was not a rioter, but a bystander. It is no part of the Tribunal's duty to cover confusion with conjecture: and no finding as to the cause of the injury is therefore made. The indications in the evidence are against the inference of excessive use of force: and no criticism to that effect is made of the police. The evidence of the pathologist supports the view that Mr McCloskey was unlucky to die: his initial concussion was unlikely to have been fatal, but unfortunately the fracture crossed an artery and tore it.

The fire at the Orange Hall

8.25 After the police made their charges and returned to the Orange Hall the crowd attacked the tenders and eventually set them on fire. The situation at the Hall deteriorated. Petrol bombs were thrown and later burning tyres were thrown at the Hall. At about 12 30 am the police left the back of the Hall because the smoke had become so intense and returned to the RUC station by an indirect route. Twenty-two of the 48 policemen in the Hall had sustained injuries. The Hall itself remained standing.

The shooting near the Castle ballroom

8.26 Another feature of the evening was the activity of the USC. It had apparently been decided at the meeting with the Minister in Belfast that the USC should be used in Dungiven but that they were to be armed with truncheons only. It so happened that Mr McFarlane was the District Commandant of the USC. At about 10 30, when the truncheons arrived, District Inspector Harrison instructed the 50 USC so made available to assemble either at the USC hut, Limavady Road, or at the lecture hall in New Street. A radio set was also sent. This message was carried by Sgt Mills. Regrettably the USC left the radio set at Mr McFarlane's farm and went not to the Limavady Road or New Street but to the Church of Ireland Hall, Maghera Road, which is opposite the Castle ballroom. At this time a dance was in progress attended by about 1,400 people, almost all Catholics. As people left the dance, tension built up between the USC and some of the crowd. The USC sent for arms contrary to the Minister's rulings. When these arrived, there were three rifles, two pistols and one Sterling SMG. About 12 45 am the USC fired a number of warning shots. No one was injured, and the crowd broke up and cleared away.

8.27 Mean[illegible]District Inspector Harrison had been unable to get in touch by radio w[illegible]he USC. He arranged for the radio to be sent to them where they were, but the USC Sergeant Instructor eventually arrived at the police station saying he had been unable to locate them. Once the District Inspector learnt they were at the Church of Ireland Hall he told the Sergeant Instructor to go there. He did not do so because the shots were heard. There was a further report of shots at 1 15 am. Shortly after this the crowd began to disperse rather quickly. At about 3 am the Sergeant Instructor brought the USC party by way of a field to the RUC station. The party, which included as many as 7 SDCs out of about 50 USC altogether, was asked by DI Harrison whether they could cast light on the firing they had heard. They said they could not. SDC Hunter, who gave evidence to the Tribunal, agreed that this silence was against regulations and unjustified.

8.28 In addition to the shooting by USC near the Castle ballroom, there was evidence of some desultory shots elsewhere during the night, eg two shots were fired in the air by HC McGowan when he left the Orange Hall during the baton-charges. In addition there were allegations of firing by uniformed men from a car near New Street. As the evidence is vague and no injury was caused, the Tribunal makes no findings about it.

The 14/15 July

8.29 On the 14th the Orangemen said they proposed to secure the Hall that evening. DI Harrison opposed this move but Mr McFarlane insisted. It appears that in doing so he was acting in accord with the views of Fr Doherty who thought evidence of restoration or maintenance would be helpful in redeeming the situation in Dungiven. The police had about 80 men on duty, and the Catholic clergy, with various others, did their best to disperse a crowd which had assembled. Though tension was high, the night passed without major disturbance. When the Orangemen arrived some were wearing white armbands. HC Irwin ensured that these were removed. At about 10 30 pm news came that Mr McCloskey was dead. HC Irwin and Fr Doherty did what they could to prevent the news from getting about. At about 12 45 HC Irwin saw a Mr King with a sub-machine gun entering the Orange Hall. The weapon was loaded but not cocked. The police at once disarmed him and the incident had no consequences. His explanation was later accepted, and there was no prosecution.*

8.30 On 15 July Mr McCloskey's body was brought back to Dungiven. The Orangemen had abandoned their intention to complete the boarding up of the Hall that evening. The police were reinforced and a party of USC, armed with batons, were also available. There was a move by some Republicans to carry the coffin through the village, but the parish priest said this was against the wishes of the relatives and the coffin was carried in a hearse. There was no disturbance either then or at the very large funeral next day.

CHAPTER 9—BELFAST: EARLY AUGUST

9.1 The next phase of the disturbances occurred during the week-end 2/5 August. These riots were distinctive because they were mainly the activity of

*There are some general remarks about the Dungiven disturbances, and the decision not to prosecute Mr King, in Part V, Chapter 16.

FS 1 . 268

Protestants. They started near Unity Flats and then precipitated a further bout of Catholic rioting in the Ardoyne. There were times during this week-end when the police believed that they had lost control in Belfast. This period foreshadowed the final breakdown of law and order in mid-August.

The Junior Orange procession and Unity Flats

9.2 On 2 August 1969 Junior Orange demonstrations were held in Bangor and Carrickfergus. The Junior Orange Lodge of No 1 District was to parade from West Belfast Orange Hall down the Shankill Road and make its way to York Road station to board the train for Carrickfergus.

9.3 Shortly after mid-day crowds began to build up on either side of Peters Hill, while groups of residents congregated in the forecourt of Unity Flats and on the public balconies. Jeers and catcalls were exchanged between the people on Peters Hill and the residents of the flats. The size of the crowd in Peters Hill was increased when a large body of people led by a band came down the Shankill Road. The band turned off at Townsend Street, but the crowd moved on towards the flats. It was in a hostile mood and stones were soon thrown at the flats' windows, one of which was broken. As the crowd was building up, the police arrived and took up position at the Peters Hill entrance to the flats, on the public balconies and outside the wall which separates the forecourt from Peters Hill. The police attempted with some success to move the residents inside the building, a course of action which, though appearing to the police a sensible precaution, irritated the residents who, rightly, saw themselves as in no way responsible for what was developing.

9.4 By the time the parade had arrived the crowd of spectators and supporters had grown into a much larger crowd than a Junior Orange procession would normally attract. While its size may to some extent be accounted for by parental concern for the safety of the children, in the light of the injury to a member of the parade on 12 July, this is not the whole truth. Evidence was given by Mr J McKeague that many members of Shankill Defence Association who had children taking part in the procession expressed concern that it was likely to be attacked. The Association decided that its male members numbering about 200–300 would walk down Shankill Road with the procession. When the parade had reached Northumberland Street Mr McKeague heard that missiles had been thrown from the flats at Protestants who had gathered on the opposite side of the road to see the procession pass. He and his followers then took up position between Unity Flats and the carriageway in Peters Hill "so that the young people could pass without any more interference".

9.5 All the police officers, and a number of other witnesses, who gave evidence agreed that there was no disorder or throwing of missiles while the parade was passing the flats. Two witnesses did, however, give evidence to the contrary and one of them alleged that a boy in the procession was struck by a missile. We find that they were mistaken, but it is probable that they and others did believe what they alleged and that this belief helped to embitter Protestant feeling in the afternoon and evening.

FS 1. 269

9.6 Shortly after the procession had passed the flats an angry crowd of about 200 Protestants, one of whom was carrying a Union Jack, entered Upper Library Street from Peters Hill and attempted to gain access to the flats from the Upper Library Street vehicle entrance. Stones were thrown by this crowd at the windows of the flats, and at residents of the flats within the courtyard, who returned them. Some of the Protestants managed to get into the courtyard and fighting broke out between them and the residents. Mr McKeague was present in Upper Library Street during the incident. Evidence was given that he pointed out to the police a youth within the flats who was then set upon by Mr McKeague's supporters and ultimately arrested by the police.

9.7 Two criticisms have been made of the behaviour of the police in Upper Library Street: first, that they made insufficient attempts to prevent the stoning and the attack on the flats by the Protestant crowd, and, secondly, that one or more police officers threw stones at the flats.

9.8 At the time of the incursion into Upper Library Street it appears that there were six police constables under Sgt Johnston at the vehicle entrance to the flats. There were no other policemen between Sgt Johnston's party and the junction of Upper Library Street and Peters Hill, where there were another 5 or 6 police. These two parties of police did their best to keep apart an aggressive Protestant crowd of some 200 and an equally determined group of residents within the flats. But as so often, there were not enough policemen for the job they had to do.

9.9 The second criticism arises from an allegation made by a Mrs Austin who owned two shops in the block of flats which faces Upper Library Street. She gave evidence that a number of policemen, one of whom later identified himself as Constable Rainey, threw stones in the direction of the flats. After a full consideration of the evidence we have come to the conclusion that Constable Rainey did not throw stones. Mrs Austin was mistaken: but, had the police been present in sufficient numbers to suppress Protestant stone throwing, it is likely that the accusation would never have been made.

9.10 After the incident in Upper Library Street the crowd on Peters Hill began to disperse.

The afternoon of 2 August at Unity Flats

9.11 Mr McKeague gave evidence that after the parade had passed he called a meeting in Lime Street at which he told his followers to leave the area but to return between 6 and 7 pm in order to provide protection for the returning Junior Orangemen.

9.12 Once the streets had been cleared a conference of senior police officers was called by the Deputy Commissioner for Belfast, Mr S Bradley. At this meeting it was decided to have the 46 policemen who had been on duty in the morning back into position in the Peters Hill area by 4 30 pm instead of 6 30. Mr Bradley also arranged for DI Gilchrist to bring a party of the Reserve Force to the flats at 6 30 pm. In all, the Deputy Commissioner expected to have between 70 and 80 men at his disposal when the parade returned in the evening.

9.13 The police officers at this meeting considered a suggestion that the returning parade should be re-routed so as to avoid passing the flats. But a decision was taken not to re-route, on the grounds that it was a traditional parade, interference with which would alarm the parents of the children concerned and would provoke serious opposition from them. Furthermore it was felt that a new route would mean the creation of additional flashpoints which the Deputy Commissioner would have difficulty in manning with the limited number of policemen at his disposal. This decision was essentially one for the exercise of professional judgment by senior policemen present; and, notwithstanding the criticism levelled against it in argument before the Tribunal, we think it was justified. At 4 30 pm the police were in place at each of the entrances to the flats and on the public balconies. Shortly afterwards a large, hostile crowd came down towards the flats from the Shankill Road. A police cordon was thrown across the road at Gardiner Street. The rumour was rife among the advancing crowd that the children had been attacked on their way to the station in the morning and it was said that this news had been broadcast on the radio. Mr Bradley, relying on information given to him by DI Montgomery, assured the crowd that there was no truth in the rumour. But they were not to be placated and as their numbers swelled Mr Bradley formed the opinion that such was the mood of the crowd that had they got into the flats "there could have been murder". Already stones were being thrown and windows broken on the Peters Hill side of the flats.

9.14 The Tribunal investigated with care the source of the rumour, widespread among the crowd in Peters Hill on the afternoon of 2 August, that the Junior Orange procession was attacked as it passed the flats earlier in the day. Although two witnesses were quite adamant that they heard an item on the 12 55 pm local BBC radio news which led them to believe that stones had been thrown at the children, the evidence which the Tribunal has received from the BBC is that no news relating to disturbances in Belfast was included in the 12 55 pm summary. The earliest reference by the BBC to the events at Unity Flats was in the News Summary broadcast on Radios 1 and 2 at 3 30 pm The relevant extract from this broadcast is as follows:—

> "In Belfast, two people were arrested after an incident in which bottles and stones were thrown. The trouble started when a crowd gathered to see a procession of Junior Orangemen pass through a predominantly Roman Catholic area. A large force of police moved in to restore order".

It is quite conceivable that the casual listener to this broadcast could have concluded that stones and bottles had been thrown *at* the Junior Orange procession, although this is not expressly stated. The same is perhaps true, but to a far lesser extent, of the lengthier reports which appeared in all editions of the *Belfast Telegraph* on 2 August. In none of those editions is the procession said to have been attacked.

9.15 The earliest reference on UTV to the trouble at Peters Hill on 2 August was in a news flash at 8 51 pm.

9.16 Whatever its origin, the rumour affected the size and temper of the crowd which had gathered at Peters Hill: and Mr Bradley decided to bring forward the arrival of DI Gilchrist's party of Reserve Force men. This party of about 40 men arrived between 4 30 and 5 00 pm. Their vehicles were placed across the mouth of Upper Library Street to prevent access from Peters Hill. By this time the crowd stretched from Royal Avenue to Shankill Road. DI Gilchrist estimated its size as between 2,000 and 3,000—the biggest crowd that he had ever seen in that area. The crowd spilled out on to the carriageway and although the police attempted to keep traffic in Peters Hill moving, eventually this became impossible.

9.17 At 6 18 pm the police were called to licensed premises at the corner of Boyd Street and Peters Hill. A crowd which had overflowed from these premises was singing Protestant party songs and behaving in a disorderly fashion. At the request of the proprietor the police closed the premises and the crowd outside began to throw stones at the windows of the building. The crowd then turned its attention towards the flats, charging as far as the Peters Hill entrance where they were stopped by the police who forced them back on to the footpath and took up position inside the low wall which surrounds the forecourt of the flats. Having been frustrated in their intention to get at the flats the mob proceeded to hurl stones and other missiles at the flats in a continuous barrage, breaking most of the windows which faced Peters Hill. Sections of the crowd tried to penetrate the line of police vehicles and personnel which was blocking the entrance to Upper Library Street, on one occasion breaking through this line and making a rush towards the entrance to the flats. Another portion of the crowd detached itself from the main body and moved down North Street and broke windows there.

9.18 While all this activity was taking place at the front of the flats in Peters Hill, trouble had broken out in the courtyards, within the flats. Earlier on, at about 5 pm, two parties of police had taken up position at the two side entrances to the flats. One party under Sgt Johnston was on duty, as it had been in the earlier part of the day, at the Upper Library Street entrance and the other under Sgt McLean was on duty at the entrance on the west side of the flats which connected the open space leading from the Old Lodge Road with the outer courtyard of the flats by means of a passage beneath the upper floor of the flats.

9.19 Sgt McLean and the six constables in his party had been instructed to take up this position when the parade was passing the flats in the morning but in fact they had remained on Peters Hill as the Sergeant apparently thought there was a greater need for him to control the crowds there. At 5 pm Sgt McLean took up the position allocated to him, with instructions to prevent people from entering or leaving the flats. According to the Sergeant, he placed some of his men inside the courtyard and other at the outside entrance facing the car park. A Land Rover with the late Constable Arbuckle* at the wheel was parked in the outer courtyard.

*Constable Arbuckle was shot dead while on duty during disturbances in the Shankill Road on 11 October 1969.

ES 1 · 270

9.20 When Sgt McLean had taken up position he noticed small groups of people, some of whom were residents, standing around in the courtyard. He recognised Mr P Burns who was a resident in the flats and Mr J Sullivan who was not. Mr Sullivan (who did not give evidence) was seen to be writing something on a newspaper; Sgt McLean inferred that he was noting the disposition of the police.

9.21 Mr Sullivan, who was later to became known as a leading member of the Central Citizens Defence Committee, was not the only stranger in Unity Flats this afternoon. Mrs Bradley, a resident, who (like the great majority of her neighbours) drew the mistaken but understandable inference from the presence of the police within the courtyard of the flats and their inability to suppress or disperse the crowds outside that the police were spear-heading a Protestant assault on the flats, told the Tribunal how a number of young men (40-50 of them) came from outside to help defend the flats. She thought that a message had gone out for help, and that they arrived "after teatime".

9.22 After the night's rioting had ended the police responded to a request for safe conduct out of the flats of a party of some 20 or so "strangers", who were seen to depart down Upper Library Street The Tribunal finds as a fact that a substantial number of non-residents took part in the riots on the side of the residents.

9.23 For the first 1½ hours the police met with no hostility, but their presence inside the courtyard caused resentment: for instance one man asked them what they were doing and told them to get out. At about 6.45 pm Sgt McLean, according to his own evidence, heard a commotion from within the inner courtyard. Some youths then appeared from that direction shouting that they were being stoned. Sgt McLean and two of his constables followed the youths back into the inner courtyard but finding no signs of any disturbance there they quickly returned to their original position, where they and the remainder of their party found themselves under attack from a number of men (about 50) who had appeared in the courtyard—almost certainly from the rear of the Tavern Bar. Missiles were thrown down on to the police from the balconies of the flats.

9.24 Seeing this attack, Sgt Johnston and his party of six constables, who were stationed at the vehicle entrance to the flats in Upper Library Street, rushed to the aid of Sgt McLean's party. As he did so, the Protestant crowd, or some of them, attempted to enter the flats area but were with difficulty restrained by a few policemen.

9.25 As police and civilians grappled with one another, Sgt Johnston noticed a man about to strike Sgt McLean with a large piece of wood. This man, Mr E O'Rourke, turned and struck Sgt Johnston who in turn knocked him to the ground with a blow from his baton. O'Rourke* was then dragged struggling along the ground, which was littered with broken glass, and placed

*O'Rourke was later convicted on two charges of assault and one of disorderly behaviour and sentenced to 6 months on each charge. He was released on bail pending his appeal but did not answer his bail. The sentences were affirmed.

in Sgt McLean's Land Rover which had been driven from the outer courtyard into Upper Library Street after the fighting had started. Miss O'Rourke, who had come down from her flat when she saw her brother fighting with the police, was arrested when she kicked a policeman. She, too, was placed in the Land Rover in Upper Library Street.

9.26 We have no difficulty in accepting the police account of the episode up to this point. Furthermore we think there were present in the flats complex some men (including, in all probability, the "strangers") who were determined to embroil the police in a fight. The ruse of enticing the police into the inner courtyard was successful.

The Corry incident

9.27 Once the melee developed, it is not easy to discover exactly what happened. In the course of it an elderly man, Mr P Corry, was struck by a police baton, suffering a fractured skull as a result of which he subsequently died in hospital. As one would expect, radically differing accounts of this tragedy have been given in evidence to the Tribunal. Two residents (one, Mr Corry's niece, and the other, a neighbour) say they saw what happened. While the details of their versions of the incident differ, they both associate the baton blow (or blows) with an altercation over the arrest by the police of a teenage student, Sean Scott, whose family lived in the flats. They say that Mr Corry apparently tried to intercede on the boy's behalf and was struck down by a policeman though he had offered no provocation of any sort. Both gave graphic, though differing, descriptions of police behaviour, either of which, if true, would mean that one or more policemen were guilty of murder.

9.28 The police account is very different. Mr Corry, described as elderly and heavily built (he was, in fact, 61, and was found, on death, which occurred some months later on, to be "of average slim build, weighing about 8½ stones and measuring 5 ft 2 in in height"), was seen running towards a policeman who was struggling with a prisoner. Constable Sampson saw his right arm extended and in his hand a knife, which he was about to plunge into the back of the policeman. The constable aimed a baton blow at his shoulder, which, because of a sudden move by Mr Corry, struck him on the head. He fell to the ground unconscious. If this account be correct, Constable Sampson did no more than his duty.

9.29 Another witness to the events in the outer courtyard was Mr F Gogarty the NICRA chairman. He had arrived at the flats about 6 pm when he found a crowd of about 200 Protestants and a party of police at Upper Library Street/Peters Hill. He spoke to a police officer whom he thought was a District Inspector but who was almost certainly HC Wallace. During the conversation he was informed that there was fighting in the flats. Entering the courtyard he saw about 18 policemen fighting with about 6 civilians. There were other civilians standing around and about 30 on the balconies throwing bottles and stones. He saw about three or four policemen struggling with an elderly man who was covered in blood. He was being struck about the head and shoulders by police batons and dragged across the courtyard. During this time missiles were raining down into the courtyard. None of the missiles struck the elderly man, who was Patrick Corry, but Mr Gogarty was struck on the head.

FS1.271

9.30 The post-mortem revealed 3 skull fractures sustained by Mr Corry, involving 5 separate areas of brain damage. The injuries could have been inflicted by a police baton. The skull was abnormally thin. In the pathologist's opinion,

"if the injuries were caused by a baton, they would not necessarily have required more than moderate force".

Finally a knife, stained with blood, was picked up from near or under Mr Corry where he fell: and on his arrival at hospital a male nurse found a leather sheath tied to his right leg. The blood on the knife was of Mr Corry's blood group: and those who knew him testified that it was his habit to carry in a sheath tied to his leg, a knife, which it was said he used in his work.

9.31 We accept that there was an incident involving a man (probably Sean Scott) in custody, some policemen and Mr Corry. But the confusions and inconsistencies of the various versions of the incident given to the Tribunal make it impossible to determine exactly what happened. For instance, we think it unlikely that, as one witness would have us believe, Mr Corry was struck down by a policeman while he was peacefully protesting about an arrest: but we would need more evidence than we have to be sure that Mr Corry attempted to stab a policeman. We are, however, clear that there was an incident in the course of which a policeman, believing Mr Corry to be attempting to interfere forcibly with an arrest, struck him a blow (or blows) on the head with a baton. It is not possible to determine whether excessive force was used. The pathologist's report does not indicate that it was: and it must be remembered that the police were in a very rough situation arising from an unprovoked attack upon them by the men who by a trick had embroiled them in a fight with some of the residents in the flats. Nevertheless the Tribunal is satisfied that Mr Corry died from injuries inflicted by a policeman striking him on the head with a baton.

9.32 After he had fallen unconscious to the ground, two policemen dragged him, bleeding from the mouth, to the waiting Land Rover: as they did so, they were subjected to a hail of missiles, but, while some hit Mr Corry, none struck his head.

9.33 The Land Rover, with the two O'Rourkes, Sean Scott and Mr Corry on board, went to Tennent Street police station, arriving at 6 50 pm. Mr Corry was not admitted to hospital until 7 50 pm. In the events following Mr Corry's collapse to the ground the police are, in our view, to be criticised. Difficult as were their circumstances, they should have realised Mr Corry was seriously injured and refrained from dragging him over the debris-strewn ground. And it was inexcusable that the Land Rover did not go at once to hospital: also the delay in getting him to hospital from the police station was a serious matter. Nevertheless, none of these matters played any part in bringing about his death—which arose solely from the injuries to his skull.

9.34 Following the initial struggle within the flats which ended with the removal of Mr Corry and Mr O'Rourke, there was a number of skirmishes between the police in Upper Library Street and civilians in the outer courtyard. This was a fluid situation in which forays were made from the courtyard by the civilians throwing stones and bottles at the police, who, in their turn, mounted

a number of baton charges into the flats. During a number of these charges, some members of the crowd in Peters Hill, who had broken through the police cordon at the mouth of Upper Library Street, attempted to follow the police into the courtyard, but were turned back.

9.35 At 7 15 pm a party of 16 members of the Reserve Force under DI McGimpsey, equipped with riot shields and helmets, entered the outer courtyard from Upper Library Street in pursuance of an order from the Deputy Commissioner to stop stones being thrown from the balconies which overlooked Peters Hill. The youths and men who were in the courtyard retreated and stone-throwing there ceased. The police climbed the stairs leading to the balconies and two policemen were posted on each. As the remainder of the police party returned to the courtyard (7 40 pm) they were attacked with missiles by a crowd of residents which had gathered there. By the time the police had reached Upper Library Street, DI McGimpsey had sustained injuries to the head and leg and the police had made one arrest.

9.36 When DI McGimpsey was leading his party into the flats he was totally unaware of the earlier police/resident confrontation in the outer courtyard which had led to the removal of Mr Corry.

The procession returns

9.37 Some time after 7 pm the Junior Orangemen arrived at York Road Station from their demonstration at Carrickfergus. They were met at the station by a Head Constable who had been asked by a senior officer to put to the organisers the suggestion that as there had been trouble at Peters Hill the parade might be diverted along Donegall Street and Clifton Street.* The suggestion was duly put but was not accepted.

9.38 From York Road the returning processionists made their way towards Peters Hill, accompanied by a party of police. They reached Peters Hill† at 8 15 pm. The road was blocked by a vast crowd and traffic was at a standstill. All of the windows at the front of the Unity Flats had been broken and stones were being thrown at the flats. As the young people approached, they were greeted by cheering from the waiting crowd and the stone-throwing eased off, although according to two witnesses some stones were thrown by the crowd while the parade was passing the flats. It is agreed by all witnesses, however, that no violence was directed at the parade.

Protestant riot of the evening of 2 August

9.39 After the children had passed the flats a large part of the crowd in Peters Hill dispersed. Many of these were parents and friends who, having seen the young processionists safely past the flats, followed the parade up the

*This suggestion probably came from the Commissioner, Mr Wolseley, since Mr Bradley, his Deputy, who was in charge of the police operation, had already rejected the idea of a diversion.

†The evidence as to the time of arrival of the procession at Peters Hill is conflicting: we prefer that of Mr Martin Wallace, since he gives 8.15 in a contemporaneous note on which he based his report in the 9 p.m. news on Telefis Eireann.

FS 1. 272

Shankill Road. However, this still left ...000 people in Peters Hill who showed no readiness to leave. Among this ...owd were a number of rowdy, aggressive youths, some of whom had been drinking. Indeed, a senior police officer described the crowd, which remained at Peters Hill after the parents had departed, as consisting of "hooligans, agitators and criminals".

9.40 A number of local Unionist Councillors exhorted the crowd to disperse, but without effect. The crowd was hostile both towards the people in the flats and towards the police, who were seen to be protecting them. According to Mr McKeague it was rumoured among the crowd that a tricolour had been displayed and that the police had been attacked and one of them killed. The people were enraged "and a full-scale attack was made then on Unity Walk Flats". Attempts were made to penetrate the strong police cordon which sealed off Upper Library Street. The police had some success in forcing the crowd over on to the Millfield side of Peters Hill but stones were still being thrown by individual members of the crowd who were able to run across in front of the flats. A small number of arrests were made but the police were so heavily outnumbered that they concentrated their efforts on trying to keep the crowd away from the flats.

9.41 One section of the crowd tore down a wire fence which surrounded a piece of waste ground at the junction of Old Lodge Road and Peters Hill. Had it been successful this move would have allowed access to the relatively unprotected Old Lodge Road side of the flats. However, the police prevented the attack by launching a baton-charge which drove the crowd off the waste ground as far as Brown Square. A number of arrests were made. Mr McKeague testified that the "viciousness" of this (or perhaps a subsequent) baton-charge came as a surprise to the Protestants. The police had not taken violent action of this nature earlier because they wanted to ensure that the young people were clear of the area and because they had insufficient numbers until reinforcements arrived.

9.42 From Brown Square the crowd was pushed further up the Shankill Road as far as Boundary Street. Periodically the stone-throwing crowd moved down as far as Townsend Street and each time this happened they were forced back by a police baton-charge. This pattern of charge and counter-charge continued until about midnight.

9.43 A large number of windows in Peters Hill was broken and there was some looting. Police officers recognised among the crowd on Peters Hill a number of well-known trouble-makers from the Shankill Road but it is clear that there had also been an influx of youths from other areas. While one force of police was attempting to hold a line at Townsend Street, other policemen at Upper Library Street had to cope with stone-throwing from the area of the flats and with Protestants who were trying to get into Upper Library Street.

9.44 At 11 30 pm the police again decided to clear the balconies of the flats. On entering the outer courtyard from Upper Library Street they were confronted by about 50 youths who drove them out with stones and bottles. The entry into the flats by policemen dressed in riot gear, without any apparent

necessity and a... when the flats had been under attack by a Protestant crowd, was open to misunderstanding by the residents of the flats, whose only crime at this stage was the throwing of stones at their attackers. It was not until 3 am on the morning of Sunday, 3 August, that the situation in Peters Hill had quietened down and the police were able to withdraw.

The Unity Flats Association

9.45 During the period when the flats were besieged by the Protestant crowd a number of residents formed the Unity Flats Association. At a later stage the Association became affiliated to the Central Citizens Defence Committee. The Tribunal heard evidence from two residents (Mr Largey and Mr Burns) who were members of the Association. Neither appears to have seen the start of the fighting in the courtyard of the flats but both believed that the police attacked the residents. They also felt that the police had not taken sufficient measures to control the Protestant crowd on Peters Hill. Indeed at one point in the evening Mr Largey believed that this crowd was still in front of the flats and it was not until he was taken up Shankill Road in a police vehicle that he realised that the Protestants had been moved on by the police.

3 August—Further Protestant riots

9.46 On the afternoon of Sunday, 3 August, a crowd of 400–500 again gathered on Peters Hill opposite the flats, on the roof of which were about 20 young men. The two groups were gesticulating at one another. The police spoke to Mr Burns who lives in the flats and he succeeded in clearing the roof of the flats. The crowd outside then moved up Peters Hill but on reaching the waste ground at Lower California Street they turned and charged towards the west side of the flats. Stones were thrown and some of the attackers engaged in a fight with residents of the flats and their supporters. The two groups eventually parted, the Protestants retiring to the waste ground from where they hurled stones and bottles at the police. An armoured car was summoned and the crowd was dispersed. But by 4 30 pm they had regrouped and at that time 300–400 men marched down the Shankill Road, led by a man carrying a Union Jack. Some were armed with pickshafts and missiles and they demanded that the police get off the road. The District Inspector in charge was in no doubt that the crowd was again bent on attacking the residents of Unity Flats. The police managed to drive the crowd back but its numbers were rapidly increasing and on the next advance petrol bombs were thrown at the police.

9.47 From then on the situation quickly deteriorated: a barricade was erected, shop windows were broken and property was looted. An armoured car was used to breach the barricade and as this operation was taking place there was a loud explosion, probably caused by gelignite, sticks of which were found later in the evening.

9.48 Just before 6 pm the Deputy Commissioner, Mr S Bradley, arrived in Shankill Road and assumed command of a force of police which now numbered about 200. He found a crowd of 300 to 400 people in Shankill Road which came down and attacked the police position at Townsend Street. Barricades were erected, motor vehicles set on fire and the police were subjected

FS1.273

to a hail of bricks and stones. Mr Bradley thought that the viciousness of these attacks on the police was connected with the police baton-charge the night before. A barrier-breaking vehicle, a water-cannon and Land Rovers were used in an attempt to disperse the crowd which responded with stones, petrol bombs and one or two sticks of gelignite. Mr Bradley led at least four baton charges against the crowd before the situation returned to normality at about 1 am.

9.49 The situation in the Shankill Road area was so serious that during the afternoon discussion took place between senior police officers and members of the Government about the possible deployment of the military. A company of soldiers was in fact brought in to Castlereagh police station in Belfast but they were not deployed on the ground.*

Carlisle Circus—2/3 August

9.50 On the afternoon of 2 August as No 1 District Junior Orange Lodge had paraded down the Shankill Road and Peters Hill, the Junior Lodge of No 4 District was assembling at Carlisle Circus. In all there were some 1,200 people in the parade, predominantly children but accompanied by about 100 adults. The parade passed peacefully through the city and reached County Down Railway Station where they boarded trains for Bangor, County Down.

9.51 After spending the day in Bangor the party returned to Belfast arriving at 7 15 pm. The march back to Carlisle Circus went off without incident until the parade reached the junction of North Queen Street and Donegall Street. At this point they were shouted at by about 20-30 youths from the direction of Frederick Street. Stones were thrown but they did not reach the procession.

9.52 Some of the adults in the parade did break ranks but the bulk of the marchers continued in an orderly fashion. One group of men who had joined the procession at North Street ran over to where the police had formed a cordon in North Queen Street in an attempt to get at the stone throwers. These men were members of the Shankill Defence Association and they were acting without the knowledge of the organisers of the procession.

9.53 The parade arrived at its dispersal point just before 8 pm. As the parade was preparing for dispersal at Denmark Street and the Lodges at the tail end were reaching Carlisle Circus, stones were thrown from some unoccupied houses in Frederick Street. Some stones landed among the children in the parade and it may be that a boy was injured.

9.54 On the following day, Sunday 3rd, Junior Orange Women's District No 3 had arranged to parade from Carlisle Circus to St Paul's Church in York Street. During this journey there was one minor scuffle at the junction of Clifton Street and Upper Library Street. On the advice of HC Kyle the return route was altered to avoid this junction. It was also found necessary for the parade to disperse in Fairview Street instead of Denmark Street in which about 30-40 youths armed with hurley sticks had gathered. These youths were dispersed by members of the Shankill Defence Association at the request of one of the organisers of the procession.

*Dealt with at Part VI, Chapter 19.

The aftermath

9.55 From Monday 4th onwards, members of the USC were deployed on the Shankill Road. Their duty (for which, until the 14 August, they were equipped with batons but not firearms) was to prevent looting and the gathering of crowds. It appears from the evidence of the Inspector-General that the RUC were not deployed on the Road but held in the background. One reason for this was because of local hostility. Another and compelling reason was, as DI Montgomery said, a shortage of RUC manpower.

9.56 On 2 August, 34 policemen and on 3 August, 36 policemen were injured in the Shankill Road area. The total number of arrests made in this area between 6 pm on Saturday 2nd and midnight on Sunday 3rd was 110. As a result of the disturbances 20 Protestant families moved out of Unity Flats. By February 1970 only two Protestant families remained in the flats.

General

9.57 The riots of the 2nd and 3rd August were begun and continued by Protestant crowds. They led to loss of life and serious damage to property. They were directed initially against Unity Flats but soon developed into a conflict with the police. They provide evidence not only of the risk to the peace of the province from Protestant violence but also of the determination of the police to protect Catholic lives and property. Although unable to prevent external damage such as the breaking of windows, and on occasions embroiled (once with tragic results) with the residents of Unity Flats, the police did successfully protect the residents from invasion by Protestant mobs.

Crumlin Road and Ardoyne

9.58 Disturbances at Unity Flats had begun on 2 August, and had then spread to Shankill Road. Crumlin Road is not far from Shankill Road, and felt the impact of these events.

The riots, 2/5 August

9.59 The first violence occurred during the evening of 2 August. A report reached Tennent Street Police Station that a crowd was moving up the Crumlin Road from the Unity Flats area. A small group of police went to the area of Disraeli Street/Hooker Street. After dark they heard a crowd approaching. It was chanting "we are the people" and "let's wreck the fucking pope heads". It had no identifiable leaders but two people in front carried the Union Jack. Sergeant Owens who was in charge of the police expected an attack would be made on Hooker Street and radioed for help. Meantime his tiny force of 6 policemen walked steadily, with batons drawn, towards the crowd, which numbered about 150. The police party was received with a sudden volley of stones, bottles and sticks: but, as they closed on them, the crowd quickly dispersed back down the Crumlin Road and into the side streets on the south. The resolute conduct of Sergeant Owens and his party undoubtedly stopped this crowd from provoking a sectarian conflict farther up the street.

FSI 274

9.60 Later the crowd reformed in Ohio [illegible] and moved up Disraeli Street, with the intention of crossing Crumlin Road, but by this time, though the crowd was much larger, police reinforcements had arrived. There were 25 police at the south side of Disraeli Street. They reasoned with the crowd and sought, eventually with success, to push it back. In the course of the encounter the crowd aimed some missiles at the Edenderry Inn and the Rosebank public houses, doing some damage to the Rosebank.

9.61 By now, however, a crowd had gathered on the opposite side of Crumlin Road. A barricade was being built across Hooker Street, level with the entrance to Chatham Street. Hooker Street was in darkness, when several people came in front of the barricade and threw petrol bombs and other missiles at the police. It was about 11 30 pm and the police, led by an armoured vehicle, followed by Land Rovers, made baton-charges into Hooker Street. The charges dispersed the crowd, and the police remained on duty in Hooker Street all the night, which from then on was quiet. Ordinary traffic, which the riot had stopped, returned to the Crumlin Road.

9.62 On the next day, Sunday 3 August, trouble developed in Hooker Street at about 10 pm. There was no barricade visible from the Crumlin Road, but petrol bombs were thrown from Hooker Street at police on duty in the road. The police, who were present in some strength (they were about 50 and included the City Commissioner and DI Montgomery), decided to enter Hooker Street in an attempt to disperse the rioters. They went in, preceded by an armoured car equipped with a barrier-breaking device. At the bottom of Hooker Street, where it joins Butler Street, they found a barricade across the roadway; and on a piece of adjoining land a shallow trench had been dug. The rioters, throwing petrol bombs at the advancing police, retreated towards these obstacles, which the police had difficulty in penetrating. Thereafter the police drove the rioters up the hill towards the "stumps"—a footpassage into the adjoining Brompton Park area. The police got some vehicles via Flax Street into Brompton Park: and that was the end of the riot for the night.

9.63 During this riot the police and their vehicles (an armoured car and 4 land rovers) were under constant petrol bomb attacks. These weapons, as well as the barricades and trench, must have been prepared beforehand, and give an indication of the attitudes and state of mind to be found by now in the Ardoyne. On the other side of the Crumlin Road there was no significant movement: clergymen, stewards and police were able to control the people though sectarian feeling was running high. In the course of the night two men were hit by buck-shot in Herbert Street. The source of the shots was never established. But sporadic firing in the Crumlin Road was not unknown to the police. DI Montgomery had received reports of something resembling heavy air-gun fire at foot police and a police vehicle on 27 and 31 July respectively: but responsibility was never established.

9.64 Serious violence erupted again on the following night, 4 August. Its beginnings were observed by Mr Entwistle, a journalist. He arrived at about 9 pm on the Crumlin Road near Disraeli Street where he saw a large number of policemen (perhaps 50 or 60). The Crumlin Road, now denied to

S1 · 225

traffic, was full of [illegible] litter and debris of riot. The street lights were on—unlike the Hooker Street side where most of the lights were out. He watched the lights being deliberately put out by people in the streets. He remarked that at this stage there was very little activity on the Disraeli Street side of the road. He could see barricades and a fire "way down at the bottom of Hooker Street", but activity appeared to him to be confined to small groups who came up the street and attacked the police. They attacked with stones and petrol bombs, one of which hit a policeman and set his clothes on fire. He saw the police accompanied by vehicles—two armoured cars and a number of land rovers—make a couple of sorties down Hooker Street and Herbert Street. As the police managed to subdue the Catholic side, he saw Protestant numbers building up. Soon there was a large crowd of about 400 in Disraeli Street, whom the police had great difficulty in restraining. This crowd was in an ugly mood—marching down the street, beating a drum, chanting, singing and with flags flying. But for the presence of the police, they would, he thought, "have marched straight across to the other side of the road". The police drove them back, going in with batons. The crowd then dispersed, but in Bray Street a group of them attacked a house from which he saw a woman being led away in tears. After some 10 minutes and a request by him to a senior policeman, a party of police arrived and dispersed the wreckers and intimidators.

9.65 Police action in the area on this night was effective. It restrained and dispersed the Protestants: it broke up and dispersed the Catholics. But in the course of their movements inside the Hooker Street area an accident occurred, which not only resulted in serious physical injury to a young man but contributed further to the worsening of relations between the police and the people of the Ardoyne. It was a road accident: but it was interpreted by local people at worst as a deliberate running down and at best as yet one more example of police recklessness and callousness.

9.66 It was not a deliberate running down. Whether in law it was negligent driving is not for the Tribunal to assess: but, if it was, it arose from an error of judgment in difficult circumstances.

9.67 The circumstances were these. The police were using their vehicles tactically: driving towards the crowds, on occasion mounting the pavements in an endeavour to frighten and disperse. During some such manoeuvre young Neil Somers was knocked down by a police vehicle. Almost certainly the driver never saw him: it is not even certain which vehicle was responsible. The work was, of course, dangerous: but so was the situation of the police and the activities of the crowd around them. Nevertheless it would have been a very serious offence if the police or any of them had either deliberately run him down or recklessly endangered him. The evidence supports neither conclusion.

9.68 Unfortunately, the tactic was such as to lend colour to the interpretation that the police were ready to use their vehicles recklessly and aggressively against Catholics: and there had been at least one previous incident in July (when a Land Rover overturned in Herbert Street) to lend plausibility to this interpretation of police attitudes. The Tribunal, while acquitting the individual policemen concerned of deliberate or reckless crime, wishes to record its view

that the tactic was unwise and certain, soon or later, to cause tragedy which would, as this incident did, do serious harm to relations between the public and the police. It is only fair, however, to record that this is the only instance known to the Tribunal in which the tactic led to serious personal injury.

9.69 The weekend's rioting came to an end on Tuesday, 5 August. Police were present and eventually succeeded in dispersing a large crowd in Disraeli Street, after a warning that force would be used if necessary. Several Protestant clergy helped in persuading civilians to go home. It is likely that a good proportion of the crowd did not live in the immediate area, and that they were mainly young people, incensed by the police baton charge in Disraeli Street on the previous night and spoiling for an attack on the north side of Crumlin Road.

Intimidation, 2–5 August

9.70 Violence that weekend was worse than it had been before. Intimidation was also on a much larger scale and must have contributed to the tension in the area. What happened varied from street to street. But between 2 and 5 August the Protestants left Hooker Street, and the Catholics left streets on the other side of Crumlin Road.

9.71 The movement began on 2 August. On 3 August most Protestants left Hooker Street and the Catholics left Chief Street, Cambrai Street and Leopold Street. The process continued in both directions on 4 August. By 5 August, out of 12 Church of Ireland families originally living in Hooker Street only one family was left, and it lived in a corner grocery shop. Broadly speaking, the two communities had now completed their physical segregation from each other.

9.72 Intimidation was an essential part of this process. Sometimes this was overt; crowds attacked houses and people left their homes in fear. At other times it was a matter of people being advised to leave for their own safety, sometimes by extremists on their own or the other side. Or there might be threatening anonymous letters. It would be impracticable to make distinctions between the degrees of intimidation practised by members of the two communities. Equally there is no doubt that many neighbours of the victims were appalled at what was happening, but were helpless in the situation which prevailed.

9.73 The Tribunal heard abundant evidence to satisfy it that authority, from the Prime Minister down to the policemen on the streets, was alive to the problem and deeply concerned. Public figures issued statements deploring and condemning intimidation: senior policemen, such as DI Montgomery, energetically organised measures designed to search it out and destroy it. But the sectarian disease that was infecting society was too deep-seated to respond to a Prime Minister's appeal or to police action. The two communities, sometimes from choice, sometimes under compulsion, but always in conditions of wretchedness and misery, fell apart into their respective "ghettos", where at least they had a sensation of security.*

*Intimidation is further discussed in Part XII, Chapter 31, section 4.

FS 1. 279

PART IV

CHAPTER 10—LONDONDERRY: 15 JULY–10 AUGUST

10.1 After the July riots the City, though restless and tense, managed to achieve a degree of uneasy calm which ended with 12 August. In this atmosphere a decision had to be taken for or against the Apprentice Boys march on the 12th.

The problem of 12 August

10.2 The disturbances which have troubled Northern Ireland since the summer of 1969 are certainly related to the violence which began in Londonderry on 12 August—although it would not be safe to imply a direct causal relationship, nor indeed is it within the Tribunal's terms of reference to examine that relationship. Nevertheless, since it has been contended that the disturbances of August 1969 can be traced directly to the failure of the Government of Northern Ireland to impose a ban on the Apprentice Boys' procession on the 12th, the continuing implications of that contention require that an examination should be made of the evidence relating to the decision not to ban the procession.

10.3 The Minister of Home Affairs, Mr Porter, had power to ban the procession. Under section 2(2) of the Public Order Act (Northern Ireland) 1951 the power was exercisable if he had come to the conclusion that the powers of the RUC to direct a rerouting of the parade were insufficient to prevent serious disorder. Should he have banned it? The question concerns the Tribunal only if the facts are such that it can be said that, by refusing to ban it, the Minister acted unreasonably. But, should it be established that a neglect of duty by the Minister caused or contributed to the disturbances into which we are directed to inquire, the Tribunal must say so.

10.4 By mid-July 1969 the overall situation in Northern Ireland had apparently improved, although there had been disturbances in Dungiven in June and fairly constant, though minor, confrontations between the RUC and a disruptive element in the Hooker Street area of the Ardoyne district of Belfast. But the July riots in Londonderry presented some disturbing features. They demonstrated that the police then available were unable either to prevent rioting or to end it, once it had started. Their patrolling of the Bogside had been slight and occasional for many months: after the July riots it was almost non-existent. Mr Hume's comment to the Tribunal was fully justified:—

> "The point I am basically making is that from 12 July the police themselves were publicly admitting that they were not policing a particular area,* which was a public admission that law and order had broken down in a particular area".

10.5 When the July riots died away, the ability to maintain public order in the city had slipped out of police control: peace depended not upon the will of lawfully constituted authority, but upon the whim of the youngsters of the Bogside. In Mr Hume's opinion, the situation in the city was out of control

*The Bogside.

and trouble was inevitable on 12 August. With the benefit of hindsight, we agree. We would refer to two further comments which were made to us in evidence. Mr Sean Keenan said of the Bogside:—

> "It did not matter who was to come into the Bogside, be it police, B Specials or Apprentice Boys, Paisleyites, or whoever, we would defend ourselves against anybody coming in to attack us".

And Mr Canavan commented that trouble could have started from "maybe an innocent action of the police" or "from somebody throwing a stone from the Civil Rights side": it was "the kind of situation where serious trouble could have started up from inconsequential events". But was the future to be so clearly foreseen after the July riots when the authorities had to decide how to handle the problem of 12 August?

10.6 The problem was not easy. The Apprentice Boys march was a traditional occasion celebrating a historical event of great importance to a great number of people. It attracted visitors from all parts of the United Kingdom and, indeed, elsewhere. About 15,000 were expected to parade this year. To ban it or, by dint of persuasion, to force a cancellation would cause widespread and deeply felt resentment, and could well trigger off a Protestant riot. Nevertheless the July riots put the authorities, both police and Government, on notice that control of the street situation in Londonderry was very tentative and that disturbances leading to serious injury to persons and severe damage to property could readily result from loss of, or even from a determined challenge, to that control.

10.7 There were, of course, political problems. A decision to ban would be interpreted by many Government supporters as weakness in the face of Catholic pressure. If the Government was to fall, there was the probability that the programme of political reform already initiated would collapse: and the Province would be faced with bitter and fundamental division without the hope offered by the existence of a reform programme. Nevertheless, whatever the political pressures which weighed upon the Government at that time, a clear onus of responsibility lay upon the authorities to avoid a recurrence on 12 August of the July disturbances. In the event, that onus was not discharged and the Government of Northern Ireland did not succeed in its paramount duty of maintaining peace in the Province.

10.8 However, the matter cannot be left in those simple terms. Was it possible in practice to impose a ban on the parade? Given the information which the Minister of Home Affairs had at that time, did he act reasonably? These are the two questions which must be answered before we would be prepared to criticise those who took what proved in the event to be a decision fraught with tragic consequences: and the answers can be given only after an examination of the course of events from mid-July to mid-August.

FS 1 217

The course of events—July

10.9 The first significant event was the funeral of Mr Devenny on 19 July, when some 30,000 people appeared on the streets to mourn his death and made their silent protest at what they believed to be the "police brutality" which

killed him. There was the formation of the Derry Citizens Defence Association on the 20th. There then followed a series of meetings which included amongst others: a representative meeting of all sections of the community attended by members of the Londonderry Development Commission at the Broomhill Hotel on the 21st; formative meetings of the DCDA which led to its existence becoming publicly known on the 27th, and an announcement of a series of public meetings in the period prior to 12 August; a meeting between Mr John Hume, MP (NI), and Lord Stonham at the Home Office; a meeting between the Minister of Home Affairs and a representative body of business men from the City, at which he was told that "a hooligan element had started the trouble in July". On 31 July the Minister learnt that the Apprentice Boys had arranged for a very large number of marshals for the parade and that arrangements had been made for a rapid departure from the city centre of those taking part in the parade.

10.10 At the end of July it must have seemed clear to the Minister that responsible citizens, regardless of their political or religious affiliations, were ready and willing to do all in their power to help keep the peace, if the parade was to take place. But apprehension was also expressed—notably by Mr Hume. These apprehensions were largely of Protestant violence. Little weight appears to have been given to the risk of a Catholic outburst or to the lessons to be learnt from the July disturbances. And it may well be that the full significance of the formation and plans of the DCDA was not understood at the time.

Derry Citizens Defence Association

10.11 This body came to supersede the DCAC which was by now in disarray, being unable to agree on what to do if there was an attack on the Bogside or on what, if any, stewarding arrangements to make for 12 August. The DCDA suffered from no such infirmity of purpose. Its objects were said to be first "peace" and, failing peace, the "defence" of the Bogside. Mr Keenan was to be its chairman: seven out of eight of its original Committee were members of the James Connolly Republican Club, although later the Committee was progressively broadened until in mid-August it was forty strong.

10.12 The DCDA formed street committees, each under a chairman. It organised public meetings: five were held in various parts of the Bogside-Creggan area. It organised a Peace Corps and put in charge Mr Len Green —an Englishman who had married a Londonderry girl and settled in the city. It organised first aid: with the help of the Order of Malta, posts were to be established at Bishop Street, West End Hall, and Candy Corner. Barricades, designed to keep unwanted strangers out of the Bogside, were planned and their locations determined. The use of firearms was ruled out: but preparations to defend themselves with "sticks, stones and the good old petrol bomb" (Mr Keenan's words at a public meeting on 4 August) were undoubtedly put in hand.

10.13 In August a strident note crept into their public utterances. One witness described as aggressive the speeches made on 4 August at the Stardust Ballroom—the occasion when Mr Keenan referred to the "good old petrol

bomb". On 10 August, at a meeting at Ce[illegible]Park, Mr E McAteer, in the course of an emotional speech, declared that:

> "if this is, indeed, our hour of trial at hand, if we are to be beaten into the ground in this city as a helpless minority, then I pray to God that our watching brethren* will not stand aside any longer".

Clearly these preparations and this language—whatever the purpose—must have greatly increased tension. If further evidence were needed, it is convincingly provided by the fact that a dairy delivering milk in bottles to the centre of the city got back very few empties on 10 August, and none on the 11th. Of course, none came back on the 12th.

10.14 In our judgment, whereas the emphasis of the DCAC had been to maintain peace, the planning of the DCDA was substantially directed to "defence". As Mr Canavan said in evidence:—

> "It was absolutely essential in my opinion that preparations be made for defence . . . there was a very real danger in my opinion that, for whatever reason trouble would start, it would inevitably finish up in the Bogside".

It is possible that at the end of July the police did not appreciate either the extent to which the DCDA had superseded the DCAC or what it really meant by "defence". By "defence" the DCDA, in fact, meant a fight to keep all comers (including the police) out of the Bogside. Their thinking was that sooner or later there would be disturbances which, as had happened before, notably in January, April and July, would end up in the Bogside: that in all probability this would happen on the 12th (e.g. the fear that "Major Bunting would troop his colour in the Bogside"): and that, when it did happen, the Bogside would fight. The leaders did nothing to dissuade their followers (amongst them, the youths of the Bogside) from the view that the police were a partisan force opposed to them.

August prior to the 12th

10.15 During August the situation throughout the Province markedly deteriorated. The Belfast riots of the 2nd and 3rd revealed the risk of Protestant eruption. By now the Government was becoming very apprehensive—and conveyed its anxieties to the organisers of the parade, who were not, however, prepared to cancel it, unless there was a specific request—which they say they did not receive. While these assurances were forthcoming from the Protestants, the other side of the picture was increasingly dark. The provocative speech of Mr Keenan on 4 August and the increasing knowledge of the activities of the DCDA were causing a degree of apprehension among the police. On 9 August DI Armstrong sought a meeting with Mr Keenan. He wanted to know what preparation, if any, had been made, by the provision of stewards or otherwise, to help keep the peace in the Bogside on the 12th. He did not learn because Mr Keenan would not meet him. And so events moved inexorably to the tragedy of the 12th.

Responsibility for the refusal to ban

10.16 The Minister was never persuaded of the necessity of a ban. He was satisfied by the marshalling arrangements and an agreed change of route,

*ie the people of the Republic of Ireland

FS1.278

that the parade itself would be properly controlled, as indeed it ultimately was. No public figure in Londonderry, not even Mr John Hume, advised him that the parade should be banned. The Minister was also convinced of the sincere wish of the Bogside leaders to help keep the peace, and of their ability by means of stewards to do so. In this he was mistaken: whatever the intentions of the DCDA, who were by the end of July the *de facto* leaders of the Bogside, they never did make effective arrangements for stewards. Furthermore, it must be remembered that he also had to take account of the view, which the police held, that a ban might well give Protestant extremists the opportunity to organise sectarian trouble.

10.17 As August progressed, it became increasingly difficult to impose a ban without incurring the risk of a violent Protestant reaction—like that against Unity Flats on the 2nd/3rd. The Protestant riots of early August in Belfast had brought the RUC to the point of calling for Army assistance, with the attendant political implications. If the Protestant extremists should get out of control on 12 August the police were not certain of their ability to deal unaided with the ensuing situation; but, on past experience, they believed they could deal with Catholic rioting and it was, in any event, the intention to have more RUC in Londonderry on 12 August than had been there during the July riots.

10.18 The Tribunal, therefore, answers the two questions put as follows. While it was possible in July for the Minister to ban the parade, the practicality of doing so became less as 12 August approached: and a ban had its own attendant risks. The Tribunal believes that the Minister did not fully appreciate either the extent to which the police had lost control of public order or the implications of the emergence of the DCDA. And the Minister was certainly mistaken in thinking the Bogside leaders had made effective stewarding arrangements. But the decision whether to ban or not was difficult and, given the information and advice proffered to him, the Minister did not act unreasonably in allowing the parade to proceed.

CHAPTER 11—LONDONDERRY—11 AND 12 AUGUST

Police strengths

11 *August*

11.1 Once it had been decided to let the Apprentice Boys' march take place the RUC concentrated very considerable numbers in Londonderry. On 12 August about 700 men—a fifth of the entire full-time strength of the police in Northern Ireland—were on duty there. On 13 August there were about 500 police on duty and on 14 August about 350.

11.2 On the night of 11 August a bonfire burned in Fountain Street—a traditional feature of the celebrations that each year mark the eve of the anniversary of the relief of the city after its famous siege. Around the bonfire stood a large crowd of Protestant people in festive mood: on the opposite side

of Bishop Street at the mouth of Long Tower [illegible] a watchful Catholic crowd gathered. Inevitably some tension built up: a few stones were thrown between the two sides, and by midnight the police on the spot were sufficiently concerned to report to headquarters their anxieties. DI Hood came to take a look at the situation. He conferred with stewards and clergymen on both sides. Thereafter, he told the Tribunal, "we managed to keep the peace that night". By 3 am all had gone home to bed. The celebrations could fairly be said to have got away to a good start.

11.3 The success of the DCAC and DCDA stewards in controlling the crowd that gathered this night in Long Tower Street is to be contrasted with the notable failure in Waterloo Place on the afternoon of the 12th.

Narrative—12 August

First phase

11 *am*–2 30 *pm*

11.4 On the morning of 12 August members of the Apprentice Boys' Clubs assembled on the Mall Wall for their church parade. They went in procession to St Columb's cathedral where at mid-day a service was held. After the service the clubs again assembled and at about 1 pm the procession through the city began. As the long column, three deep, with its bands and regalia moved through the streets, it evoked a sense of pride and triumph in Protestant hearts, but a feeling of irritation and frustration in some of the Catholics. In the sultry communal climate of August 1969, its length, its noise (particularly perhaps the beat of the drums), and the unrestrained defiance of a few of its supporters (for example, the two women who danced and sang the "Sash" in Waterloo Place) must have played on the nerves of the youth of the Bogside held back from the processional route by the presence of police and crush barriers. Before the procession, a few Apprentice Boys tossed coins from the City Walls towards small knots of people below. It was a gesture of contempt which can only have inflamed feeling in the Bogside. Nevertheless the procession was disciplined and orderly: its members under the efficient control of their marshals gave no provocation. In happier times the procession might well have been a cheerful and harmless celebration. But not in 1969.

11.5 At about 1 45 pm the head of the procession reached Waterloo Place, where some 30 police, wearing normal patrol dress, had taken up position. A metal crush barrier completely sealed off the entrance of Waterloo Street and William Street into Waterloo Place. Behind the barrier stood a crowd which, while "fairly good-humoured" (in the opinion of one observer), shouted abuse from time to time at the procession and the police. The presence of the barriers contributed to an increase of tension.

11.6 At 2 30 pm a handful of nails was flung across the barrier into the midst of the police. This was followed by stones. The first missile seen by Mr Harold Jackson, who was watching events for his newspaper *The Guardian*, was a marble fired from a catapult by a middle-aged man. From this small

beginning de[illegible]d a riot which, enveloping the city for two days and nights, was not brought [illegible]der control until the Army entered William Street at 5 pm on the 14 August.

Second phase

2 30–7 *pm—Waterloo Place and Little James Street*

11.7 The handful of nails marked the beginning of the August riots. The first missiles were undoubtedly cast by members of the Bogside crowd. The stone-throwers, with a few exceptions, were young—teenagers or in their early twenties. Most of the early stones were directed at the police; the procession, which was making its way along the far side of Waterloo Place, was unmolested, save for verbal abuse and the occasional stone.

11.8 Almost as soon as the stoning of the police began, Mr John Hume MP (NI) appeared at the barrier and there was a conversation between him and DI Slevin. The DI asked him "to try and eliminate this sort of thing" (ie the stonethrowing and noisy abuse directed at the police); the Member of Parliament in his turn pointed towards Guildhall Square where a small (Protestant) crowd was shouting back at the Bogsiders and asked him to move it back and out of sight. The DI managed to get the Guildhall Square crowd moved on; Mr Hume, now joined by Mr McAteer and others, did his best with the Bogside crowd. But his success was only momentary. Very soon the young Bogsiders overwhelmed their stewards and set going a barrage of stones and bottles. A policeman fell unconscious, the first casualty of the riot: as he fell, there was a loud cheer from behind the barriers. At this moment the DI ordered his men to put on their riot gear—helmets and shields.

11.9 The procession cleared Waterloo Place at about 4 pm—but not before the Bogsiders had increased their range to include it as a target for their stones. To protect the marchers, a Reserve Force platoon with 5 land rovers was moved into Waterloo Place to form a screen between them and the Bogside crowd. The supporters of the Apprentice Boys now became restless; a considerable crowd of them again gathered in Guildhall Square and began throwing stones. Mr Hume, still trying to restore some sort of order his side of the barriers, asked the DI to move this crowd back: in the course of their conversation, Mr Ivan Cooper MP (NI) who was close by was struck and rendered unconscious by a brick hurled from William Street.

11.10 The DI with the assistance of Mr R Chichester-Clark MP got the Protestant crowd back and out of the way of trouble. Mr Hume and others, who were doing their best to help him, linked arms and tried to force their crowd into William Street. But they could not do it: they were overwhelmed, and Mr McAteer was seen to be staggering back under the weight of the crowd. By

FS 1 . 279

4 30 the Bogside crowd was swarming up to the barriers, out of control and attacking the police fiercely with stones and bottles. DI Slevin's comment in evidence was that the situation—

"was completely chaotic. I think that was the last big attempt the stewards made. I did not notice Mr Hume or Mr McAteer after that".

11.11 From 2 30 pm until 5 pm the police had stood their ground in Waterloo Place—passively enduring a constant hail of missiles aimed at them from Waterloo Street and William Street. Though it is clear that some of the police threw some stones back, their conduct at this stage, viewed as a whole, was a remarkable display of discipline in testing conditions, and won the praise of Mr Hume. Yet the Bogside crowd became more and more violent. They attacked the crush barriers, pulling some of them away up William Street. The senior police officers, whose strategy had up to this time—5 pm—been one of static defence, feared an eruption into and beyond Waterloo Place: they therefore ordered a baton-charge. The crowd at once dispersed, some up Waterloo Street and some along William Street. In Waterloo Street the police reached High Street and Harvey Street, down each of which the rioters retreated. At the bottom of these two streets, the police were held, unable to advance against a volume of missiles, some of them hurled from the high-rise flats in Rossville Street. In William Street the police, led by an armoured car, reached its junction with Chamberlain Street—where for the first time they came under heavy petrol bomb attack. Petrol bombs were lobbed at them not only down William Street but over the rooftops from the side of Chamberlain Street. A water cannon reinforced the police: but it was not used against the rioters, being continuously employed in putting out petrol bomb fires in houses and shops.

11.12 Despite their advance, the police in William Street had now lost the power to control events. As DI Slevin remarked, theirs was now "a fight for survival"—words well illustrated by the casualties sustained by his contingent of police: for, when it returned the next day to County Down, of a total of 59 men 43 had been injured. He himself had had his right arm and leg immobilised by injury to flesh and bone, and at about 7 30 pm had been removed to Altnagelvin Hospital.

11.13 Meanwhile the riot had spread into Little James Street. Shortly before 3 00 pm a few young men moved into Little James Street, perhaps with the intention of entering Sackville Street to get within striking distance of the returning procession (Mr Jackson had heard a cry go up that the procession was not coming back the same way, ie through Waterloo Place). They began to stone the police in Sackville Street. At about 3 25 pm a petrol bomb was thrown at the police—noted by Mr Jackson as the first he saw, and, possibly, the first of these disturbances. In addition to stones, bottles, and now petrol bombs, steel reinforcing rods were hurled like spears at the police, who themselves retaliated by throwing back some of the stones flung at them. Some Protestants emerged from Great James Street and, as the police withdrew into Sackville Street, an exchange of stone-throwing developed between the two groups of young men. Shortly before 4 00 pm Mr Hume, Mr McAteer and others appeared in the Street: they succeeded in forcing the young Bogsiders back into William Street, while the police pushed the Protestants back into Great James Street. For an

FS 1. 280

hour or so a stalemate prevailed: the two crowds indulged in sporadic stone throwing, while the police stood quietly in Sackville Street. By 5 00 pm a lightly constructed barricade had been established by the Bogsiders in Little James Street some 25 yards from its junction with William Street, which itself was now noisy with the riot associated with the police baton-charge already mentioned. Sgt Pendleton of the Reserve Force attacked and destroyed it with his armoured vehicle, a Humber fitted with a barrage-breaking grid. As he did so the police advanced towards William Street, where they came under missile and petrol bomb attack from a large crowd behind a barricade which had been built in Rossville Street near its junction with William Street. As the police moved forward, some civilians (from the Protestant crowd in Great James Street) accompanied them, throwing stones and using catapults. We accept Mr Jackson's evidence that some of these civilian stone-throwers were actively encouraged by individual policemen: it is also clear that some policemen were themselves throwing stones.

11.14 Shortly after 5 pm the situation was that the police were held and under heavy missile and petrol bomb attack in Harvey Street, High Street, William Street and at the mouth of Little James Street opposite Rossville Street. It is doubtful whether after their endeavours in Little James Street Mr Hume or Mr McAteer made any further attempt to stop or diminish the riot. It would appear that they moved off towards the top of William Street near the Catholic cathedral. But long before they moved away, and indeed long before any move was made by the police into William Street, at about 3 30 pm, Mr Keenan, Chairman of the DCDA, had given the order to erect barricades. The order was acted on at once, as Sgt Pendleton discovered in an extraordinary journey that he and his armoured vehicle now made through the Bogside.

11.15 After destroying the barricade in Little James Street, the Sergeant took his armoured vehicle with its crew of policemen up William Street towards St Eugene's Cathedral and the Little Diamond, where he reported to HC Fleming. As he moved up the street, his vehicle was attacked with petrol and paint bombs, and, his driver being momentarily blinded, it collided with a lamp-standard. He was ordered to demolish a barricade in the Little Diamond which was obstructing access not only to the Bogside but to a Post Office Depot. He did so, but was unable to get back through the debris. He therefore went on into the Bogside, moving through Frederick Street, Union Street, Rossville Street and so back to William Street. In each of these streets he found and demolished a barricade. His return to William Street was over the top of the Rossville Street barricade, which his vehicle ascended from the rear. Throughout the episode, his vehicle was under continuous attack, and frequently on fire as a result of petrol bombing. His journey revealed the extent to which the Bogside had before 7 pm prepared itself for physical "defence".

Third phase

7 pm—Rossville Street "Incursion"

11.16 When the police found themselves held in William Street, it became the concern of DI Hood, officer in charge of the Reserve Force, to relieve the

pressure. To this end Sgt Pendleton had been ordered to break, as he did, the barricade in Little James Street. But the remaining obstacle to free movement along William Street was the strong point of the Rossville Street barricade.

11.17 The construction of this barricade had begun early in the afternoon, and was well advanced when shortly before 4 pm Miss B Devlin MP arrived in Rossville Street. She actively encouraged its building and, at one stage standing on top of it and shouting through a loudhailer, advocated a withdrawal from William Street into the area behind it. When by about 6 pm it was complete, it constituted a formidable obstacle made up, according to one police witness, of building equipment, trestles and scaffold poles interlocked with each other. Sgt Pendleton saw in it paving stones and concrete slabs. Whatever its exact composition, it was something of a fortress capable of many uses: for as well as blocking entry into Rossville Street it was a menace to police in William Street and Little James Street who were under constant attack from missiles hurled from behind it.

11.18 By 7 pm a large crowd had built up behind the barricade: and movement, even by vehicle, past it and up William Street was difficult and dangerous. DI Hood, in charge of the Reserve Force, decided that it must be destroyed. The situation and his decision were described by him in evidence—

> "We realised that if we could manage to get the barricades down in Little James Street and the one at the mouth of Rossville Street, we could perhaps push the rioters back on to the open ground in Rossville Street and contain them there. Round about before 6 o'clock, I think it was, we put an operation into force and we managed, without any great difficulty, to remove the barricade in Little James Street. That meant that vehicles could do a circular tour round Little James Street, out into William Street and up and round by Infirmary Road and back down Little James Street; in other words, they could do a loop, allowing them limited area to operate. They could also operate the other way, William Street, Little James Street, Sackville Street and Waterloo Place, but every time the vehicles came near Rossville Street they were attacked with petrol bombs, stones and paint bombs from behind the barricade at the mouth of Rossville Street. It was decided that we must try and get this one removed, the one at the mouth of Rossville Street".

He had heard of Sgt Pendleton's passage from back to front over the barricade and believed that it would be possible to remove it. "If we got the barricade removed", he said, "we could push the rioters back up Rossville Street. This was meant to be simply a limited operation".

11.19 The officer he put in charge of the operation was HC Fleming. Earlier he with some constables and vehicles had been in Upper William Street between its junction with Abbey Street and the Little Diamond. They had been under heavy attack from Abbey Street and had had difficulty in keeping some aggressive Bogsiders out of a nearby tyre depot (it and its contents sustained some damage). On the DI's orders he left a small containing force near Abbey Street and came down to Rossville Street. Sgt Pendleton's armoured vehicle now attacked the barricade, and after 6 or 7 attempts broke through. He was followed by a second armoured car, a number of Land Rovers, and perhaps as many as 100 police on foot. This force pursued the retreating

FS1 . 281

Bogsiders as far as "Foxes Corner", at that time a vaguely defined open area just beyond the high-rise flats. As the police moved in, they came under a sustained cross-fire of missiles (including some petrol bombs) hurled at them from the flats and from the maisonettes on the other side of the road.

11.20 The movement was observed by Fr Mulvey, Dr McDermott, and a journalist, Mr O'Boyle, employed by the *Pottstown Mercury*, a newspaper which we were told, and do not doubt, circulates in the United States of America. Mr P Doherty, Vice-Chairman of the DCDA, called Fr Mulvey over to a point in Upper William Street, where he told him in "a rather excited way" that civilians (by which he meant Protestants) were following the police into Rossville Street. Fr Mulvey looked, and saw about 100 people running from Little James Street across William Street towards Rossville Street. Fr Mulvey ran to the police party near Abbey Street and protested: he felt so strongly about it, that he said, as far as he could recollect,

> "unless something is done about them immediately I will go into the Bogside and lead the people myself".

The police officer radioed his headquarters, but Fr Mulvey, deeply disturbed, had left before he received a reply. He went down Abbey Street through Columbcille Court into Rossville Street, where he emerged some 30 yards behind the police front line. As he spoke to a senior officer, the police began a retreat back towards William Street, pursued by a crowd so large that it seemed to him to be "the whole population of the Bogside . . . certainly 1,000 people". He returned past Columbcille Court, some of the windows of which he noticed were broken, to Abbey Street where the police officer to whom he had earlier protested invited him to go down to the Victoria police station. And he went almost at once in company with Father O'Neill, the Cathedral administrator.

11.21 Dr McDermott was in Little James Street when the police broke the Rossville Street barricade: he saw a number of civilians (he estimated it at between 50 and 100) follow the police into the Bogside, and got the impression that they were not local people.

11.22 Mr O'Boyle was perched with his camera on the roof of a building at the junction of Rossville Street and William Street. We have seen two of his photographs and we are satisfied that they are authentic. One shows police and civilians moving across the debris of the barricade into the Bogside behind an armoured car. The second shows the advance seconds later and reveals a number of civilians hurling missiles towards the Columbcille Court maisonettes. These civilians had come from the Protestant crowd in Little James Street. He estimated the numbers of police and civilian followers as 100 and 200 respectively. He also witnessed the retreat, losing his perch and very nearly also his camera in the civilian stampede that preceded the return of the advancing Bogsiders.

11.23 HC Fleming, who led the police into the Bogside and then, under the pressure of heavy attack, brought them out in good order, was unaware of civilian involvement in the movement of his force. But Sgt Harris, who was on

foot, saw them as the police fell back. After [illegible]king that the police were not in sufficient numbers to remain in the Bogside, he saw as he turned to go back 70 to 100 youths who must have followed the police in. They also ran back, and he saw them throwing stones.

11.24 The Tribunal has no doubt that a substantial number of men, mostly very young, and of the Protestant faction, followed the police into Rossville Street and threw stones not only at the Bogside crowd but at the maisonettes. They were not wanted or encouraged by the police: nevertheless they were not stopped, simply because the police were fully occupied with their own advance and their own protection in the face of the Bogside crowd.

11.25 The whole of this incursion into the Bogside lasted no longer than some 20 minutes. In Father Mulvey's opinion it was an event of profound significance. When asked what was its effect on the Bogside people he replied:—

> "I would say that it brushed aside any hope of moderation or any hope of restoring calm. In fact, there was a completely different attitude discernible from that at any previous disturbance that I had witnessed at close quarters. There was what I would call an apparently complete unanimity in opposition to the police force. In fact, then and later that night and over the next few days the determination was so unanimous that I would only regard it as a community in revolt rather than just a street disturbance or a riot".

He added that during the next few days he did not meet anyone counselling peace or restraint or return to their homes.

11.26 At 7 17 pm the police were ordered to withdraw to William Street. A little later Fr O'Neill and Fr Mulvey arrived at the Victoria Police Station where they saw DI McAtamney. They protested about the police throwing stones and being assisted by "Paisleyites". The DI accepted the protest in so far as it related to the "Paisleyites" but made the point that the police, who were suffering casualties, had no alternative to the throwing of stones if they were to do their duty of suppressing and dispersing the riot. The priests then asked if the police might not be withdrawn from the streets: but the DI refused, reminding them how such a manoeuvre had failed in July.

Some questions arising on the "incursion"

11.27 Why did the police decide to enter Rossville Street? The Tribunal is satisfied that it was a Reserve Force operation undertaken, as DI Hood said, to relieve pressure on William Street. CI Mahon, who knew something of the temper of the people, had his reservations as to the wisdom of the operation: but DI Hood, his mind concentrated on a tactical objective, had none.

11.28 Why did the police withdraw? The evidence is conflicting, but the Tribunal is satisfied that the Reserve Force withdrew for tactical reasons, ie because they were not strong enough to hold an extended line into the Bogside under the mounting pressure exerted upon them by the local people. This tactical situation led to a decision not unwelcome to the CI, who believed that an early withdrawal might provide an opportunity for reconciliation. It is

FS 1 . 282

not possible to dete[illegible]e whether Fr Mulvey's protest in Abbey Street influenced the decision: but it must have strengthened the CI's belief that withdrawal presented the best chance of peace.

11.29 What was its effect on the course of the riot? It must have hardened attitudes in the Bogside. The smashing of the barricade, the entry of the armoured cars and foot police, closely followed by Protestant civilians throwing stones, appeared to many as the physical embodiment of their worst fears. The fact that the police had in mind the limited tactical objective of relieving the pressure of rioters upon William Street, the fact that there was no concerted plan between police and Protestants—these facts, though the Tribunal is completely satisfied as to them, were not evident to the people of the Bogside. They believed they were witnessing an attack on them by the police and Protestants. The effect of it on Fr Mulvey's mind was typical: thereafter, there was "complete unanimity in opposition to the police force" by "a community in revolt".

Fourth phase

7 30 *to Midnight*

11.30 Parleys between police and well-intentioned priests could do no immediate good in the situation that now developed. As the police withdrew into William Street and Little James Street, they were subjected to a vicious attack of stones, bottles, iron bars and petrol bombs hurled by the advancing Bogsiders: at the same time a large and angry Protestant crowd was gathered in the Sackville Street–Little James Street–Great James Street area. The gap between the two opposed crowds grew dangerously narrow as the police were forced further back into Little James Street, near the junction of which with William Street the Bogsiders succeeded in establishing a barricade. In the rioting that now developed some of the Bogside crowd entered Brewsters bakery from the top floors of which, until they were dislodged, they hurled petrol bombs at the police in the street below. By 9 00 pm the situation was critical: in the words of HC Hood:—

> "The situation was such that the reserve force head constables were called to Victoria Station for a conference. Buildings were on fire. Thompson's Grain Store had been set on fire. From time to time part of Brewster's building was on fire. Several policemen had been hit and set alight by petrol bombs. Many had been struck by stones. The police were being reduced at a fairly heavy steady casualty rate. There was also the crowd behind the police. One was wondering perhaps if this crowd would take further action".

At the meeting of the head constables the unanimous view was expressed that it was now necessary to use CS gas.

11.31 During the next two hours the riot grew more vicious. It was already the view of two senior police officers—DI McAtamney and DI Armstrong—that it was no longer a police but a military operation. When, therefore, the Deputy IG, Mr Shillington, arrived at about 11 pm at the Victoria Police Station, he learnt that there were serious misgivings as to the ability of the police to defend themselves, let alone to control or suppress the riot. On his way from Belfast he had heard over the car-radio that the Minister for Home

Affairs had authorised, if need be, the use of CS gas ("tear smoke" as it was officially called, although tears were the least of its consequences and smoke a misnomer). Upon arrival he went to Sackville Street where he saw for himself how serious the situation was. Police, he observed, had actually pulled out, exhausted, and were resting on the footpath: it was apparent to him that the police could not keep the crowds apart very much longer. He returned to the police station, spoke to the Minister on the telephone, and then instructed DI Hood first to give a loud-speaker warning and then to use the gas.*

11.32 The DI went by land rover to Little James Street. On arrival, he gave, according to his evidence, a warning through a loud-speaker not once but 3 or 4 times. No notice was taken, and the CS gas was discharged. The result was dramatic and immediate: Little James Street was cleared of rioters and police—the Bogsiders retreating into Rossville Street, the police into Sackville Street, and the Protestants into Great James Street. There was a conflict of evidence as to whether a warning was given: Mr Jackson, who was there at the time, did not hear it. We do not doubt it was given: but we are not surprised to find that in the noise of the riot many failed to hear it.

11.33 Tactically, the use of the gas was a success.† It effected a dispersal of rioters sufficient to enable the fire brigade to get in and deal with the fires raging in William Street and Little James Street. But the rioters began once more to assemble in the early hours of the 13th: they threw stones sporadically from Rossville Street towards the police in William Street and Little James Street. The police therefore fired further cartridges and dropped grenades of the gas out of vehicles in the Rossville Street area with the result that by dawn, while the riot had become sporadic and far less intense than earlier, the area had become enveloped in a pall of gas, covering the streets and penetrating the houses. The point was made several times in evidence before the Tribunal that the gas was discharged not in the direction of Great James Street, where stood the Protestant crowd, but towards the Bogsiders in Rossville Street. This is true: but it faithfully reflected the real source of danger to the police. The Bogsiders were attacking the police; the Protestants were not.

11.34 During the night there occurred two incidents, one of which is of major importance since it involved the use of firearms. Between 11 and 11 30 pm two men suffered gunshot wounds in William Street: fortunately neither man was seriously hurt. There is no evidence that either man was participating in the riot, and no evidence as to who fired the shots. Two bullets, which were removed from the injured men in the course of medical treatment, have been subjected to expert examination. They are 9 mm bullets and appear to have

*Sir R Porter, then the Minister of Home Affairs, said in evidence that he believed this was the first time CS gas was used in the UK as a riot control agent.

†It was reasonable that the police should attempt crowd dispersal with CS gas on the night of 12 August. When the riot restarted on 13 August the police position was defensive. The police then used CS gas, not so much to disperse crowds as to interpose some sort of a barrier between the Bogside rioters and the centre of Londonderry. Altogether 1,091 cartridges and 161 grenades of CS gas were used during the period 12 to 14 August. The use of CS gas on this scale had some tactical success, but it caused deep resentment in Londonderry and elsewhere, and it could not, by its nature, end the disturbance. We do not criticise the police for their use of CS gas at any stage. The medical and toxicological aspects of the use of CS gas in Londonderry were the subject of two reports by committees chaired by Sir Harold Himsworth (Cmnd 4173 and Cmnd 4775).

ricocheted. With one exception, with which we later deal, there is no evidence of any civilian, Protestant or Roman Catholic, carrying or using firearms during the Londonderry riots: and we accept that the DCDA had made known its opposition to the use of firearms. On the other hand, some police were armed with Sterling SMGs, which fire bullets of 9 mm calibre. These weapons were also on issue to USC personnel. There can be no doubt of the fact of gunfire: indeed, Fr Deane, a priest of St Eugene's, heard 5 shots. But the evidence is too scant to permit any finding as to who fired or in what circumstances.

11.35 The other incident occurred at 11 15 pm. A men's hostel situated in Barrack Street, managed by the Methodist Church but occupied largely by Roman Catholics, was set on fire by petrol bombs. The damage was considerable but the hostel was not destroyed. The incident is a reminder that, while the main course of the riot was centred in William Street, there was tension throughout the city and incidents of violence were occurring here and there devoid of any pattern or coherent plan.

CHAPTER 12—LONDONDERRY—13 AND 14 AUGUST

13 August—5 15 am 14 August

12.1 By 7 00 am on the morning of the 13th the police had re-entered Rossville Street where they held a line running from Eden Place to the maisonettes. During the hours of daylight they preferred the open spaces of Rossville Street to the confines of William Street because they could see what was being thrown and take avoiding action: but at night William Street offered a better defensive position. They could not, however, advance beyond Eden Place; for if they did, they found themselves within range of missiles hurled from the top of the high-rise flats.

12.2 A sort of stalemate prevailed in Rossville Street for most of the day. The police fired CS gas sporadically towards the Bogsiders, who threw stones and petrol bombs from the roof of the high flats and from a low barricade put across the street between the flats and the police line. Occasionally the police returned the stones.

12.3 Behind their position the Bogsiders, who now saw themselves as engaged in a battle to keep the police out, were busy with defensive preparations. Mr Melaugh organised people to spread coal-bags, which he soaked with a water-hose, over areas where gas grenades and cartridges had landed: others doused gas-affected areas with water they discharged from an abandoned fire hydrant, while yet others burned tyres in an attempt to disperse the gas. Two journalists, Mr Jackson and Mr Jones, during their separate wanderings through the Bogside, saw parties of people making and distributing petrol bombs. Mr Jones described the scene in these words:—

"The whole of the Bogside had been turned into a munitions camp . . . In many streets women and children were filling bottles with petrol and some other substance in order to make petrol bombs. They were filling the bottles

FS1 . 283

from bath-tubs which were filled with pe[illegible]. Other children were ripping up paving-stones, breaking them, putting them in wheel barrows and transporting them to where the main confrontation was".

He further saw ready for use against intrusive police vehicles a long plank with nails driven into it and a more elaborate device, a steel cylinder on to which pointed steel spikes had been welded. When he made his way up to the roof of the high flats he found it heavily stocked with missiles and petrol bombs.

12.4 At about 7 am the Deputy Inspector-General was again on the scene: he formed the opinion that army intervention would be required within 24 hours, and so expressed himself on the telephone to the Inspector-General who set in motion the process necessary to ensure that the army would be available if called upon. At 11 am the Deputy Inspector-General gave a press conference at the Victoria police station in the course of which he sought to explain police tactics: pressed about the use of CS gas and the continuing presence of police in Rossville Street, he emphasised the defensive and containing character of police action.

12.5 The Bogside was a lively and—for some, no doubt—an exhilarating place this day. Miss Devlin was active in Rossville Street. She was seen in the afternoon to be actively defending the Rossville Street barricade, taking missiles up to its defenders, and shouting encouragement to them. In the morning, watched by the television team who accompanied her on her visit to the city, she had led a flag party to the high flats where she unfurled at one end of the roof the "Starry Plough", flag of the Connolly Association. The Irish Republic's tricolour was already flying from the other end of the roof. Lest there should be any misunderstanding, Miss Devlin assured the Tribunal that she raised the "Starry Plough" as a gesture of opposition to, not support for, the tricolour.

12.6 It is not really surprising that into the exciting arena of the rioting Bogside there came some foreign students. Mr Jones, in his travels around, met about 8 or 10, one or two of whom he thought were French students ("there is something about French students, you can pick them out a mile"). They helped to defend the barricades: one student, indeed, told him they would show the Bogsiders "how it was done". Nevertheless, it is clear that there was no large foreign student presence, that such of them as came seldom cast themselves into a role more active than that of sympathetic sightseers, and that neither their presence nor their actions influenced the riots in any significant degree. Mr Jones described those he saw as "itinerant anarchists": it is as good a description as any of their interest and influence—transient and slight.

12.7 In the course of the day Miss Devlin had some inconclusive conversations over the telephone with Major Chichester-Clark, Mr Porter and Lord Stonham. The Deputy Inspector-General was kept informed. He decided to attempt a parley with Miss Devlin in Rossville Street. Accordingly he and DI Armstrong, dressed in their ordinary uniform, showed themselves at the barricade well beyond the police line. In an endeavour to stimulate goodwill the Deputy Inspector-General ordered the police to withdraw to William

FSI · 284

Street: but Mi[illegible]n did not appear. The only reaction from the Bogside was an intensification of the attack as the police drew back. The attempt to parley was abandoned and the police returned to Rossville Street.

12.8 During the afternoon an incident occurred, which calls for remark only because it is the one direct piece of evidence of a firearm in the hands of a Bogsider during the August riots. A *Daily Telegraph* photographer, who was watching a minor encounter between police and rioters in a small lane-way on the north side of the maisonettes in Rossville Street, noticed a man carrying a gun. He took some photographs. It is clear that a man was there armed with a gun, even though policemen who were in the lane-way did not see him. But there is no evidence to suggest that the gun was fired, or that the display of the gun was anything more than a gesture.

12.9 While in the centre of the city during the afternoon and early evening activity was limited to static rioting, the hurling of missiles by Bogsiders and the occasional discharge of CS gas by the police, mob violence erupted near the police station in the Rosemount suburb. But, before dealing with what developed into the siege of a police station, mention must be made of two events. At 8 30 pm Mr Paddy Doherty and Dr McDermott held a short press conference in the Bogside. They alleged that hundreds of marauding Paisleyites, openly supported by the police, had wrecked and burned premises in the Bogside, that a heavy blanket of tear gas had taken its toll of human suffering, that law and order had broken down, and that the Stormont government was incapable of governing. It was a call to arms, not a factual account of the riot; but its distortions and exaggerations do underline the melancholy truth that law and order had indeed broken down; needless to say, the conference did not emphasise the Bogsiders' contribution to the sorry state of affairs in their city.

12.10 The conference broke up in order that all present might listen to a radio broadcast at 9 pm by Mr Lynch, the Prime Minister of the Irish Republic. There is no doubt that this broadcast strengthened the will of the Bogsiders to obstruct any attempt by the police to enter their area and to harass them by missile and petrol bomb attack whenever they appeared on the perimeter. The truth is that the Bogsiders were by now not willing to accept the civil power of the state within the Bogside. Their success at the barricades combined with the words of Mr Lynch and the natural reluctance of the civil power to switch from defence to attack enlarged their ambitions and strengthened their will. Meanwhile the inability of the police to suppress the riot in the city centre had two predictable consequences: the riot spread outwards, and the Protestant community, restless ever since the attack on the Apprentice Boys but held in check (save for the sporadic activity of small numbers in Little James Street and during the police incursion into Rossville Street), assembled in strength. The Rosemount siege and the sectarian conflict which were the major events of the night of the 13/14th were derived directly from Bogside success in the city centre.

12.11 The Rosemount police station stands on the Creggan Road near its junction with North Street: it is the centre from which the predominantly Catholic area of the Creggan estate is policed. In the early hours of the 13th

—about 1 am—two petrol bombs impr[illegible] from 1 gallon petrol cans had been placed outside the station door, but ha[illegible]ot ignited. But in the afternoon, at about 3 00 pm, a mob attacked the station. Some 30 petrol bombs were hurled at its outer doors, which caught fire. The rioters withdrew to the North Street junction where they were joined by others and built a barricade. Very soon a mob of between 200 and 300 had assembled. At 3 20 pm police reinforcements arrived at the station, which now became the scene of very serious violence. Crowds, estimated by the police to number 600, attacked with petrol bombs and an assortment of missiles; the police counter-attacked with baton charges, picked up stones and flung them back at the crowd, and resorted to the discharge of CS gas. The rioters put up more barricades, so that by 6 30 pm the station was in a state of siege, completely cut off from outside help. At about 9 30 pm, through the good offices of Mr Hume who led a deputation to parley with the senior police officer in the station, a truce was arranged, its terms:—no use of CS gas and no attempt to break the barricades provided there were no further attacks on the station. With one exception, which, since it occurred soon after the truce was negotiated, was probably due to misunderstanding or ignorance of what had been agreed, the truce was observed until the station was relieved at 5 15 am by police freed by the dying down of riot activity elsewhere in the city.

12.12 Meanwhile a very serious riot developed in Great James Street, in the opinion of DI McAtamney "definitely the most serious sectarian confrontation during the August riots" in Londonderry. The DI in his evidence drew attention to the fact that it developed on the second night of the riots when people had been disturbed by the first night's events and came into the city to participate in a riot if the opportunity presented itself.

12.13 It arose in this way. At about 9 pm the police withdrew for the night from the Rossville Street–William Street junction. Their main position was now in William Street opposite Chamberlain Street, while a small detachment stood in Little James Street. The Bogsiders—no doubt heartened by Mr Lynch's broadcast—followed up the police withdrawal, taking over the Rossville Street–William Street junction and hurling petrol bombs and other missiles at the police. Sometime between 9 and 10 pm premises in Upper William Street (notably a shirt factory which backed on to the Presbyterian Church in Great James Street) and in Little James Street were set on fire.

12.14 The small police detachment in that street now felt the first effects of the developing sectarian conflict. In the course of the evening a Protestant crowd gathered in the general area of Guildhall–Waterloo Place–Strand Road. Men had been observed coming from the Fountain area until there were, by 9 40 pm, some 200 of them, angry and aggressive, where Sackville Street joins the Strand Road. They made their way into Little James Street and began hurling stones over the heads of the police at the Bogsiders. The scene was graphically described by HC Campbell:—

"There have been very, very few occasions on which I have actually seen excesses on the Protestant side. On one occasion I did see it—it was on this night of the 13 August when I had very few men at the corner of Little

James Street/Sac[illegible]ille Street. We were defending that corner and if the rioters [ie the Bogsiders] had known how depleted I was they would have had no difficulty in burning this town down . . . About 9 40 or thereabouts . . . I heard shouting, a lot of shouting in Sackville Street and my immediate reaction was that we had been surrounded . . . but when I looked round, it suddenly dawned on me . . . with their red, white and blue tam o'shanters . . . that they were actually a Paisleyite crowd. . . . We were brushed aside. That crowd engaged in stone throwing . . . for 4 or 5 minutes, and they left just as quickly as they had come and went to Great James Street".

It was asserted in evidence by a journalist, Mr Hatfield, that, while HC Campbell's small police force was under this pressure, one or more policemen discharged their firearms. This was denied by the Head Constable. Mr Hatfield told the Tribunal that at a time when Bogside rioters had entered Brewsters bakery (and before it was burnt out by petrol bombs) a face appeared at one of its upper windows, that he saw a policeman fire at the window, that he heard the shot, and that the face disappeared. He believed he heard other shots, and he collected a number of cartridge cases, 3 of which have been forensically examined and appear to have been fired from the same ·38 revolver, which was proved to have been on issue to a policeman on duty in the street at the time. The policeman, having since died, was not available to give evidence.

12.15 Because of this allegation and others there was subsequently a check on police ammunition: no deficiency was found. And no policeman reported that he had fired his weapon—which it was his duty to do, if he had.

12.16 The Tribunal accepts the evidence of Mr Hatfield, supported as it is by the examination of the 3 cartridge cases. As DI McAtamney remarked, there are ways and means of concealing an ammunition deficiency: and, as the Tribunal has reason to know, constables do not always report the discharge of their firearms. Serious as was the situation of these few policemen sandwiched between two hostile crowds, the use of firearms was not justified. There is, however, no evidence that anyone was injured by the firing.

12.17 The Protestants now gathered in Great James Street. By 10 pm they may have been as many as 300: some of them were chanting slogans in support of Mr Paisley, some were equipped with helmets, shields and sticks. Their presence caused consternation among the growing numbers of Catholics at the top of the street, who feared an attack on their cathedral, St Eugene's. Between the two crowds stood some police (at first no more than 40 of the Reserve Force, later reinforced to a strength of 70) and an armoured car.

12.18 The Catholic crowd threw a barricade across the street and made ready to repel any advance by police or civilians towards the cathedral. A local journalist commented to the Tribunal that the composition of this crowd differed from most crowds he had seen in Derry in that a very large proportion of the people were "middle-aged, business people, professional people, and so on". Certainly Mr McAteer, Fr Mulvey and Mr Canavan were at one time or another in the crowd, which proved itself determined and resourceful until it was finally dispersed.

F51.285

12.19 Alarmed by the rumour of ii. [illegible]g attack on their cathedral, the crowd was not comforted by what it believ[illegible] was witnessing in Great James Street. They thought they saw civilians supporting the police and joining in the several baton-charges the police made up the street. What they did see was not so sinister, but just as alarming. There was no sort of alliance or concert between police and Protestants: but the police were quite unable to prevent civilians mingling with them and surging forward with each of their advances up the street. Catholics complained bitterly that baton-charges were reserved for them—why not charge the Protestants? But Catholics were attacking the police with stones, petrol bombs, and later with blazing vehicles: the Protestants were not.

12.20 With the aid of CS gas the police, closely followed by the uninvited Protestants, made their way up Great James Street as far as its junction with Lower Road. Despite their furious counter-attacks, the Catholics retreated. The gas was having its effect, as Fr Mulvey found when he rescued two old ladies, taking them to the comparative safety of his presbytery. Some of the more high-spirited (and intoxicated) members of the Catholic crowd sent rolling down the hill a number of vehicles, some of them on fire. They included an ice-cream van and some Post Office vehicles seized from the Little Diamond depot. Fortunately they veered off the roadway into lamp-standards which halted harmlessly their uncontrolled careers.

12.21 The police inched their way up the street until at about 3 am they were able to execute a "pincer movement" around Prince's Street and Infirmary Road. Before they did so, they had managed to push the Protestant crowd down the street, warning them that if they refused to go the police would not mount their pincer operation. The point was taken, and there was no further trouble from the Protestants. The pincer operation was itself a success and the Catholic crowd dispersed. The end of the affair enabled the police to relieve the Rosemount station, as already described.

12.22 In the course of this riot two men, and almost certainly a third, suffered gunshot wounds. Two men, Mr McDade and Mr Doherty, were admitted to hospital suffering from wounds caused by ·38 revolver bullets. A third man, Mr Joyce, sustained a superficial head injury which could well have been caused by gunfire. Without detailing all the evidence, it is enough to record that the Tribunal is satisfied that Mr McDade and Mr Doherty suffered gunshot wounds in the course of the Great James Street riot: and it is probable that Mr Joyce did so too. Young Mr McDade, hearing the rumour that "the Paisleyites were going to attack the Cathedral chapel" made his way to the top of Great James Street and took part in the riot: on his own admission he threw one petrol bomb. As he was retreating, he says he was hit in the back, and fell, shouting "I am shot". Mr Doherty, an older man, had been standing with Mr McAteer, watching events, when he was shot. Mr Joyce was standing in Great James Street: when he turned to go home, he was struck on the head by something.

12.23 If these men were shot (as certainly two and probably all three were), who shot them? Mr Joyce described seeing 4 policemen firing their guns. The police deny any knowledge of shooting: we have already mentioned the negative result of the subsequent ammunition check and the absence of any police report

of shooting. T[illegible]no evidence of civilians on either side being seen with guns. The injuries [illegible]Mr McDade and Mr Doherty were caused by bullets of the type issued to police armed with revolvers, and the Tribunal finds that some policemen did fire in the direction of the crowd hostile to them, ie the Catholics. Whether they were firing over their heads, as Mr Joyce thought was possible, or into the crowd, the action was unjustifiable in the absence of an order to fire: and no order was given. Grave as was the police situation, there is no evidence to suggest that any policeman needed to fire in self-defence. Throughout these riots the police took the creditable view that the mere use of petrol bombs, dangerous though they were, did not justify retaliation by gunfire. The Tribunal believes the police were correct in this view, which was, nevertheless, a courageous and praiseworthy one in the circumstances.

12.24. The Great James Street riot was a true sectarian conflict. Communal in character, each side attributed sinister intentions to the other and fed their zeal for violence with rumour and exhortation. In the midst stood the police, always in danger of being overwhelmed. It is not surprising that DI McAtamney, who had formed the view by the late afternoon of 12 August that the Army was required, now said to Lt-Col Todd, the senior Army officer present in the city, that "the time for the Army to be brought in had *certainly* arrived . . . we were not in control of the situation".

14 *August*

12.25 By the morning of the 14th it was obvious to the seniro police officers that their men were too few and too tired to restore order in the face of Bogside resistance. Severe static rioting continued all day in the William Street/Rossville Street area: and in the afternoon a serious disturbance developed in Bishop Street near the Fountain and Long Tower Street. The police did well to contain and limit these troubles: more than this was now beyond them. They knew that it was no longer possible for them to restore law and order to the Bogside or peace to the city. In the course of the day the USC were brought on to the streets and the decision to call upon the Army was made and implemented.

12.26 It is unnecessary to describe the rioting in detail. About 8 am the police re-entered Rossville Street. They were subjected to missile and petrol bomb attack: they retaliated with CS gas. In the course of the day a party of police reached the roof of the maisonettes and cleared it of rioters who had been hurling missiles at the police below them in the street. There is no evidence to suggest that they entered any flat or maisonette. Heavy fires, caused by petrol bombs and perpetuated by the inability of the fire brigade to reach them, had developed in the William Street area by 4 pm when the police, followed up by Bogsiders, retreated from Rossville Street into William Street.

12.27 So far one of the features of the rioting had been the refusal of authority to deploy the USC. This was a deliberate act of policy: for senior police from the Deputy IG downwards were well aware that the presence of USC where they could be seen by Bogsiders was likely to cause apprehension and intensify the riot. On the 13th a small detachment had been held in reserve, a few being employed that night in the Fountain area. On the 14th a decision was taken at Stormont to mobilise the USC, and in the course of the afternoon

FS 1 . 286

the radio broadcast a call to all special constables to report for duty. In Londonderry they reported to their headquarters; a party of 60 or so was dispatched to Waterloo Place, armed with batons and pickaxe handles: only their NCOs and officers carried firearms. From Waterloo Place a few were sent to Castle Gate and Butcher Gate. USC personnel were also on duty in Bishop Street when the afternoon's rioting broke out.

12.28 The sight of the hated "B Specials" moving to the Gates had its predictable effect on the Bogsiders, fear and anger. There was some stoning—probably by both sides. But, by and large, the USC behaved in a disciplined way. They certainly helped to restrain the Fountain Street crowd for a time, though in the end a serious riot did develop in Bishop Street.

12.29 The course of events in Bishop Street is not absolutely clear. During the afternoon some five buildings, all owned or occupied by Roman Catholics, were set on fire and by 4 pm, when a platoon of the Reserve Force with armoured cars arrived, a serious riot was in progress. Stones and petrol bombs were being exchanged between the Fountain and Long Tower factions: and it is probable, as was given in evidence by some witnesses, that a few members of the USC joined in. The Reserve Force, using CS gas, managed to separate the crowds, but not before considerable destruction had been done by the fires, which the Long Tower crowd had prevented the fire brigade from reaching.

12.30 By 5 pm the police were on the defensive in William Street, a sectarian riot was in progress in Bishop Street, and the Bogside was alive with rumours that the B Specials were coming. At this moment a company of the 1st Battalion of the Prince of Wales Own Regiment arrived in Waterloo Place under the command of Major Hanson. A barrier of wire was put across the roads leading into Waterloo Place, a gap being left through which the police withdrew from William Street. The Bogside crowd followed up to the wire, where Mr McAteer parleyed with Major Hanson. He asked if the police could be moved out of sight and this was done. He asked for a fire engine to deal with the fires burning in William Street. A little later Mr P L Doherty, Mr Canavan and Mr Stanley Orme MP called on the battalion Commanding Officer, Lt Col Todd, at the Victoria Barracks: the colonel agreed to withdraw the police behind the army lines, thereby modifying his original plan for a joint police-military operation.

12.31 The army now took over the police lines in Waterloo Place, at Castle and Butcher Gates, and—about 7 15 pm—at Bishop Street where the sectarian riot was dying away. Whenever and wherever the soldiers appeared, rioting ended. It is true to say that their arrival was welcomed. The city was tired and the army presence afforded a sound reason for going home.

12.32 After the army arrived on the streets there was a public altercation between Mr P L Doherty and Miss Bernadette Devlin. The details were disputed. Mr Doherty was telling the Bogsiders that the fight was over and that the police had been defeated. Miss Devlin, he thought, was telling them to continue fighting, on the grounds that Stormont had not been suspended and that the army was there to help Stormont. This version was supported by Mr Tarleton. Miss Devlin, however, claimed that she did not want the people to be deceived

into thinking that Stormont had been suspended and that she was certainly not telling them to fight the army. It was on this occasion that Mr Doherty described Miss Devlin as an agitator, and Miss Devlin said Mr Doherty had done nothing to defend the Bogside. The Tribunal has no doubt that, whatever the words used, two differing points of view were being put to the people; by Mr Doherty that their objectives were achieved and that they should go home: by Miss Devlin that they were not and that the people should stand to their barricades.

12.33 On the next day Mr Canavan and Mr P L Doherty called on Col Todd, telling him that they represented both the DCAC and the DCDA. As well as requesting an amnesty for those who had taken part in the riots, the two spokesmen presented the Colonel with a list of "long-term demands". These were: the abolition of Stormont, restriction of the RUC to purely peace-keeping duties, disbandment of the B Specials and repeal of the Special Powers Act. Col Todd immediately despatched this list to his headquarters in Belfast.

12.34 At the same meeting Col Todd tried unsuccessfully to persuade Mr Canavan and Mr Doherty to allow his troops to enter the Bogside. In the absence of their agreement, the Colonel did not insist and (with the exception of one accidental intrusion) his men did not enter the Bogside at any time up until the battalion's departure on 19 August.

12.35 Before leaving, Col Todd had yet another meeting with Mr Canavan and Mr Doherty in the course of which Mr Canavan commented that they would regard themselves as being "at war" until Stormont was abolished. Mr Canavan told the Tribunal that what he had meant by this expression was that there would be no peace in Northern Ireland while Stormont remained.

FS 1 . 287

PART V—THE SPREAD OF THE RIOTS

CHAPTER 13—POLITICAL PRESSURES ON 13 AUGUST

13.1 The rioting in Londonderry had begun on Tuesday, 12 August. On Wednesday night there was serious rioting elsewhere and trouble had spread to Belfast. In the later part of the week most of the violence was in Belfast. The Tribunal's terms of reference do not include events in Lurgan, Strabane and other centres. This exclusion simplifies our account of the spread of rioting but at the cost of completeness. We do not think that the general balance of our narrative would have been altered if these centres had been included, but the fact of rioting elsewhere in the Province must be borne in mind.

The situation now becomes so complex that a clear narrative is difficult to achieve. What we do is to set out political events and pressures on 13 August. Then we narrate events between 11 and 15 August in Dungannon and Coalisland, Newry, and Dungiven. Next we narrate the far more serious disturbances on the night of 13th in Belfast, dealing first with West Belfast and then with the Ardoyne.

13.2 We start with political pressures on 13 August. The NICRA had held a special general meeting on 10 August. Some expressed fears of violence in Londonderry and a number of those present volunteered to go there on 12 August to exert their influence to diminish any violence which might occur. However once the rioting had begun Mr Gogarty* received telephone requests to organise diversions from Mr Keenan, Mr McCann, Miss Devlin and Mr Seth. There was also a report to the association from Mr Kevin Agnew, a member of the executive, who was present when CS gas was first used. These calls were received on the night of 12 August. On his own initiative Mr Gogarty telephoned CRA branches and issued a press statement about the situation in Londonderry. His call for diversionary tactics was published in some morning papers on 13 August. The *Irish Times* carried an item calling upon Civil Rights people throughout Northern Ireland to hold demonstrations.

13.3 In the early hours of the morning of 13 August the Minister of Home Affairs, in exercise of the powers conferred on him by section 2(2) of the Public Order Act (Northern Ireland) 1951, banned all public meetings and outdoor processions from 13 to 31 August.

13.4 On the morning of 13 August a special meeting of the NICRA executive was called in Belfast. On 20 April when serious rioting occurred in Londonderry the association had been involved in organising diversionary meetings at various centres in the Province. On that occasion the police were withdrawn from the Bogside and the Civil Rights demonstrations were felt to have been effective. Only in Belfast had they led to violence. On 13 August the association decided to seek a meeting with the Minister of Home Affairs and tell him that diversionary demonstrations would be held in many places if the police did not withdraw from the Bogside. Local associations were asked to be ready. It was firmly decided that no meeting should be held in Belfast on 13 August because of the risk of violence but there was some difference of

*Chairman of NICRA.

recollection about a possible meeting in Belfast on 14 August. The possibility was left open in a public statement on 13 August by Mr Boyle, the association's Press Officer. Mr Boyle said this statement represented the association's position. Mr Gogarty, however, claimed that he had been strongly against any meeting in Belfast and that Mr Boyle's threat of a possible meeting on 14 August was solely a PD responsibility.

13.5 The Minister was however unable to meet representatives of the CRA at Stormont because the Prime Minister had asked to see him shortly before they arrived. Instead, they saw his Parliamentary Secretary, Mr J D Taylor MP. The deputation included Edwina Stewart, and Messrs Michael Farrell, Denis Cassin, Erskine Holmes, Peter Morris and Kevin Boyle, and in addition Mr Simpson MP (NI) and Mr Devlin MP (NI) were present. According to Mr Simpson the deputation expressed its views about police behaviour in the Bogside and suggested that, if the police withdrew, negotiations with the Bogside would be possible and the barricades might then come down. There were suggestions that the Minister should himself go to Londonderry. Mr Devlin said "We told him that a number of meetings and demonstrations had been arranged for Northern Ireland, excluding Belfast, and we asked if he was prepared to get in touch with the Minister and the Prime Minister with a proposal that if the police would withdraw from the Bogside we would attempt to get in touch with the Bogside people to stop them and also that all demonstrations would be called off". Mr Devlin made the point that he did not want arms or soldiers used because they would aggravate the situation. The interview was felt to be unsatisfactory by the deputation. It ended about 5 30 pm.

13.6 At 6 pm the Prime Minister of Northern Ireland broadcast on television. During this speech Major Chichester-Clark said, in relation to the Londonderry riots, "We want peace not vengeance. If the rioters withdraw peacefully to their homes and observe the law no attempt will be made to exploit the situation". The speech also announced that the Northern Ireland Parliament would be recalled for the following day and that the USC would be used to the full to relieve the regular police force of other duties. It also indicated that if necessary "the civil power" would not shrink from summoning "other aid".

13.7 The CRA deputation saw this broadcast at Mr Gogarty's house. Mr Boyle and Mr Devlin agreed in evidence that they detected in it some signs that a truce might be arranged. Mr Devlin spoke to Major Chichester-Clark, who agreed that Mr Devlin should talk to Miss Devlin. There was some difficulty in reaching her but eventually a telephone discussion took place. However Miss Devlin said she could not give an assurance that the police would not be followed if they withdrew from the Bogside. The Prime Minister's proposal therefore came to nothing.

13.8 Meantime country branches of the CRA were telephoning about their demonstrations. Mr Gogarty said that the intention was that these should be non-violent, "and it was implicit that these would be organised by local groups, by people known in the area as Civil Rights leaders". The final decision rested with the local people. Thus, in Lurgan the leaders would not arrange a public

FS 1. 288

demonstration because they had not sufficient guards and there was tension in the town. But when asked whether he did not think it was courting danger to bring the people of Coalisland out on to the streets Mr Gogarty replied "No, the situation in the Bogside was far too grave". On the other hand he testified that "Many of the people we contacted did inform us that, whether we called for demonstrations or not, feeling was so high that there would be spontaneous demonstrations against the police".

13.9 At 9 pm there was Mr Lynch's broadcast.* It was regarded as provocative in many Protestant and Unionist circles and as an encouragement by some Catholic activists. Mr P Kennedy MP, who was present on the Falls Road on 13 August, said "So you had a situation, a very tense situation, here in Belfast and, because of the Derry situation, this tension was heightened on the Falls, in my opinion—and it is only my opinion—by the Taoiseach's speech of 13 August". According to Max Hastings "It was the opinion of most observers at that time that it was as a direct consequence and immediately following Jack Lynch's television appearance that the attacks on Hastings Street police station and the events of Wednesday night began".

13.10 Neither Mr Boyle nor Mr Gogarty admitted to any knowledge of the Divis Street meeting which took place in the early evening of 13 August nor of participants in it. However a publication called "Terror in Northern Ireland" issued by the Citizens' Defence Committee states that "It seems, however, that the initiative was taken by a small group of young Civil Rights supporters who met at Divis Towers" According to Mr P Kennedy MP (NI) he saw Mr Fergus Woods, an original PD leader, organising or trying to encourage men to act as stewards on 13 August. The Tribunal has evidence that a loudspeaker mounted on a white Cortina called people to such a meeting on the evening of the 13th, but the identity of those concerned was not established.

13.11 The Tribunal is satisfied that the call for demonstrations initiated by NICRA at the request of the Bogside leaders contributed to the deterioration of the situation in the Province and did not go unheeded in Belfast, even though the executive was concerned to exclude the city. The association did not advocate violence but it encouraged a course of action which might well, as in the event it did, offer to others less well controlled the opportunity of violent clashes with the police. It was an opportunity that was seized in many centres, and most dramatically in Belfast itself.

CHAPTER 14—DUNGANNON AND COALISLAND

General

14.1 Dungannon, a town of some 8,000 inhabitants in Co Tyrone, has a sad history of sectarian tension.† Its population is divided very roughly half and half between Catholics and Protestants. Because of the composition of its population and the strong feelings engendered by sectarian animosity in the town, Dungannon is a very sensitive reactor to trouble in the Province. The Protestant

*Set out in Appendix V A (vii).

†Street plan of Dungannon is at Appendix VIII (H).

and Catholic sections of the community live in separate parts of the town; the Protestants in the east and the Catholics in the west. While both sections of the community recognised that each had the right to their traditional processions passing through the Market Square, the Protestants were extremely sensitive to any Civil Rights activity in the Square or the centre of the town. HC Hyndman, who had been stationed in the town for 14 years, admitted in evidence that the Civil Rights Movement was anathema to the Protestants in so far as the Market Square was concerned.

14.2 As a matter of history, the disturbances associated with the Civil Rights Movement in Northern Ireland began with a march from Coalisland to Dungannon on 24 August 1968. This demonstration suggested to certain bodies and persons in Londonderry that public attention might be drawn to their claims by way of similar action which they originally intended to be non-violent. There were further disturbances in Dungannon on 23 November and 4 December 1968. The Cameron Commission found that on 4 December certain members of the USC, including at least one officer not on duty, were present among the crowd engaged in hostile demonstration against the Civil Rights supporters. Unfortunately this feature of the riot of 4 December was repeated in Dungannon in August 1969.

14.3 The offices of the Urban District Council are situate on the east side of the Square, ie the Protestant side. The Council enjoyed an unhappy reputation with the Catholics so far as its housing policy and allocation were concerned. Consequently in the months of May, June and July 1969 the Civil Rights supporters picketed the monthly meetings of the Urban District Council. These pickets heightened tension in the town and provoked some indignation among the Protestants. The tension was sufficiently serious for the police to arrange for substantial reinforcements to the Dungannon force on the occasion of the monthly meetings of the Urban District Council.

Events of 11 August

14.4 A monthly meeting of the Council was scheduled for 7 pm on Monday 11 August: the usual Civil Rights picket was expected, and the local police force was reinforced. Its strength of approximately 20 constables was increased to 107 by reinforcements from Belfast, Armagh and Co Tyrone. Unexpectedly, however, the Protestants forestalled the Civil Rights people; for the first time they set up a picket outside the Urban District Council offices. About a dozen or so Protestants with two Union Jacks placed themselves outside the offices around 6 30 pm. When the Civil Rights supporters arrived in the Square they found the Protestant picket in position, and very sensibly withdrew. They remained, however, on the west side of the Square near its junction with Thomas Street. Councillors arrived for the meeting and those who were recognised as being associated with Civil Rights activity or the Opposition were greeted with a certain amount of jeering. During the course of the meeting the crowds slowly increased; when it came to an end at about 9 30 pm, the Protestant crowd was of the order of 100 persons and the Civil Rights crowd at the other side of the Square about half that size. Councillor Hassard told the

F51 · 289

Tribunal that he recognised in the Protestant crowd certain persons whom he knew as members of the USC. They were in civilian clothes and at least one of them was a flag bearer. The Tribunal has no reason to doubt this identification; it would not be at all surprising to find members of the USC in a Protestant crowd in Dungannon. The Tribunal is, however, completely satisfied that these men were not on duty and that there were no uniformed USC personnel in the Market Square on the evening of 11 August. The Tribunal is also satisfied that no civilians of either crowd were carrying arms. Notwithstanding the tension and a certain amount of cat-calling as the Councillors made their way out of the meeting, there was at this time no violence. Indeed, as the Councillors moved away from the Council offices, so the two crowds began to diminish. By 10 o'clock CI Landale, who was himself in Dungannon, reached the opinion that there was unlikely to be any serious trouble and dismissed the Belfast and Armagh contingents of police and also a substantial number of those from the County force outside Dungannon. He himself returned to Omagh.

14.5 The town remained quiet until about 10 30 pm, when a minor incident occurred which appears to have been the beginning of the night's disturbances. A bin lid was flung from the Civil Rights crowd near Thomas Street in the direction of some Protestants who were in the Square. This trivial incident provoked the Protestants. HC Hyndman, who was at the time touring the town, returned to the Square where he found a situation which he described as one of scuffling between the two crowds. Additional police were brought into the Square and the crowds were separated; the Protestant crowd going down to the mouth of Church Street, the Civil Rights crowd making its way towards Irish Street. At this stage a number of Civil Rights stewards, including Councillor Hassard, did excellent work in shepherding the Civil Rights crowd towards the entrance of Irish Street and persuading them to retreat some distance down the street. Comparative quiet had returned when a private car was observed to be coming at a considerable speed up Irish Street and through the Civil Rights crowd in the direction of the Square. Its speed was estimated at between 20 to 25 miles an hour which was far too fast for the overcrowded narrow street. It was in second gear and the noise must have been almost as frightening as the appearance and speed of the vehicle itself. Members of the Irish Street crowd, and at least one policeman, had to jump out of the way in order to avoid being run down. As the car emerged into the Square a great cheer went up from the Protestant crowd near Church Street. The car moved across the Square and without stopping disappeared down Church Street. This incident incensed the Irish Street crowd. It is not possible to determine whether the driver, who was a Protestant, was intentionally creating an incident amongst the Irish Street crowd or whether, as he said at his subsequent trial for dangerous driving, he was panic stricken at finding himself in the midst of a hostile crowd and anxious only to get away as soon as possible.* The fact remains that the episode was the beginning of serious rioting. Almost immediately after the car had disappeared, stones and other missiles began to fly from Irish Street in the direction of the Square. There was a conflict of evidence as to who began the stoning and which crowd was responsible for the majority of the missile throwing. The Tribunal is satisfied that, angered by the car incident, the Irish Street crowd began it.

*The driver was charged with dangerous driving. He was found guilty of careless driving and fined £10.

FS 1 290

But it is equally clear that the Protestant crowd was not slow to reply in kind. In this deteriorating situation HC Hyndman decided that the police would have to clear Irish Street.

14.6 While these events were occurring the Reserve Force and other police reinforcements who had been dismissed had been recalled to Dungannon. HC Stewart and his Belfast Reserve Force Platoon were once more available and he was ordered by HC Hyndman to clear Irish Street. Although Councillor Hassard and others were doing their best to control the Irish Street crowd, they were not succeeding with unruly elements at the back. Stone throwing was persistent, and a police constable had already been injured. The police detached a small party to hold back the Protestant crowd in Church Street while the larger party conducted its baton charge down Irish Street. Unfortunately the baton charge must have appeared to the crowd in Irish Street as yet one more illustration of police partiality: for, while the police charged the Catholics, they merely restrained the Protestants. The Protestant crowd had been and was continuing to exhibit signs of hostility and aggression but it was amenable to control by the police; they had no difficulty in restraining them in Church Street. It is significant that Councillor Hassard, who showed himself a fair minded witness, when asked in cross-examination whether in the 11 August riots the police had shown a partiality against one section of the crowd in favour of another replied that they had not, even though he condemned the conduct of the baton charge as harsh.

14.7 The baton charge succeeded in clearing Irish Street but not without causing a number of casualties. HC Stewart himself was injured and also two of the stewards, Councillors Hassard and McKay, both of whom had been doing their best to control the crowd; Councillor McKay was hit over the head. After the crowd had dispersed, the police withdraw from Irish Street into the Square where by this time CI Landale had arrived on his return from Omagh. Some Protestants remained in the Square and there were others in Church Street. Mr Hassard made his way to the knot of senior policemen in the Square and made his protest about the baton charge. He declared that, unless he could report to his people, who were now gathered in Anne Street, that the Square was clear, it would be very difficult to persuade them to go home. On a second visit to the Square he realised that the Protestants had largely dispersed and with this information he returned to Anne Street.

14.8 Mr Hassard reported back to a meeting of some 60 or 70 people now assembled in Anne Street. They were in angry mood, believing that they were the victims of unfair police attack. At least one speaker suggested that a Defence Committee should be formed in order to defend the Catholic part of the town. There were many young people at the meeting and some of them decided that in order to protect their part of the town they must erect a barricade: they went down William Street and began to erect a barricade at the junction of William Street and Georges Street across the Georges Street carriageway. News of these events reached CI Landale in the Market Square. He decided that the barricade must be dismantled and that the remaining crowds in the

western part of the town should be dispe[illegible]here was still a substantial number of Protestants about on their side of t[illegible]Square but they were giving no indication of any intention of invading the western part of the town. The County Inspector organised three parties of police, one to proceed down Scotch Street and along Georges Street to the barricade; another in vehicles out along Quarry Lane and so into the town by the Donaghmore Road; and the third under his personal command to move down Irish Street. The operation was carried out successfully: the barricade was dismantled and the comparatively few people who were still about in William Street, Anne Street and Irish Street were dispersed. The party that had been sent round by Quarry Lane to Donaghmore Road consisted of members of the Reserve Force: they patrolled the Donaghmore Road, coming under attack by stones thrown by youths hiding in gardens and entries. Ultimately this party returned to the Station, as did the County Inspector.

14.9 Some, however, of the two police parties that had been engaged in the dismantling of the barricade in Georges Street moved into Fairmount Park, a predominantly Catholic housing estate situate behind William Street and Anne Street. The ostensible purpose of the move was to disperse and, if possible, arrest rioters: but the manner of the move was calculated to disturb and distress the residents, accompanied, as it was, by a good deal of shouting and of banging of batons upon shields. After the police had withdrawn from Fairmount Park protests were lodged at the police station against the conduct of the police in the matter of the baton charges and in the matter of the intrusion into the Fairmount Park Estate. By 2 am all was quiet.

14.10 Police behaviour in Fairmount Park appeared to the Tribunal to be wholly unjustified: neither the fact that some rioters had dispersed into the Estate nor any other of the events of the night could justify the type of intrusion staged by the police. And its consequences were unfortunate: for it contributed to the bitterness that marked the behaviour of the Catholic community on the 13th.

14.11 The main issue which arises from the events of the night is—were the police guilty of partiality, favouring the Protestants and directing their actions against the Catholics? The Tribunal acquits the police of any intention of being unfair. It is a fact that almost all policing activity on this night was concentrated against the Civil Rights and Catholic crowds and in the Catholic sector of the town. Protestants who were out and about and in hostile mood sustained no more police activity than was necessary to confine them to the Square and Church Street. Undoubtedly this differentiation of treatment made an impression upon the minds of the Civil Rights crowd but in the circumstances it was quite justifiable.

14.12 It is to be noted that no petrol bombs were thrown by either side in the course of 11 August. There is nothing in the evidence to suggest that the rioting on 11 August was planned or organised ahead. It arose out of an existing tension exacerbated by certain quite trivial incidents in the Market Square. Unfortunately it escalated so as to have a very serious effect upon

the minds and [illegible]s of both sections of the community. The Catholics set their minds on [illegible]fence"—by which they meant the use of barricades and violence to keep the police and the Protestants out of their areas: the Protestants became hostile and watchful, ready to strike hard at the Catholic rioters if the police did not deal with the situation to their satisfaction. There is no doubt that the tensions aroused by the events of 11 August contributed to the serious riots in both Dungannon and Coalisland on 12 and 13 August.

12 August

14.13 On 12 August tension remained high after the previous night's disturbances. Rumours abounded. On the Catholic side there was talk that extreme Protestants planned that night to burn down the two housing estates in the West Ward (Fairmount Park and Ballygawley Road). At the entrances to these estates barricades were erected and manned by the residents. Stones were collected.

14.14 Meanwhile Protestants gathered in considerable numbers in Market Square. Mrs McCool, a Catholic who lived in Castle Hill, saw civilians arriving at the Orange Hall in cars. Some had sticks, axe handles and farming implements: they also collected stones. Despite this activity on the streets by both Protestant and Catholic factions there was no confrontation between the two groups and a precarious peace was preserved: but things turned out very differently this day in neighbouring Coalisland.

Coalisland: General

14.15 Coalisland is an industrial village situated a few miles from Dungannon.* Its population is overwhelmingly Catholic. It suffers from a high rate of unemployment and a lack of job opportunities for young men. One witness informed the Tribunal that out of the total village population of approximately 3,000 there were some 400 men without employment. Its geographical situation, the nature of its population, and the shortage of jobs explain easily enough why Coalisland betrayed a high degree of sensitivity to the troubles that beset the Province in August 1969. It is not without significance that the first of the events in the 1968–69 sequence of disturbances began in this little place.

Events of 12 August

14.16 On 11 August serious disorder had developed in Dungannon. The inhabitants of Coalisland were well aware of it. Some leaders of the Coalisland Civil Rights Group were present in Dungannon on the 11th and a version of those events was soon circulating widely in Coalisland. No doubt as it circulated so it increased in gravity. Mr Dennis Haughey, the Secretary of the Coalisland Civil Action Committee who gave evidence to the Tribunal, was well aware that anything which affected Dungannon by way of disturbance or disorder was bound sooner or later to affect Coalisland and sooner rather than later. Accordingly, his Committee decided to have a meeting early in the afternoon of 12 August to see if they could prevent repercussions in the village.

*Street plan of Coalisland is at Appendix VIII (G).

FS 1. 291

14.17 The view taken by Civil Rights people in Dungannon was that the police had behaved badly in their handling of the disorders of the 11th. The Action Committee decided, therefore, to place a picket on the police station in Coalisland as a protest against the behaviour of the police. The picket was to be about a dozen persons and Mr Haughey himself was a member. They went to the police station at about 4 30 pm and remained in the neighbourhood picketing the station until about 6 30 pm. The Committee had made arrangements for a further meeting after the withdrawal of the picket and this took place at 8 o'clock. The purpose of the meeting was to consider the further implications for Coalisland following upon the Dungannon disturbances and possible action to meet them.

14.18 The meeting began at about 8 o'clock in a cafe in the town. It became clear to the members of the Committee that a crowd was gathering in the Market Square and was increasing both in numbers and in noisiness. Coming out of the cafe where the meeting had been held Mr Haughey noticed standing about in the Square large groups of young men in their late teens or early twenties discussing the troubles that had occurred in Dungannon. They were, in his words, "very, very angry". Their anger was directed against the police, whom they were accusing of all sorts of misconduct. Mr Haughey and other members of his Committee did their best to quieten the crowd down, but without any success. Their mood of anger worsened as news began to filter through of events then occurring in Londonderry. Many members of the crowd had transistor sets, and were listening to the news bulletins describing the troubles in that city. These current events built upon a communal recollection of events associated with the City of Londonderry in the previous January and April. It must be emphasised that, whatever the truth of those events, the Coalisland crowd, like many others in the Province, were convinced that the police had behaved badly in Londonderry and that their misdemeanours had not been followed either by effective investigation or just retribution. It is not surprising that, as Mr Haughey soon realised, the Coalisland crowd was not amenable to reason.

14.19 In the Police Station there was a force of 10 policemen, one sergeant and 9 constables. When they realised that there was a risk of serious trouble developing and that the trouble was likely to be directed against the Police Station, a message was sent to Dungannon and around 7 30 pm a District Inspector with a considerable force of police was sent to reinforce Coalisland. When this force arrived, there were some 70 police, all of them RUC, in the Station.

14.20 Some time between 8 and 9 30 pm the crowd attempted an attack on the Police Station. The police, appreciating that an ugly situation was developing, called for further reinforcements, which under a Head Constable reached the Station at about 9 30 pm. When this party arrived, the Station was already under attack from petrol bombs. The Police Station was now beleaguered. There was a growing and very aggressive crowd in the Market Square while up Platers Hill above the Station there was also a crowd manning a lightly constructed barricade of wooden planks. A police witness described the situation in these terms: "They had a barricade erected across the road (i.e. Platers Hill) and as soon as the Police would head towards the crowd in

CS 1 . 292

the Square this party up above the Police Station would come down the hill past the barricade and throw petrol bombs and stones down the hill". The police made charges, now down into the Market Square, now up the hill: Each time the crowd retreated only to return as the charge itself ended. Ultimately there arrived further police reinforcements together with an armoured vehicle.

14.21 This last reinforcement arrived in Coalisland at about a quarter to eleven. The local member of Parliament (NI), Mr Austin Currie, had also arrived and did his best to persuade the crowd to disperse and go home. The crowd took no notice; almost immediately serious violence broke out, petrol bombs, bricks and stones being flung at the police, who were in a line across the road outside the Station. The pattern of events was graphically described to the Tribunal by a Police witness:—

> "The crowd would charge with petrol bombs either down the hill or up the hill, the attack coming from Market Square at one moment and from Platers Hill at another. The police attempted to disperse the crowd by baton charges, the only effect of which was, however, to cause that part of the crowd which was charged to retreat".

The police wholly failed at this stage to disperse the crowd. This type of rioting continued throughout the night until about 2 am. There were a number of minor casualties amongst the police.

14.22 Finally the police decided to make a determined attempt to drive off the Platers Hill crowd and to destroy their barricade. The attack was successful but in the course of it a young civilian was injured. The young man was hit by the barricade, but no blame is to be attributed to the police, who were acting reasonably in the circumstances.

Dungannon

13 August

14.23 The events of 11 and 12 August had been primarily local in origin. But by the evening of 13 August the disturbances in Londonderry which had continued for over 24 hours began to have their impact in Dungannon as well as in other towns in the Province.

14.24 The NICRA's call for diversionary demonstrations "to take the heat off Derry" was received in Dungannon through the news media, although it appears that no specific request was made for a demonstration in the town. After informal conversations between Mr Aidan Corrigan, the Chairman, and other members of the Dungannon CRA it was decided not to hold a meeting in the town because of its sensitivity to any local disturbance. A decision was taken to call a meeting in Coalisland instead.

14.25 In the event, however, not one but two public meetings were held in Dungannon on the steps of the old Technical College in Anne Street. The object of the first, about which the Tribunal heard little evidence, seems to have been to organise the erection and manning of barricades at the entrances to the housing estates in the West Ward, which according to rumour were to be attacked by Protestants and RUC.

14.26 The second meeting, which was attended by about 200 people, was held at about 10 30 pm under the chairmanship of Mr Aidan Corrigan. His explanation for this reversal of his earlier decision was that when he returned from Coalisland he found that a large crowd was gathered in Anne Street. He thought the best way to get them to go home was to hold a meeting. There were three speakers at the meeting, Mr A Corrigan himself, Mr T Corrigan (no relation) and Mr Donnelly.

14.27 According to a journalist witness Mr A Corrigan told the crowd that the meeting had been called to show solidarity with the people of the Bogside and to help draw the police away from there. He praised the speech of Mr Lynch which had been broadcast at 9 pm that evening and condemned the earlier broadcast of Major Chichester-Clark.

14.28 The next speaker was Mr T Corrigan who lived in Fairmount Park. He urged his listeners to seal off the Catholic areas of the town as there were rumours of an impending attack. Earlier in the day Mr Corrigan had been approached by Fairmount Park residents and appointed chairman of a defence committee for the area.

14.29 The third speaker was a Mr Donnelly who did not live in Dungannon and does not appear to have been any sort of a public figure in the locality. He denounced the RUC as sectarian, as the other speakers had done, and called on the Catholic population to "go home and pray, then come out and stand up for your rights". This was a fighting speech in the revolutionary tradition, with Mr Donnelly quoting from the 1916 Proclamation of the Irish Republic.

14.30 When the meeting was brought to an end by a heavy downpour of rain the erection of barricades began (though almost certainly some were already in place). They were so disposed that most of the entrances to, and some road junctions within, the West Ward were sealed off*.

14.31 Because of the prospects of trouble on the night of the 13th, County Inspector Landale tried during the day to obtain police reinforcements for Dungannon as well as other towns in the county. Failing to obtain extra RUC personnel because of the continuing rioting in Londonderry, CI Landale arranged with the County Commandant of the USC for members of that force to be available for duty in the evening. Covering authority for such a request had been given to all County Inspectors by the Inspector-General on 14 July 1969.

14.32 During the evening CI Landale, who personally took charge of the Dungannon situation, had his force of 34 members of the RUC reduced by half when 17 of them were despatched in answer to a call for assistance from Coalisland. The first batch of 20 special constables reported to the police station at about 6 30 pm: another 20 or so reported later, a little after 11 pm.

*The location of these barricades is shown on the street plan of Dungannon.

FS1.293

14.33 Throughout the early part of the evening there was a steady build-up of Protestant crowds in the Market Square. Miss Beattie, a journalist, saw large numbers of cars parked in Castle Hill. Civilians, presumably Protestants, were grouped round these vehicles some of which had their boot lids open. Sgt Dodds, who was on duty with a small party of police in the square at about 9 pm, saw Catholics carrying planks, oil drums and other material from Union Lane into Irish Street where a barricade was being constructed. Some stones were exchanged. The County Inspector was informed that many of the roads into the town were now blocked by barricades.

14.34 At 11 55 pm the fire siren was sounded and shortly afterwards CI Landale learned that fires had been started in the western part of the town in the William Street/Georges Street area. Gathering together a party consisting of about half the USC men available and a small number of regular policemen, he made his way through the Market Square and via Scotch Street into William Street. At the end nearest William Street, the carriageway in Scotch Street was blocked by a barricade composed of a bus and other material. The bus was on fire. At the end of Savings Bank Street the offices of the *Tyrone Courier*, a local newspaper, were also burning.

14.35 The section leader of Dungannon Fire Brigade, Mr J Johnston, described how when his appliance arrived on the scene he saw a crowd of about 50 young men (none of whom he recognised as being from the area) on a building site at the Upper William Street/Savings Bank Street corner. Between this site and the corner of the *Tyrone Courier* building was a barricade, consisting largely of an old car which blocked the entrance to the Fairmount Park estate. Mr Johnston explained to the crowd of youths that it was his business to protect lives and property. In reply he was subjected to a bombardment of stones and bottles which knocked him to the ground and as a result of which he sustained two broken ribs. He and his men managed to extinguish a fire which was burning in the Courthouse at the Lower William Street/Georges Street corner as well as that in the bus barricade. Two more buses in Lower William Street/Ballygawley Road were then set on fire and dealt with by the firemen. From here they returned to Savings Bank Street/Lower William Street where a blaze had started in Stevenson's warehouse. As the firemen tackled this blaze they came under stone and petrol bomb attack from behind the barricade at the side of the *Courier* building. Mr Johnston then noticed that this building itself was ablaze as petrol bombs were being thrown into it from behind the barricade. Eventually, in the face of a heavy barrage of missiles, the firemen managed to train their hoses on the building. The fire in the *Courier* building proved the most serious of all the fires started in Dungannon that night*; it was not extinguished until 4 am.

14.36 Having left some of his party at Georges Street/Savings Bank Street to protect the firemen, CI Landale took the remainder up William Street towards Anne Street. But his progress was blocked by a barricade of burning

*Compensation under the Criminal Injuries Acts of over £57,700 was awarded to the owners of the building and of the printing machinery housed in it.

vehicles and by stones and petrol bombs th[illegible]om behind it. Returning to Savings Bank Street he moved back a group of [illegible]otestant civilians in order to give police and firemen room to manoeuvre.

14.37 At this stage the County Inspector decided he would have to make a concerted attempt to clear Irish Street and Upper William Street. He returned to the RUC station where he explained his plan to SDC Johnston, Sergt Instructor Clarke and other members of the USC. The police force was to be split into two parties. One party, under CI Landale, would approach the Anne Street/Irish Street/William Street junction from the Square via Irish Street. The other party, composed entirely of special constables under SDC Johnston, was to take a longer route via Thomas Street, Quarry Lane and Donaghmore Road, thus entering Anne Street from the opposite end. CI Landale's evidence was that before setting off he told the men there was to be no shooting. Neither SDC Johnston nor Sergt Instructor Clarke heard this instruction, although both men testified that SDC Johnston had himself warned his party not to do anything hasty and, above all, not to shoot without his orders.

14.38 Most of the special constables who made up the two parties retained their firearms when they went on duty.† This was clearly contrary to the terms of two directives sent by the Inspector-General (dated 14 July and 21 July 1969), the effect of which was that arms were not to be carried by special constables on riot duty without the approval of RUC Headquarters (except in the case of officers or sergeants who were permitted to carry their revolvers). Instead, members of the USC would be issued with batons. CI Landale was aware of these instructions. He told the Tribunal that when he had paraded a number of special [illegible] in Omagh before coming to Dungannon he told them th[illegible]

CI Landale thought that there was some riot equipment for the USC available in Dungannon but he does not appear to have made any attempt to enforce the Inspector-General's order and disarm the special constables before taking them out on duty in the town.

14.39 CI Landale has been criticised for calling out the USC on riot duty after the Prime Minster in a speech broadcast at 6 pm that evening had announced that special constables would not be used for riot or crowd control. The Tribunal rejects this criticism. First, it is not clear whether the County

†But not all: S/Constable Hazelton gave evidence that before joining SDC Johnston's party he had deposited his rifle in the RUC station and equipped himself with baton, shield and helmet.

Inspector was aw[illegible]this limitation on the use of USC—the Inspector-General's directives of 14 July and 21 July clearly contemplated the use of special constables for crowd control. Secondly, and more important, it is the Tribunal's view that with only a small number of RUC to control the serious disturbances which had broken out in the town, CI Landale had no alternative to calling out the USC as the only reserve available to him. But having made this decision the County Inspector was wrong in failing to implement the Inspector-General's order that special constables on riot duty should carry truncheons instead of firearms.

14.40 The two parties under CI Landale and SDC Johnston set off. As the County Inspector led his party through the Square on his way to Irish Street he saw a large crowd of Protestants "who were getting very difficult to handle". He deputed a small number of regular and special constables from his party to remain in the Square to hold the Protestants back. Entering Irish Street the County Inspector and his party passed through an abandoned barricade and penetrated a second which had been built round the corner in Irish Street. Here they halted in order to give SDC Johnston's party time to complete their far longer journey which would bring them into the Donaghmore Road end of Anne Street.

14.41 To CI Landale's great surprise, however, this party emerged behind his own in Irish Street. SDC Johnston, who was a local man, was in no doubt that he had faithfully followed the County Inspector's directions which were to go to Irish Street via Thomas Street and Union Lane. It is not clear how this misunderstanding arose although CI Landale accepted that he may not have made his instructions clear.

[illegible]

[illegible]harge took him beyond the William Street junction and that although he did not see CI Landale he assumed that he remained with the party in Anne Street.

The Shooting in Donaghmore Road

14.43 It was shortly after the County Inspector's departure to William Street, while armed members of the USC were in Anne Street between Irish Street and Donaghmore Road, that three Catholic civilians were shot near the Anne Street end of Donaghmore Road. One of those injured was a Mr Gregory

*Not all of SDC Johnston's party took part in this charge. Sgt Instructor Clarke gave evidence that he with the assistance of Protestant civilians from the Square dismantled a barricade in Irish Street before moving into Anne Street. By the time he reached Anne Street the rioters had dispersed.

FS 1 . 294

Willoughby. He told the Tribunal that during the evening he found himself trapped in Anne Street as all possible exits were either barricaded or rumoured to be guarded by USC. At the Irish Street junction a group of 20 to 25 youths began to throw stones and bottles at a party of armed USC who were confronting them. According to Mr Willoughby missiles were being returned by the USC. When the USC charged, the crowd fled; Mr Willoughby and some 15–20 others ran round the corner into Donaghmore Road stopping near the mouth of Charlemont Street. About 15 or 20 USC men lined up across the Donaghmore Road with their weapons on their shoulders. Some of the youths began to throw stones and bottles at the USC who returned them and then charged. Mr Willoughby turned to run and was shot in the leg. He managed to get up but was shot in the face. He and a Miss Anne Hughes, who had also been shot, were taken into No 1 Charlemont Street where they were attended by a priest and given first-aid treatment before being taken to hospital by ambulance.*

14.44 Other witnesses gave evidence which supported Mr Willoughby's account. Mr A McCourt, who was visiting No 1 Charlemont Street, described how at about 1 am he saw a line of uniformed men armed with rifles spread out across the Donaghmore Road. They were advancing towards Charlemont Street. Five or six young men appeared to be throwing stones at them. From inside No 1 he heard shots; he came out to find Miss Hughes lying injured on the footpath.†

14.45 Mrs Donaghy, who lived in Donaghmore Road not far from the Anne Street junction, saw about 12 civilians running into Donaghmore Road. Behind them were uniformed men whom she took to be special constables. Most of the USC stayed at the end of Donaghmore Road but about eight moved into the street. Jeers and insults were exchanged between the USC and civilians. Mrs Donaghy went into her house and heard shooting. Shortly afterwards she heard a voice calling the special constables back in the direction of Anne Street.

14.46 Shooting from the Donaghmore Road direction was heard by a number of witnesses but not, according to their own evidence, by SDC Johnston and Sgt Instructor Clarke. They told the Tribunal that neither of them got as far along Anne Street as the Donaghmore Road—although some other members of their party did. After the crowd had dispersed the two men entered the premises of George Smith at Anne Street/Donaghmore Road and extinguished a fire there. By about this time the County Inspector had returned to Anne Street/William Street where he learned that shots had been heard from the Donaghmore Road direction. He ordered the police to return to the station.

14.47 Sgt Macauley appears to have arrived on the scene after the charge led by CI Landale along Irish Street/Anne Street but before the police withdrawal. On his way down Irish Street Sgt Macauley had heard noises which

*The third gunshot casualty was a Mr E Falloon who was apparently taken to hospital from 69 Donaghmore Road by the same ambulance on a second trip.

†While Miss Hughes was being carried into the house a special constable came up and spoke to him. After the ambulance had left Mr McCourt saw a group of special constables coming along Donaghmore Road from the country direction. Among them was a civilian carrying a rifle.

sounded like gu... When he reached the Anne Street/Donaghmore Road junction he saw about 30 youths in the mouth of Donaghmore Road throwing missiles at a group of USC at the end of Anne Street. Sgt Macauley moved the special constables out of sight of the stone-throwers but, as the stone throwing continued he ordered six men with riot equipment, but without rifles, to charge: as a result the missile-throwers were scattered. At no time did Sgt Macauley see or hear any shooting; nor did he see any sign of anyone having been injured in Donaghmore Road.

14.48 As CI Landale was returning from Anne Street along Irish Street to the RUC station he met a Protestant crowd in ugly mood which had come from the Square.

"With great luck I got them turned and got them to follow me up into the Square. I shouted 'Back to the Square quick' and I ran towards them and to my amazement they turned and they followed me".

14.49 The County Inspector succeeded in keeping the Protestants contained in the Square but by this stage they were extremely angry, and when police brought Catholics who had been arrested through the Square on the way to the RUC station the prisoners were attacked by the Protestants. Apart from these attacks the Protestants played little part in the disturbances although, as we have seen, they were present in the Square in large numbers for much of the night. Mr McMullan, a Protestant from Moygashel, told the Tribunal that he went into Dungannon in response to a message which had been left with his wife that it was important to go into the town that night as there might be trouble and the town was liable to be burned down. Mr McMullan believed that the message came from Mr John Taylor, MP (NI) for South Tyrone.

The RUC investigation of the Donaghmore Road shooting

14.50 In the early hours of the morning of 14 August, CI Landale learned that two or three people had been shot. Later he detailed DI Cordner to investigate the whole matter with the assistance of Sgt Masterson and D/Constable Simpson. A number of statements were taken and a *pro forma* was drawn up for completion by members of the USC and RUC who had been on duty. The investigation proved inconclusive; the police officers concerned were not able to identify those responsible for the shooting. Some criticisms of the RUC's investigation were made before the Tribunal on the ground that it was not pursued with sufficient vigour. But this view ignores the very real difficulties which confronted the investigating officers. On the one hand they met with a complete denial of firing by all USC men on duty; on the other they were hampered by the unwillingness of some civilian witnesses to co-operate with them. A number of Catholic witnesses had made statements to a Mr P Duffy, Solicitor, but although he gave their names to D/Constable Simpson he was unwilling to pass the statements on to the police without their consent which, he said, had not been forthcoming. While this was a wholly legitimate position for Mr Duffy to take, he was clearly inhibited from affording

FS 1. 295

greater assistance to the police investigation by the fact that he "was never satisfied at any time as to the impartiality of the police so far as the investigation was concerned".

14.51 It should be pointed out that it was clear to all concerned before the end of August 1969 that the Donaghmore Road shooting fell within the Tribunal's terms of reference. This must have reduced the momentum behind what had become a dauntingly difficult police inquiry.

The Tribunal's investigation of the Donaghmore Road shooting

14.52 Thus the matter of the shooting was still unresolved by the time the Tribunal heard evidence relating to it. No member of the RUC or USC made any report of having discharged his firearm, and in the subsequent investigation of the incident by the RUC all police officers, both regular and special, who had been on duty in the area that night denied using their guns. That there had been a considerable amount of shooting in the area was confirmed by the number of bullets and cartridge cases picked up in the Anne Street/Donaghmore Road area. Eighteen items were handed in to the Tribunal and subjected to ballistic examination. They included cartridges, cartridge cases and spent bullets which appear to have been made for or fired from at least three different types of weapon: ·303 rifle, sub-machine gun and ·455 revolver. All of these types of weapons were on issue to members of the USC on duty in Donaghmore Road/ Anne Street on 13/14 August. There is no evidence that any of these weapons was on issue to or in the hands of members of the RUC.

14.53 Because of the strong circumstantial evidence linking members of the Special Constabulary with the shooting the Tribunal arranged for ballistics experts to compare cartridge cases with the firearms recorded as having been on issue to USC men on duty in Dungannon. As a result of these tests 4 specific weapons were unequivocally connected with the ballistic material: two Sterling sub-machine guns (each of which had fired 3 9mm cartridge cases) a ·455 revolver (two ·455 cartridge cases) and a ·303 rifle (five ·303 cartridge cases).

14.54 Each of the four men to whom USC records indicated these weapons had been assigned on 13 August 1969 was called to give evidence. All were from the Kilnaslee USC platoon. It is not necessary to examine their testimony in detail. It is sufficient to say that while all four admitted to having been present in Anne Street/Donaghmore Road at the critical time, they all denied having fired their guns. None was prepared to accept that the weapon recorded as having been on issue to him was in his possession while he was on duty that night. S/Sgt Paisley told the Tribunal that it was his custom to exchange his issue ·455 revolver for another weapon at the beginning of the summer before the competition shooting season began. S/Constables Fleming and Moore said that the Sterlings they carried with them in Dungannon were not necessarily their own weapons since guns often got mixed up. S/Constable Hazelton denied that he had any weapon at all with him. He said that he exchanged his rifle for riot equipment (baton, shield, truncheon) in the Dungannon RUC Station before going on duty.

14.55 While evidence of laxity in some aspects of USC administration, as well as Sgt Instructor Clarke's evidence that men sometimes had in their possession weapons which were not their personal issue, lends some plausibility

FS 1 . 296

to these stories, the Tribunal is not prepared to accept that all four witnesses were telling the truth. That four men all from the same platoon and all of whom performed duty in the critical area should have been without their own guns when these weapons were certainly discharged in that area, puts an unbearable strain on the Tribunal's credulity.

14.56 But the extent to which any or all of these witnesses was telling the truth is irrelevant to the main conclusion to be drawn from this unhappy incident. This conclusion is that contrary to orders at least four members of the USC opened fire on an unarmed Catholic crowd, injuring three of them. Even though some of the civilians in the Catholic crowd may have been taunting the USC and throwing missiles there can be no justification for this shooting, which occurred at a time when there was no effective RUC leadership in Anne Street.

The case of John Arthurs

14.57 The Tribunal also investigated the circumstances of the arrest of Mr John Arthurs. It did so because of the continuing and strong local concern that the young man had been the subject of brutality and injustice at the hands of the police. On 1 December 1969 Mr Arthurs was convicted at County Tyrone Assizes of causing malicious damage to the *Courier* building on the night of 13 August. He received a sentence of three years imprisonment which was subsequently affirmed by the Court of Criminal Appeal.

14.58 Detailed examination of all the evidence relating to Mr Arthurs is unnecessary. It is sufficient to summarise the conflicting accounts given to the Tribunal. The case against Mr Arthurs rested largely on the testimony of a Constable Spiers who was among a number of USC and RUC men on duty in Saving Bank Street near the *Courier* building. On one occasion during the evening Constable Spiers approached the barricade at the side of the building and saw a man whom he recognised as Arthurs throw two petrol bombs, one of which went over the parapet of a lean-to-building at the side of the main building. Some time later in the evening, after the police had advanced across the barricade, Constable Spiers saw Arthurs being taken into custody by two Special Constables. Constable Spiers then took over custody of Arthurs himself, but before he could be taken to the station Arthurs was snatched from his possession by a Protestant crowd at William Street and George Street. This crowd, according to Constable Spiers, gave Arthurs such a severe beating that when he was released by them he appeared to be unconscious.

14.59 In his evidence both to the Tribunal and to the trial court Mr Arthurs denied having thrown a petrol bomb at any time during the evening. He admitted that he was present at the *Courier* barricade from about 10 00 pm until about 11 30 pm during which time he and a companion were acting as vigilantes. He moved away but returned later for a short time to find the *Courier* building on fire. Petrol bombs and stones were being thrown from behind the barricade. Mr Arthurs then left the barricade for the second time and went into Fairmount Park where he was arrested by two Special Constables. They did not hand him over to Constable Spiers nor was there a crowd at the William Street/George Street intersection. Mr Arthurs' evidence was that the beating he received came from the police and not from any civilian.

14.60 Evidence was taken from other witnesses some of whom tended to support Constable Spiers' evidence while others tended to support Mr Arthurs. Nothing came to light in evidence before the Tribunal which would justify a finding of police brutality. In so far as the conviction is concerned the Tribunal is not a court of appeal, and it would be improper, in the absence of fresh evidence, to substitute the Tribunal's opinion for that of the jury which unanimously convicted Mr Arthurs. He received a fair trial—neither he nor anyone on his behalf alleged otherwise—which passed the scrutiny of the Court of Criminal Appeal presided over by the then Lord Chief Justice of Northern Ireland, Lord MacDermott. A further appeal on a point of law was dismissed by the House of Lords.

14.61 It is one of the afflictions imposed on a society in which law and order have broken down, that some like Mr Arthurs are made amenable to justice while others who have committed equally or more serious offences go undetected and unpunished. Nevertheless the Tribunal agrees with the comment of the Lord Chief Justice that the crime of which Mr Arthurs was found guilty was "of a grave nature and cannot be tolerated in either settled or tumultuous times".

Coalisland

13 August

14.62 The morning and afternoon were quiet. At about 3 pm the Action Committee met to discuss the problem of the coming evening. At this meeting a decision was taken to hold a public meeting and Mr Austin Currie was invited to address it. The purpose of the meeting was to get across to the population of Coalisland the gravity of the situation and to persuade them to go home. The meeting was to be held in Main Street as far away as possible from that focus of trouble, the Police Station. A crowd of some three to four hundred assembled on a piece of open ground at the far end of Main Street and was addressed by 4 speakers—Mr Austin Currie MP (NI), Mr Aidan Corrigan, Mr Dennis Haughey and a Mr O'Donnell of Dungannon. The Tribunal has no doubt that these speakers did their best to quieten the crowd and to lower tension. Nevertheless the meeting was a failure. As soon as it was over the crowd drifted down Main Street in the direction of Market Square and the Police Station. Members of the Action Committee moved amongst the people attempting individually to persuade them to go home. They had no more success than the meeting had in tranquillising the population. To quote Mr Haughey "the whole situation had got completely out of hand. People were no longer amenable to reason. Emotion had taken over completely and there was a terribly high pitch of excitement". The members of the Committee gave up their attempt at pacification and the crowd took over. For the rest of the night the crowd was in ungovernable and violent mood.

14.63 The police were expecting trouble. At 7.30 pm DI Cordner arrived. He took immediate steps to secure the Police Station by closing doors and drawing the steel shutters across the windows. Police in the station were issued with riot equipment. Meantime two uniformed policemen were on patrol duty in the town. At about 9.30 the Market Square was practically deserted

FS 1. 297

thanks to a heavy shower of rain. There was no indication of impending trouble save for a distant chant of "SS RUC" from the direction of the town. Suddenly there was a hammering on the outer door of the Police Station and in rushed the two patrol men. They reported they had been attacked in the town by petrol bombs. It was then observed from within the Station that a large crowd was approaching from the area of the Market Square. The vanguard of this crowd was already close to the Married Quarters of the Station. When DI Cordner came out to the gate he could see the crowd throwing stones and petrol bombs in the direction of the Married Quarters. As soon as he was seen, the missiles were directed at him. He ordered Police into the street and led a charge, the effect of which was that the rioters retreated back to the Square. They did not disperse and again moved against the Police Station. He estimated the numbers at this time to be about 200. Already the police were suffering casualties, one constable sustaining serious burns from a petrol bomb.

14.64 The police were outnumbered and forced slowly back towards the Station. Meanwhile reinforcements had been sought and it was not long before they arrived in two vehicles, an armoured car and a land rover. In the minutes that elapsed between the call for help and the arrival of the police vehicles the crowd mounted a heavy attack on the Station. Petrol bombs penetrated the windows of the Married Quarters and serious damage was done.

14.65 Reinforced by the 2 vehicles and some 6 constables, DI Cordner decided to make an attempt to remove the barricade on Platers Hill. A vehicle was despatched and it would appear succeeded in clearing Platers Hill. Unlike the previous night Platers Hill then remained clear for the rest of the night. When within an hour or so further reinforcements arrived from Dungannon, they were able to approach the Police Station down Platers Hill which was clear at the time. The reinforcements were a party of USC under the command of a Head Constable. They came in some 4 or 5 cars and were armed with revolvers, rifles and one Sterling sub-machine gun. They did not have riot gear.

14.66 DI Cordner appreciated that he was faced with a determined attack on the Police Station. The rioters appeared to have made their dispositions with some shrewdness. Barricades set up on the key streets in the town had the effect of isolating the Police Station from the outside world, except for one road leading to Dungannon which it was difficult for the rioters to reach. The barricades, the position of which can be seen on the map at Appendix VIII (G), served also as a refuge for the rioters if forced by a Police charge to retreat. The rioting crowd assembled within the area of the town marked out by the barriers. The District Inspector sent one small party of police under a Head Constable to the Stewartstown Road and another under a Sergeant up Platers Hill. The purpose of these moves was to watch the movement of the crowds at the opposite ends of the town. The remainder of his force which consisted of RUC and USC were concentrated in and about the Station. The RUC were placed between the rioters and the USC, the object being to ensure so far as possible no direct contact between the rioting crowd and the USC. The RUC were in riot gear, the USC were not but they had their guns.

14.67 The mob now moved slowly towa[illegible] Station. In the forefront there was a large mechanical shovel; its headlights were lit and, as it moved forward, the crowd threw petrol bombs in the direction of the police and the Station. Petrol bombs came not only from either side of the advancing mechanical shovel but also over the top of it.

14.68 The District Inspector's plan was to use his men and vehicles in a series of charges to force the rioters back to the Square and then to retreat to the Station where he would await any further attack and, if necessary, repeat the process. In other words he was simply concerned to keep the rioters as far away from the Station as he could. He told the Tribunal and the Tribunal accepts his evidence that he had no intention of ordering his men to fire. Indeed he took the view that although the situation was serious it was not so critical as to justify the use of firearms. Nevertheless without any instructions from him there were shots fired from the USC in the rear of the police. Although a weapons inspection after the event revealed only 4 weapons that could be seen to have been fired, the Tribunal accepts the evidence of the District Inspector that there was one volley of about 12 shots fired by the USC and that a majority of the shots fired were discharged from rifles.

14.69 DI Cordner ordered an immediate cease fire and then proceeded to put into operation his plan for dispersing the crowd. One of his armoured cars moved forward in the direction of the Square while the land rover came in round the back of the rioting mob in an attempt to scatter it. The manoeuvre was successful, the rioters were scattered and the mechanical shovel captured. The shovel was brought into the yard of the Police Station. This operation ended the riot for the night. The crowd withdrew behind the barricades in the Brackaville and Stewartstown Roads from which places of comparative safety they continued to hurl petrol bombs and abuse in the general direction of the police. The District Inspector refused however to commit his police and slowly the rioting fervour of the crowds diminished.

14.70 The volley of shots discharged by the USC caused some injury to rioters and damage to property. The District Inspector thought at the time that the shots had been fired into the air but the evidence is compelling that at least some fire was directed in the general direction of the crowd and at the mechanical shovel. The personal injuries and physical damage sustained admit of no other conclusion. Somewhat later at about 1 40 am Mr Currie MP (NI) made a formal protest concerning the casualties arising from the gun fire and a police investigation into the discharge of firearms was put into operation at once.

The cause of the rioting

14.71 The rioting in Coalisland on the nights of 12 and 13 August arose as a result of the anger felt by the people of Coalisland on hearing the news of the disturbances in Dungannon and later in Londonderry. The effect of this news upon the crowd was to make them quite uncontrollable even by their own leaders. As Mr Haughey commented they were no longer amenable to reason. Their spleen was directed exclusively against the police; there was no sectarian trouble of any sort: indeed, there were no Protestants to be found in

1 · 51 · 298

the area of the ri[illegible]lthough there is no indication in the evidence of any very elaborate planning, the riots were undoubtedly organised. The siting of the barricades on 12 August and their maintenance in position throughout the night of the 13th indicated that the rioters had a plan for disrupting communications between the police station and the outside world and for providing a retreat for their own forces. The way in which the riot moved between the Square and Platers Hill on the night of 12 August constitutes further evidence of organisation. It would, however, be inferring too much in these events to find that there was any prior planning; the riots were organised no doubt within a few hours.

The conduct of the police

14.72 In the opinion of the Tribunal the conduct of the police on these two nights of rioting cannot be criticised, save in one respect. Faced with a very serious situation, the RUC used no more force than was necessary to contain and suppress the riot. The one feature of police action which calls for consideration is the discharge of firearms by members of the USC. DI Cordner plainly considered the firing was unjustified. It was a pity, therefore, that he disregarded existing police instructions and failed to disarm the USC before using them for riot control. Nevertheless, he was in a very difficult situation and the volley undoubtedly relieved the pressure on the station. Certainly he never ordered or authorised them to fire; and he ordered a ceasefire at once. In assessing the conduct of the USC it has to be borne in mind that the USC were untrained and unequipped to handle a riot situation. They were also faced with what looked like a very threatening crowd advancing towards them and already at close quarters. They may not have appreciated either that the District Inspector had a plan or that they should have governed their conduct according to his orders. It is understandable that in what must have appeared to be a very ugly emergency they had resort to the only weapon with which they were equipped, namely, their guns. Nevertheless, the action was unjustifiable and might well have resulted in much more serious casualties than were in fact inflicted.

14.73 Some criticism was directed as to the thoroughness of the police investigation into the discharge of firearms on this occasion. The Tribunal has, however, no fault to find with the way in which the Police attempted to establish the extent to which firearms had been used on this night and the identity of those who used them.

CHAPTER 15—NEWRY

15.1 Newry is a town of 12,500 inhabitants. It is in South Down. It is inhabited largely by Catholics, but there is a Protestant population of about 2,000.*

12 August

15.2 On the evening of 12 August the Newry contingent of the Apprentice Boys returned from Londonderry to a town already alive with tension and excitement arising from the news of the riots in that city. At 9 pm a car had toured the housing estates calling on the citizens to assemble in Margaret

*Street plan is at Appendix VIII (I).

Square for a meeting organised by the [illegible]and District Civil Rights Association. At 9 30 pm some 200 people assembled in Margaret Square and then marched to the police station in Corry's Square, where the Chairman of the District Civil Rights Association, Mr Dowling, addressed them.* The purpose of the meeting was to protest against "police brutality" in Londonderry.

15.3 The meeting posed a serious problem for the police. The returning Apprentice Boys were in Railway Avenue just behind the police station and waiting to make their annual march through the town to Trevor Hill. The risk of serious disturbance should the returning Apprentice Boys and the protesting civil righters come face to face was clear to DI Edgar, the senior police officer present in the town. Mr Dowling and others were allowed to enter the police station and make their protest. The DI persuaded Mr Dowling and his colleagues to lead their followers away in the direction of the Dublin Road, thereby enabling the Apprentice Boys to march to Trevor Hill and Downshire Road, where they dispersed. The only incidents of violence that night occurred after the civil rights crowd had left the police station. They were of minor significance and the crowd soon dispersed. Thanks to the skill and tact of the District Inspector and the co-operation of Mr Dowling and his colleagues the night of the 12th passed without any serious trouble.

13 August

15.4 The day of the 13th was one of mounting tension. Mr Dowling received a telephone call from the central executive of NICRA asking for street demonstrations to divert police effort away from the Bogside. He and his colleagues, one of whom was Mr O'Hanlon MP (NI) for South Armagh, spent a substantial part of the day in St Colman's Hall, Castle Street, discussing their plans. Some of them, including Mr O'Hanlon, went across the border to enlist support in Dundalk. All of them were in a state of high excitement and the Tribunal has no doubt that at the meeting in Dundalk an appeal was made for supporters to come to Newry to help in the demonstrations planned for that evening. The response did not prove to be very great, but some, including no doubt some members of the IRA, did come and those who came were active in helping to build and man the barricades which went up in Newry that night.

15.5 At about 8 30 pm the civil rights demonstration assembled in Castle Street. They marched to the RUC Station, where Mr O'Hanlon and Mr Hugh Mallon addressed the crowd. Mr Dowling left the march before it reached the police station. The Tribunal finds as a fact that he did so to assist in the building of barricades. Whether or not Mr O'Hanlon or Mr Hugh Mallon had any knowledge of a plan to build barricades, it is certain that some activists in the civil rights movement intended that night to erect barricades. Mr Dowling was one of these activists.

15.6 Having heard Mr Dowling, Mr O'Hanlon and Mr Mallon, the Tribunal finds that the demonstration outside the police station followed by the manning

*Mr Dowling features prominently in the Newry story. Born in Dublin, he came to Newry in 1953, where he practised as a quantity surveyor. He became interested in the Civil Rights movement in October 1968, joined the District Association in January 1969, becoming Chairman later in the year.

FS1 . 299

of the barricades [illegible]nned. There is, however, no evidence to support a finding that the e[illegible] hooliganism which manifested itself in widespread damage to property by roving bands of agitators was any part of the plan.

15.7 As one would expect the direct evidence of a plan is not complete. Mr O'Hanlon declared he knew of none. Mr Dowling admitted that there was in existence a contingency plan formulated within the Civil Rights Association for dividing Newry up into 6 areas each under a chief steward. A situation, he said, might arise "where there would be an attempted pogrom and a situation was visualised whereby the civil rights stewards could function to maintain law and order, or certainly basic amenities in their own streets". He was less definite about barricades, but his answers left the Tribunal in no doubt that the setting up of barricades was envisaged as part of the plan.

15.8 These plans and discussions were the work of an activist group within the Civil Rights Association, the existence of which was known to the police by June 1969 and was mentioned in the public statement of the 5 Committee members who subsequently—in shock at the events of 13/14 August—resigned from the District Committee. The Tribunal finds that this group (variously described as an Action or a Defence Committee) was in existence prior to August 1969, had formulated some contingency plans for a Civil Rights take-over of Newry, and played a leading part in the events of 13/14 August. Its effectiveness was shattered by a combination of events—skilful police tactics, the absence of any substantial support among the citizens of Newry, and the sense of shock throughout the town when on the morning of the 14th it was possible to survey the damage done during the hours of darkness.

15.9 Outside the police station the crowd was noisy and violent, attacking the station with missiles of various sorts. Mr O'Hanlon did his best to control them: but he was in a familiar dilemma. He wished to impress the police with the threat of the local situation while ensuring that the threat did not materialise. As soon as word came through that the barricades were in being, he and others led the crowd away, towards the barricades. The barricades were formidable, and skilfully sited. Heavy lorries had been seized, and placed, with their loads, across streets which commanded the approaches to the Dublin Road. They effectively sealed off the west and south of the town from the north and east. The police could not make their way through the town to the Border without passing one or more of the barricades: thus, the demonstrators had their communications with the South protected by the barricades.

15.10 It is by no means certain that these strategic factors were present to the minds of the mass of the demonstrators, though they were well appreciated by a few. The barricades, with the demonstrations outside the police station, were intended to commit the police to the local situation, thereby preventing the reinforcement of police strength in Londonderry—the process known as "taking the heat off the Bogside". But the police did not allow themselves to become committed. DI Edgar appreciated that, if he attempted to reduce the barricades, his small outnumbered force might suffer a disastrous reverse. He therefore decided to keep the police in their station. A consequence of this

decision was that the police were unable to [illegible] hooligans, some on foot, some in commandeered vehicles, from roaming f[illegible]d the town, setting fire to, and smashing up property. Buildings that suffered included the Electricity Board Offices, the Government Training Centre, the Ulsterbus Office, and the Post Office as well as many commercial and business premises. The damage was widespread. At least £20 000 is the measure sustained by private property alone. The extent of the damage to public property was also substantial.

15.11 These hooligans came from the criminal element to be found among the demonstrators. They were, no doubt, only a tiny minority: but they were determined to commit the police to action, if they could. It is known from Mr Dowling's evidence that during the day of the 13th some hot heads had called for widespread burnings: and all were concerned at the lack of any effective action to involve the police on the previous night. It was suggested that some of this damage was done by Protestant mobs. But there were few Protestants on the streets that night and the only damage which can be attributed to them was the breaking of some windows.

14 August

15.12 After midnight the crowd behind the barricades, which was never more than 1,000 in all and, for most of the time, much less, began to thin. By 1 15 am only a few militants remained on the streets: but they had available by the barricades stocks of petrol bombs got together by theft of bottles from a creamery and petrol from a petrol station. When morning came, DI Edgar decided to use his force of police in an attempt to over-run the barricades. Though assailed by petrol bombs and other missiles, the police were successful and the small numbers still at the barricades fled.

15.13 As the rioters fled, two lorries crowded with men were seen moving off down the road near the Albert Basin leading to the Border and Omeath. There can be no doubt that the two lorry parties included some of those who had early in the day crossed the border in response to Mr O'Hanlon's appeal The Tribunal finds that Mr Dowling jumped on one of the lorries and so escaped across the border to Omeath. At about 8 30 am the British Customs Post on the Omeath Road was found severely damaged by fire. Its clock had stopped at 7: there were crates of petrol bombs in the vicinity: and a Colt automatic pistol was found in the debris. Police enquiries elicited the information that, while the building was being saturated with petrol, it ignited prematurely causing a number of men very extensive burns. Seven persons were treated for burn injuries in Dundalk. Later in the day two vehicles, the property of a Newry coal and timber merchant, were found abandoned in Omeath. The Tribunal finds that the Customs Post was set on fire by men who had been rioting in Newry and were making their escape across the border. Mr Dowling must have witnessed the attack; but there is no evidence that he participated in it. The incident illustrates the willingness of some of those who manned the barricades that night to resort to senseless violence.

15.14 The day of the 14th was quiet, but the police expected further trouble at night: there was now a real risk of angry Protestants coming on the streets,

an event which c[illegible]d to serious sectarian riots. At this stage it is to be doubted whether the [illegible]lice appreciated the measure of their success on the previous night. At about 7 pm USC personnel, answering the broadcast call-up, began to report for duty. In accordance with standing instructions the police ensured that special constables, if required that night for duty in the town, would be instructed to leave their rifles in the station; they were to be issued with shields, helmets and batons as they became available.*

15.15 Thus by the time rioting began on the evening of the 14th, police numbers were reinforced substantially by USC personnel. At about 9 45 pm a crowd assembled in Marcus Square: DI Edgar immediately sent out a combined force of RUC and USC, at least one hundred strong. As the police had feared, there was also a Protestant crowd abroad—some 60 to 80 persons in the Trevor Hill/Kildare Street area. The USC were detailed to hold them back, while the RUC proceeded to Marcus Square. The police party, preceded by a Shorland and a Land-Rover, came under petrol bomb attack as they approached the barricade: but the crowd behind it soon fled south along Hill Street. Leaving a party to dismantle the barricade, the police, who were under sporadic attack from missiles hurled by a few youths, moved against a barricade in Buttercrane Quay, where they were joined by the USC who had had no trouble in restraining and dispersing the Protestant crowd in Trevor Hill. Having dismantled that barricade they then turned their attention to one in Francis Street, where the opposition was fiercer, petrol bombs being used quite heavily. But the crowd soon scattered up Kiln Street. In the course of these operations, Mr O'Hanlon presented himself and offered to do what he could to persuade those behind the barricades to go home. There was no immediately apparent effect from this intervention: but when the police reached the most southerly of the barricades, one across the Dublin Road, Mr O'Hanlon appeared again and asked the DI if he would allow the crowd behind the barricade to pass through the police lines and disperse to their homes. The police agreed: and about 120 people emerged from behind the barricade and dispersed. This was not, however the end of the night's rioting. A barricade of burning vehicles had been thrown up across Dominick Street near its junction with Francis Street. As the police moved up and down Dominick Street, they were subjected to petrol bomb attack: but again resistance proved to be more apparent than real, and the barricade was soon over-run. Sporadic fires occurred at various places in the town, notably at the Crown Building: the police were never wholly free from missile and petrol bomb attack: but the police felt themselves well in control of the situation. By 4 am on the 15th all was quiet.

15 August

15.16 During the day of the 15th a rumour spread that the B specials and the police were going to attack the housing estates that night. Indeed, in the Derrybeg Estate, men were going around encouraging families to evacuate their houses. It was hardly surprising, therefore, that in the evening a crowd assembled and a barricade was thrown across Kiln Street, the natural access from the town to some of the housing estates. Mr Keogh, Stormont MP for South Down, approached the DI and suggested that he talk to the people behind the barricade in Kiln Street. He did so in the presence of Mr Keogh

*Compare and contrast Armagh, Dungannon and Coalisland—and the consequences.

FSI · 300

and a priest, Father O'Hare. The result was a friendly agreement to dismantle the barricade and go home. The barricade, which consisted of one undamaged CIE bus, was removed to the police station and later returned to its owners.

15.17 DI Edgar's comment, made in his evidence to the Tribunal, sums up the events of 14 and 15 August:—

> "I would say that the 14th/15th, the night when we dismantled the barricades, the leaders were absent. They all fled to Omeath that morning . . . There was nobody to organise them and secondly I would say the vast majority of the people of Newry do not want this type of trouble".

It is clear that, had a substantial proportion of the people supported the rioting, there were men present in Newry on the 13th/14th who were ready to organise a resistance which could well have proved beyond the power of the police to reduce. But the people did not wish it; and the wild men retreated across the border. Newry had regained its balance by 16 August.

CHAPTER 16—DUNGIVEN

13 August

The attacks on the police station

16.1 Following the disturbances in Dungiven in mid July the town remained quiet until the night of 13 August. It appears that on the evening of the 13th there was a meeting of the Action Committee. There is no evidence as to what was said, but at 10 20 pm the RUC station was attacked with stones, petrol bombs, and other missiles. There was no provocation whatever. Whether or not it was so intended, the attack constituted a particular threat to the married quarters, where a Constable Miller lived. DI Harrison ordered the use of firearms. HC Irwin and two other policeman first fired five shots each into the air from an entry beside the police station. This had no effect. They then lined up, and fired a volley (3 shots each) into the air. At about the same time Constable Miller and a special constable also fired a few rounds—it is not known whether into the air or the crowd.

16.2 It appears that these shots coincided with efforts by Fr Doherty to stop the rioters. It was Fr Doherty's evidence that about 50 people were directly involved and that as they moved away further shots were fired: these may have been the shots fired by Constable Miller and the special constable.

16.3 With the possible exception of a Mr John Brolly, no one was injured by this police fire. Mr Brolly has made no claim for compensation: neither did he give evidence. But he is said to have declared that a man with a helmet and black overcoat fired a machine gun in his direction from the mouth of the entry. There was no automatic weapon in the station and the bullet which wounded him was ·38 calibre and probably fired from a revolver. A ballistics check was carried out on the guns of policemen who admitted to firing, and on other weapons, but no link could be established.

16.4 There can be no doubt that the police were fully justified in firing into the air. It is not established that they fired into the crowd: but, if any did (and some one, though not necessarily a policeman, did shoot into the crowd, as

Mr Brolly's injury shows), it was in the circumstances excusable, when one bears in mind the dangerous attack being mounted on the station and its married quarters.

16.5 The crowd now moved up the street although about half an hour later there was another attack with petrol bombs on the police station. This was much shorter than the first attack.

The destruction of the Orange Hall and Courthouse

16.6 The Orange Hall and courthouse were set on fire by the crowd. There had already been a minor fire at the Bus Depot. The courthouse fire cut off electricity supplies throughout the town. The Fire Authority headquarters in Londonderry was contacted. At 12 06 am on 14 August the Fire Authority found they could not operate the remotely controlled siren in Dungiven because of a power failure. The RUC operated the hand siren from the police station yard, but without response from the Dungiven crew. At 12 20 am, after a call from the Fire Authority, the Maghera major pump left for the town. On arrival they turned into the Garvagh Road, thereby complying with the standing instruction not to endanger their lives or the appliance in times of civil disturbance. With no one to control the fire, the Orange Hall, the courthouse and some other property were gutted, leaving only the outer shell.

The shooting in Main Street

16.7 By 1 am there were 20/25 police at Garvagh Road. When relief parties arrived from Coleraine and Limavady they had joined parties of Dungiven police on mobile patrol. At this stage there is a conflict of evidence. Mr McFaul, one of the Maghera fire crew, said he and a group of some 50 people walked down Main Street to see what was happening. He thought the group included some police, and also two men, who left it in order to fire some shots down the street. He saw these two men, one of them in a long coat, fire two shots from a single-shot weapon, and a short burst from an automatic weapon. On the other hand Sgt O'Hare, who was with the police at Garvagh Road, did not see such a group nor could he identify any shots, although he heard noises that could have been shots.

16.8 There is no doubt that a Mr Doherty was injured by gunfire. Also a 9 mm bullet was found in the bedroom of a Mr McDermott: and Mr Ivan Cooper alleged that on 14 August he had been given 120/130 spent cartridges which had been found near the Castle ballroom.

16.9 It appears that in the small hours of 14 August there was a suggestion that the USC should assist the Fire Brigade in putting out fires. This was discussed by District Inspector Harrison and the USC County Adjutant, but the Fire Brigade had left Dungiven before this could take place. In fact the appliance returned to Maghera, reaching there at about 1 30 am. It was District Inspector Harrison's belief that there were no USC in that part of town where the shots were fired.

FS 1 . 301

16.10 While it is clear that some shots were fired in Main Street in the early hours of the morning, it has not proved possible to identify who was doing the shooting, save that the shots were discharged by members of a Protestant crowd.

16.11 The final episode in the Dungiven disturbances occurred on 15 August. This was the date when the Ancient Order of Hibernians had arranged their procession. However, the Minister's ban was now in effect. District Inspector Harrison and Head Constable Irwin spoke to the leaders, who said it had been decided that the procession would proceed. There was some danger of violence against the two policemen, and they were escorted to safety by some Hibernian leaders, together with Mr Cooper and Fr Doherty. The procession took place without incident. Later three people were prosecuted in connection with organising it.

Dungiven: General

16.12 The Dungiven riots during the summer of 1969 were Catholic. The police handled them well: the local leaders, Catholic and Protestant, did what they could—and did prevent violent conflicts developing between factions. Apart from one undisciplined intervention on the night of 13/14 July the USC did little. And, with the exception of the incident in the early hours of 14 August, the Protestants did not participate in the disturbances.

16.13 There has been criticism of the police for their alleged failure in Dungiven to prosecute Protestant offenders. This has been contrasted with a willingness to prosecute Catholics. The Tribunal rejects the criticism: nevertheless in its opinion, the decision (which appears to have been referred by the police to higher authority) not to prosecute Mr King for unlawfully possessing a sub-machine gun on 13 July was unwise, although no doubt taken after a full consideration of all the facts. It would have been better if the extenuating circumstances which influenced the decision had been made clear in a court of law.

CHAPTER 17—ARDOYNE AND CRUMLIN ROAD

13 August

17.1 Between 5 August and Wednesday, 13 August, there had been no disturbances in the Disraeli Street/Hooker Street area of the Crumlin Road. On the 13th the Ardoyne had its share of disturbance. There is no direct evidence of a link with the Falls riots that evening, although it is to be noted that the white Cortina which gave notice of a meeting at Divis Flats was owned by a man living in the Ardoyne.

17.2 The evening of 13 August was quiet up until 10 30 pm. The only police on duty were a sergeant and 7 constables who were positioned at the junctions of Crumlin Road with Disraeli Street and the neighbouring streets on the south side. There were no crowds in either Disraeli Street or Hooker Street.

FS 1 . 302

17.3 Quite without warning (shortly after 10 30 pm) a group of youths appeared in Hooker Street and attacked with stones and petrol bombs the 2 or 3 policemen who were on duty on the opposite side of the Crumlin Road. The noise of the attack aroused the attention of some of the residents of Disraeli Street who rushed to the aid of the police. Others ran across the Crumlin Road into the mouth of Hooker Street and returned missiles into that street.

17.4 Within minutes police reinforcements arrived. By this time crowds had formed in the mouths of Disraeli Street (100) and Hooker Street (150–175). The police lined up in the middle of the Crumlin Road and stones and petrol bombs were thrown at them from Hooker Street. While some police were deputed to restrain the Disraeli Street crowd, the remainder, led by HC Wallace, mounted a baton charge against the Hooker Street crowd.

17.5 Armoured vehicles preceded foot police down Hooker Street and succeeded in penetrating a barricade at the junction with Butler Street. At this point the police were bombarded with missiles from the higher ground at the Butler Street/Herbert Street junction. Eventually the police succeeded in forcing the crowd into the section of Herbert Street to the north of Butler Street. The police were unable to advance any further because of the severity of the missile attack; nor were they able to approach the rioters from the rear with vehicles because of the presence of barricades in Jamaica Street and Brompton Park.

17.6 In order to avoid being cut off from the rear, the police withdrew to Hooker Street/Chatham Street but were pursued by the rioters. Again they baton-charged down Hooker Street and again the crowd was forced into Herbert Street, near the entrance to Brompton Park. From here they attacked the police with stones, petrol bombs and a number of improvised explosive devices made from six-inch pieces of copper tubing. Having staved off an attack on their right flank from the Flax Street direction, the police ultimately succeeded in putting vehicles into Brompton Park and the rioters were dispersed.

17.7 During the time when the police were engaging rioters within the Ardoyne area, an angry and noisy Protestant crowd had built up on the Disraeli Street side of the Crumlin Road. The Tribunal has no doubt that Mr McKeague was on this night, as on others, active in the area. It was his practice to move about the streets wearing a helmet and carrying a stick. His object, so he said, was to organise the residents "to make sure that there was no infiltration of any Republican elements into these streets". Various witnesses spoke of strangers entering the streets and participating in the disturbances. Undoubtedly Mr McKeague and his associates of the SDA must have attracted a number of turbulent characters to the south side of the Crumlin Road. Nevertheless on this evening the Protestants were restrained by police officers and clergymen and it seems that at no time did any of them get beyond the mouth of Hooker Street. Earlier in the evening some Protestants had collected bin-lids and supplied them to the police officers who were not equipped with shields.

17.8 In the early hours of the morning of 14 August, the Rosebank public house and Graham's betting shop, [illegible] were on opposite sides of Disraeli Street at the Crumlin Road junction were set on fire. The Tribunal has no direct evidence as to who caused the two fires; but a number of factors support the inference, which we draw, that some elements in the Protestant crowd were responsible. The premises were in Catholic ownership on the Protestant side of the road, and in the earlier disturbances had been attacked (Rosebank public house, 4 August): the crowd was in ugly mood, well within range, and received with hostility the fire appliance when it arrived.

17.9 We find that the events of the night of the 13th in the Ardoyne began with an attack by Catholic elements on policemen at the junction of Crumlin Road/Disraeli Street for which there was no provocation. Father Marcellus Gillespie told the Tribunal that he learned that evening that the object of the attack was to occupy the attention of the police in the hope of drawing their forces away from the Bogside in Londonderry. He had heard a rumour that two men who had been fighting in Derry had come to the area suggesting this course of action, but he was unable to find anyone who had actually seen them. Father Gillespie agreed that those engaging in riotous behaviour this night in the Ardoyne area were not motivated by a desire to defend the area. He also said in evidence that "the people who were engaged on the Wednesday were generally the ones who would find themselves engaged against the police".

17.10 We have noted two features of the night's disturbances, as typical of so much that troubled the Province in August. First, the riot was started by a few Catholics without warning and after a period of peace: undoubtedly their objective was to involve the police and so prevent reinforcements going to Londonderry. The second feature is the Protestant reaction. The Catholic tactic of stretching the police brought the Protestants on to the streets with the inevitable consequence of serious rioting. In August this riot cycle led to death, injury, fire and destruction with their accompaniment of communal relations inevitably embittered, personal hatreds engendered, and human misery intensified.

CHAPTER 18—WEST BELFAST

Introduction

18.1 One of the most distinctive features of the social geography of Belfast is a large area of Catholic occupied housing beginning at the very centre of the city and widening out towards the west. This district, which is often described as the Falls Road area, lies to the south of a large area of Protestant territory centred on the Shankill Road. The notional but fairly well defined line running roughly east-west which marks the boundary between the two communities is sometimes referred to as the "Orange-Green line". It was in the vicinity of this line that serious disturbances took place during mid-August 1969.*

*Street plan showing Orange-Green line is at Appendix VIII (M).

FS 1 . 303

18.2 [illegible] to the north of the [illegible] road, known as Falls Road west of Northumberland Street and as Divis [illegible] between Northumberland Street and the city centre. The vast majority of the Catholics in the area live south of the main road. The relatively small number of Catholics living immediately to the north of Falls Road/Divis Street are divided by a mill and factory area which extends from Conway Street to Percy Street. East of this divide the Catholic occupied area included the southern ends of Percy Street and Dover Street and the whole of Beverley Street and Ardmoulin Avenue. West of this divide the Catholic area included the southern end of Conway Street and Clonard, enclosed by Cupar Street, Falls Road and Springfield Road. It was in these two areas north of Falls Road/Divis Street, as well as on the main road itself, that violence took place on 13, 14 and 15 August 1969.

18.3 For the convenience of hearing evidence, the Tribunal subdivided this area into "Divis Street/Lower Falls Road", which included events taking place on the main road as well as in Percy Street, Dover Street, Cupar Street, Conway Street and neighbouring streets, and "Clonard". Although this distinction is geographically arbitrary (Conway Street and Cupar Street can be regarded as part of the Clonard area) it is convenient in terms of the pattern and timing of events. The most serious trouble in Divis Street/Lower Falls Road took place on Wednesday 13 and Thursday, 14 August; major disturbance in Clonard took place on the following day, Friday 15.

18.4 The whole area with which the Tribunal was concerned is predominantly working class. With the exception of a series of modern Catholic occupied blocks of flats and maisonettes on the south side of Divis Street, housing is poor by the standards of today*.

18.5 Both the Clonard and Divis Street/Lower Falls areas were included in city police district B. In July and August 1969 the headquarters of B district were at Hastings Street RUC Station. There were two other police stations in the district: at Springfield Road and at Andersonstown. At that time the district inspector in charge of B district was Mr Lagan. DI Lagan was however on leave in July 1969 and absent on sick leave until 14 August. In his absence the senior head constable, a Mr Stinson, was in charge of the district.

18.6 For some time before the period with which the Tribunal was directly concerned it appears that relations between the RUC and at least some sections of the Catholic population of B district were less than satisfactory. This may be illustrated in relation to one area within the district by an event which took place in 1968 and its consequences. In July of that year a hand grenade was thrown at a police vehicle summoned to Cyprus Street by a bogus 999 call. The police authorities then found it necessary to devise a special procedure

*A report entitled "People and Their Homes" was published in 1967. It was prepared by Building Design Partnership, and dealt with conditions in Belfast redevelopment areas. Some of the material related to the area north of Falls Road, where the main rioting occurred in 1969. It is shown, for example, that houses there were grossly deficient in inside WCs, fixed baths, hand basins and hot water supply.

for dealing with 999 calls from this area [illegible]alls made between 10 p[illegible] 6 am were not to be investigated by foot po[illegible]emen (except on the per[illegible] of the area where their escape route was unimpeded) but by two patrol[illegible] approaching by different routes and arriving at different times. The [illegible] bounded by Falls Road, Grosvenor Road, Albert Street and Cullingtree [illegible] which included all the streets to which this procedure applied was code[illegible] by the police—somewhat misleadingly—Nogoland*. It appears also to [illegible] been the practice that police foot patrols did not go into the centre of No[illegible] in the late evening or early morning†.

July–12 August

18.7 Before examining in detail the events of 13, 14 and 15 Augu[illegible] necessary to consider briefly the situation in west Belfast during July [illegible] early part of August. The month of July was relatively peaceful in th[illegible] of the City. In the period up to 11 July there were a number of minor in[illegible] involving the unauthorised removal of Union flags and bunting o[illegible] display but they amounted to nothing more serious than would be [illegible] in any other year. The nights of 11 and 12 July passed off without [illegible] trouble and although there were some incidents of a sectarian nature [illegible] the remainder of that month, none was especially significant.

18.8 On 5 August at about 4 30 am a car was burned out against th[illegible] of the motor car showroom of Messrs Isaac Agnew at the junction of O[illegible] Street and the Falls Road. On responding to a call from the same prem[illegible] the following night the police found that 2 large plate glass windows ha[illegible] broken and slight damage to the inside of the building had been caus[illegible] petrol bomb. Although this building was Protestant-owned, the re[illegible] its attracting such vandalism seems not to have been sectarian, but [illegible] that it was the most elaborate and modern in the Falls Road, with lar[illegible] glass windows, displaying a valuable stock of motor cars.

18.9 Three days later, on 9 August, 4 or 5 youths were seen th[illegible] stones in the direction of Hastings Street police station. One youth, a [illegible] at Queen's University, was detained and found to have in his posse[illegible] pamphlet entitled "How to discredit the police force".

18.10 On the morning of 12 August contingents from Shankill R[illegible] Sandy Row travelled to Londonderry for the Apprentice Boys parade, re[illegible] in the evening. During these movements the Orange-Green border was [illegible] by what was then regarded as a substantial contingent of RUC (20-2[illegible] there was no disturbance of any kind. Later on in the evening of 12th [illegible] numbering about 100 gathered opposite the new RUC station in S[illegible] Road. Some were armed with hurling sticks. The crowd dispersed wi[illegible] direct action on the part of the police.

*The Deputy Commissioner, Mr Bradley, had not heard this term applied to areas of [illegible] prior to the deployment of the army on 15 August 1969.

†However, despite these limitations on the freedom of action of the RUC, DI Lagan des[illegible] police/public relations in B district as "quite good". We believe that, for the wor[illegible] of motives DI Lagan was painting too favourable a picture: the anti-police demonst[illegible] in April 1969, in which DI Lagan himself was savagely beaten up, illustrates the truth, [illegible] relations were not good.

FS1. 304

[illegible]11. In the ea[illegible]rs of the morning of Wednesday 13th, petrol bombs [illegible]hrown into the [illegible] of Detective Sgt McBryan in the Andersonstown area. [illegible]cBryan was involved in a well known criminal investigation in 1966 [illegible]had led to a successful prosecution for murder. At around the same time [illegible] bombs were thrown at police foot patrols in Springfield Road by two [illegible], possibly one Catholic and one Protestant.

[illegible]12 It will be noted that during the period from 1 July to mid-August [illegible]was very little advance indication of the trouble which was to erupt [illegible]3 and 14 August. Although there was intimidation, primarily of Catholics, [illegible]ring in other parts of the city during this period, the evidence, statistical and [illegible]rwise, given to the Tribunal suggests there was little or none in police district [illegible]July or in the first 12 days of August. Indeed, HC Stinson said that up to [illegible]gust he had had no experience in the district of "actual and real [illegible]idation". He was, however, aware of rumours going round.

[illegible]gust

[illegible]13 On Wednesday, 13 August, police and residents of the Bogside, [illegible]nderry were confronting one another for the second day running. Over [illegible]wo days a number of individuals in that city (including Miss B Devlin, [illegible] McCann and Mr S Keenan) appealed to the Northern Ireland Civil [illegible] Association through its chairman, Mr Frank Gogarty, to do something [illegible]w the police away from the Bogside. Mr Gogarty convened a meeting [illegible] NICRA Executive in his home on 13 August. A decision was taken [illegible] for demonstrations to be organised that evening throughout the towns [illegible]ies of Northern Ireland by local branches of the civil rights association. [illegible] demonstrations, to include sit-downs and the blocking of roads, were [illegible]d to put pressure on the civil authorities to draw the police away from [illegible]nderry. It was however decided that no demonstration would be held in [illegible], because of the special risk of provoking sectarian violence there.* [illegible]ing to one member of the Executive, Mr Kevin Boyle, while Belfast [illegible]pressly excluded from the places where demonstrations would be held on [illegible]sday 13th, the possibility of a meeting being held there on the following [illegible]s left open. This was referred to in a press report quoting Mr Boyle [illegible]ppeared in the *Belfast Telegraph* on 13 August. We have no doubt [illegible]r Boyle accurately indicated the views of some who were present.

[illegible]14 Despite the fact that, according to the evidence submitted to the [illegible], the NICRA did not call a meeting in Belfast to protest against the [illegible]ction in Londonderry, such a meeting was in fact held outside Divis [illegible]e large Catholic-occupied complex of flats and maisonettes on the south [illegible] Divis Street between Durham Street and Ardmoulin Street.

[illegible]15 At about 6 30 pm on the evening of the 13th a police constable on [illegible]y at Upper Library Street/Peters Hill heard a loudspeaker being used in the [illegible]nity of Unity Flats. The speaker was appealing for support for the people [illegible]the Bogside and urging his listeners to attend a meeting later in the evening [illegible]Divis Flats. The constable then saw a white Ford Cortina car, with amplifier

*Other details of this meeting (e.g. the decision to send a deputation to the Minister of Home Affairs) not being directly relevant to Belfast are discussed elsewhere.

equipment protruding from the boot, emerging from the courtyard of Unity Flats. This car was owned by a Mr Stewart whose evidence was that on the evening of the 13th he lent it to a man whom he did not know but to whom he had previously lent it. He did not know for what purpose the car was to be used (although he assumed it was for refugee work for which it had been lent before) until fifteen minutes later, when he heard that it was touring the streets advertising the Divis Street meeting.

18.16 The Tribunal had no evidence as to who was responsible for the activities of the white Cortina or who organised and addressed the meeting held at Divis Flats between 8 and 9 pm. One witness, Mr A, thought the organisers of the meeting were well known people whom he recognised by sight from the television. Another, Mr A McGarrigan, thought the organisers looked like students. It is a fair inference that some civil rights supporters decided to call the meeting.*

18.17 The Tribunal has no doubt that the meeting which was almost immediately followed, at 9 pm, by Mr Lynch's broadcast raised tension in the Falls Road area although people had gathered on the streets before this time. Mr P Kennedy MP (NI) testified to the confusion and speculation to which this speech gave rise, many people thinking there was a possibility that the army of the Irish Republic would intervene in Northern Ireland.

The march to Springfield Road RUC station

18.18 The people who attended the meeting decided to hand in a petition at Springfield Road RUC station protesting against police brutality in Londonderry. About 100 people marched from Divis Flats, the number increasing as they went along Divis Street in the direction of Springfield Road. A motor-car preceded the procession. Mr A denied that a tricolour was carried at the front of this crowd, but one witness, who described a crowd of 300–500 singing the Soldiers Song, saw a man in the centre of the crowd carrying a tricolour. It is possible that as Mr A was at the front of the crowd he did not see this. Father McLaughlin described the procession as numbering between 100 and 200 people and "good humoured". In front was a light coloured motor car with an open boot which appeared to contain a loudspeaker. Although there was no positive identification, this car may well have been Mr Stewart's Cortina.

18.19 At about 9 pm Sgt Devine, who was station sergeant at Springfield Road station, received a radio message that a mob was advancing up the Falls Road in his direction. At that time the police were operating from a temporary station in Violet Street at the rear of the newly-built but not yet occupied station fronting on to the Springfield Road. Sgt Devine, having secured the doors and windows, remained with four constables inside the temporary station; a fifth constable was posted in the new station.

18.20 The crowd arrived at Springfield Road at about 9 15 pm. From his position within the temporary station Sgt Devine heard the noise of missiles against the corrugated iron hoarding protecting the front of the new station

†A booklet published by the Citizens Defence Committee entitled "The True Story—Terror in Northern Ireland" after referring to the decision not to hold a meeting in Belfast goes on to say (p. 7) "It seems, however, that the initiative was taken by a small group of young Civil Rights supporters . . .".

and the sound of breaking glass. From outside the door he was then informed by a man who identified himself as Malachy Dornan or Doran that this was a deputation of the citizens of the Falls Road who desired to hand in a written petition containing several signatures and protesting against police brutality in Londonderry. Sgt Devine did not accept the petition nor did he at any time open the door. After about 15 minutes the crowd departed, having broken four windows on the first floor of the new station.

18.21 Shortly before the crowd had dispersed, DI Cushley, who at 8 00 pm had been seconded from the Commissioner's headquarters to take command of "B" district in place of the injured DI Lagan, arrived at Springfield Road Station. DI Cushley observed that the crowd, which numbered about 200 and was now quite peaceable, was beginning to make its way back along the Falls Road in the direction of Divis Street. Anticipating that the crowd was destined for Hastings Street Station, Mr Cushley quickly made his way there. By the time the crowd reached Townsend Street he estimated its size to have grown to about 500. Mr P Devlin MP (NI) and the RUC Deputy Commissioner, Mr Bradley, who appears to have been in overall command of police operations in the area, both however put the figure at about 300.

18.22 While other police remained out of sight DI Cushley, HC Stinson and a constable with a pocket radio stood outside Hastings Street station ready to receive any petition or deputation which might appear. Neither did. Instead, individuals at the front of the crowd ran forward hurling pieces of grating, stones and petrol bombs in the direction of the three policemen who were forced to retreat into the station.

18.23 DI Cushley then instructed armoured vehicles, which he had previously deployed in the vicinity of Hastings Street, to advance along Divis Street with orders to disperse the crowds and to arrest the ringleaders. These vehicles were armoured Commer personnel carriers which DI Cushley had withdrawn from storage that evening—hence their code name, "Mothball"—to replace the normal police transport which was in use elsewhere. The operation succeeded in breaking up the crowds in Divis Street but it was not possible to arrest the ringleaders because of the poor visibility from the Commer vehicles, their lack of manoeuvrability and the impossibility of a party of men dismounting rapidly from them. In fact these vehicles were designed for patrolling border areas in the Province and not for urban riot control.

The Leeson Street incident

18.24 At about 10 30 pm a Commer vehicle under the command of HC Ramsey was ordered to Grosvenor Road/Leeson Street, where it took up position in the mouth of, and facing into, Leeson Street. Mr Bradley had received reports that a crowd, possibly that which had been attacking Hastings Street RUC Station, was moving down Leeson Street towards Grosvenor Road. In order to prevent this crowd crossing Grosvenor Road into a mixed and, ultimately, Protestant area, he decided to put a vehicle at the Leeson Street/Grosvenor Road junction.

18.25 Thinking that his position in the mouth of Leeson Street might be regarded as provocative—for he knew the area to contain a Republican element HC Ramsey moved his vehicle across the Grosvenor Road into Malt

FS1.305

Street, which still gave him a view into Leeson Street. From this location he saw a crowd gather in Leeson Street at the junction with McDonnell Street and grow rapidly to about 200. The crowd advanced towards the Grosvenor Road and stones and about three petrol bombs were thrown in the direction of the armoured vehicle. HC Ramsey ordered his men to dismount and advance into Leeson Street behind the vehicle. Just as they entered Leeson Street about five shots rang out and HC Ramsey heard them striking the front of his vehicle. At the same time there was an explosion accompanied by an orange flash and one of his men, Sgt Curral, fell injured. At 10 45 pm HC Ramsey radioed to police headquarters that Sgt Curral had been shot; in fact he had been bowled over by the force of the explosion, sustaining a burn on his right groin.

18.26 This explosion was almost certainly caused by a hand grenade since fragments of such a device were found in the area shortly afterwards. An unexploded hand grenade was also discovered in Malt Street*, and according to an expert witness the fragments were from a similar type of grenade.

18.27 HC Ramsey was joined by HC Gray and the two Commer vehicles under his command. There were still crowds in McDonnell Street and Leeson Street and more petrol bombs were thrown. Five or six further shots were then fired from the Leeson Street direction. By the sound HC Gray took them to be from a ·455 revolver.

18.28 That police officers and vehicles were in fact fired on in this, the first shooting incident in the Falls Road area in August 1969, is confirmed by bullet damage to the front of premises at 180 Grosvenor Road (immediately opposite the mouth of Leeson Street) and bullet marks on the front of HC Ramsey's armoured vehicle. There is no evidence of any return of fire by the police.

18.29 Immediately the incident was reported to him, the Deputy City Commissioner, Mr Bradley, who was in overall charge of police operations in Hastings Street, ordered all police forces to withdraw. Mr Bradley took the view that the Leeson Street incident indicated that the IRA had become involved in the rioting.† A conference of senior police officers was held in Hastings Street at which it was decided to cease police patrols in land rovers and re-deploy all forces in armoured vehicles. These vehicles were Shorland armoured cars. Their normal armament is a ·30 Browning machine gun but these weapons were not fitted on the night of 13th. According to DI Gilchrist: "The Shorlands were brought out on the instructions of the Commissioner, but the guns were not mounted simply because it takes some time to do so". Mr Wolseley testified that he could not understand why the Shorlands had been used unarmed. DI Cushley also told the Tribunal that he expected the Brownings to be mounted on the Shorlands: "It was a useless vehicle without its mounting". The evidence

*It was an American World War II hand grenade which had not exploded since the cap was missing.

†In connection with the incident it may be noted that on or before 13 August HC Stimson received information from an influential person in the area that a trap was to be set for the police in Leeson Street and that they should keep out. HC Ramsey had no knowledge of this and there is no evidence on which the Tribunal can make a finding. But it is indicative of police thinking at the time.

FS1 309

of these senior officers confirms the suggestion in DI Gilchrist's evidence that the Shorlands were unarmed, not as a deliberate act of policy but simply because there had been insufficient time to mount the Browning gun.

18.30 By about 11 pm trouble had broken out in Hooker Street and reinforcements were sent there from "B" district. Crowds were still roaming around in the Falls Road area and at about 11 30 windows were broken at Messrs Isaac Agnew's showrooms. In the course of the evening these premises were set on fire by the mob. Cars were dragged out in the street and set on fire and property was looted. The fire brigade was summoned at six minutes past midnight and reported the ground floor showroom and five cars completely destroyed by fire. Mr P Kennedy MP (NI) for Belfast (Central), described the burning of Agnew's as "totally senseless violence". Although this business was Protestant owned he did not see its destruction as a sectarian act ("I think if it had been a Catholic firm then it would have been burned with the same degree of wantonness"): but we have no doubt that at least part of its motivation was sectarian.

18.31 Tyres were removed from a factory and set on fire at the Falls Road/Albert Street junction. A block of offices at the New Northern Mill (between North Howard Street and Northumberland Street) was also destroyed by fire. According to one witness, a journalist, the New Northern Mill was set on fire by petrol bombs first and it was while the brigade was dealing with this fire that petrol bombs were thrown into Agnews.

18.32 A Catholic witness described the youths responsible for the burning of Agnews as "a mob out of control" and, although there is evidence that responsible residents in the Falls Road area deplored this wanton destructiveness and attempted to restrain the rioters, they were able to do little beyond giving assistance to the fire brigade and attempting to rescue property threatened by fire.

18.33 While Agnews was burning a particularly unfortunate, and very revealing, incident took place. A white saloon car with a flashing blue beacon on the roof occupied by two uniformed fire officers was driving along the Falls Road in the direction of the city. As it approached Agnews a man stepped out from a side street and threw a petrol bomb through the windscreen. The car went out of control and struck the gable end of a public house at the corner of Peel Street. At that time it seems that the crowd of about 200 which was in the vicinity assumed that the two occupants were policemen and that the car was a police car and some of the crowd were hostile towards them. When, however, it was realised that they were fire officers and the car they were travelling in was a fire service car, hostility diminished and they were not harmed. One wonders what would have happened if they had been police officers. The two men were eventually taken to the Royal Victoria Hospital for treatment.

18.34 The violence to persons and, particularly, to property in the Falls Road area on the night of 13/14 August was intended to bring the police into the district. In this, however, the rioters met with only limited success. In the

earlier part of the evening there had been clashes in the Falls Road (near the Northumberland Street junction) between missile throwing youths and the police who now withdrew from the area. Mr Bradley and Mr Cushley, their forces depleted as a result of the call for assistance from the Hooker Street area, decided it would be futile to attempt to disperse the mobs in and around the Falls Road. They were forced, in Mr Cushley's words, "to deploy the forces only in patrolling the border areas and to concede to the rioters that portion of the road which they were determined to wreck and destroy". No attempt was therefore made to break up the crowds and the police confined their activities to patrolling the periphery of the area in order to prevent the spread of trouble beyond the Catholic areas and thus to avoid any possibility of sectarian conflict.

18.35 Following the shooting incident in Leeson Street, Mr Bradley thought it necessary to apply for permission to use CS gas in the area.* Permission was refused and gas was not used in Belfast any time on the night of 13th/14th.

18.36 Shortly after midnight the third police station in B district came under attack when shots were fired from a passing vehicle at Andersonstown station.

The Springfield Road Shooting

18.37 A little after 12 30 am Sgt Devine got word that a crowd was again making its way towards Springfield Road RUC Station. More police had come on duty after the previous attack and Sgt Devine now had ten constables with him, four of whom he posted in the new station.

18.38 At this time the unoccupied building was surrounded by a corrugated iron hoarding about 9–10 feet in height and separated from the front of the building by a gap of about 12–15 feet. The four constables were told that if there was an attempt to climb over the hoarding warning shots were to be fired over the heads of the crowd. If anyone succeeded in getting over the hoarding intending to invade the station they were to fire for effect.

18.39 At about 1 00 am the crowd arrived outside the station in Springfield Road. From his position in a first floor room of the station in which he and another two constables had positioned themselves, Constable Knowles saw a crowd of about 50 youths emerge from Colligan Street, some of whom threw petrol bombs at the station. Hearing sounds which he took to be revolver shots he looked out from a window (which was protected by steel shutters which were partly open leaving a gap of 18 inches) and saw two youths to the rear of the crowd each with a revolver in his hand. The two other constables in the room then fired their revolvers from the windows over the heads of the crowd. These shots did not apparently succeed in dispersing the crowd for, according to Constable Knowles' testimony, more petrol bombs and stones were thrown at the station.

*The application was made to the Minister of Home Affairs by the Commissioner, Mr Wolseley. The Minister did not agree since Mr Wolseley had not seen the situation on the ground himself in accordance with the regulations. Mr Wolseley was asked to get Mr Bradley himself to contact the Minister, but he did not do so.

FS1 307

18.40 The Tribunal heard evidence from one of the two constables who, between them, discharged 11 revolver shots from the first floor room. The shutters over the window at which Constable E was standing were completely closed, the only visibility being permitted by a circular aperture about 4 inches in diameter. Through the aperture Constable E saw the crowd throwing petrol bombs and two youths firing revolvers towards the station. As the senior of the two constables at the windows he drew his revolver and gave an order to fire over the heads of the crowd. He said he fired three shots at 45° into the air, through the aperture in the steel shutters and a hole in the window which had been broken earlier. At the same time the other constable fired about the same number of rounds. These shots had no effect on the crowd, perhaps because they could not be heard above the din of rioting, and Constable E fired a further three shots into the air. The other constable discharged two more rounds. At about the same time as this firing two armoured Commer vehicles arrived on the scene and the crowd scattered.

18.41 Despite the police insistence that the two constables fired into the air there is clear evidence that two young men, Mr Smyth and Mr Carberry, sustained gunshot injuries in Colligan Street at about this time. Mr Carberry testified that as he was crossing this street at a point between McQuillan Street and Springfield Road he was struck in the neck by a bullet. Mr T Smyth also appears to have received a gunshot wound in the right hip at the same time.

18.42 There are difficulties, which it is unnecessary to enumerate, in accepting in its totality the evidence of Mr Carberry and of a Mr Linton, who was with the shot man. Nevertheless none of these difficulties affects the fact that two civilians were injured by gunfire at the same time as two police constables claim to have fired warning shots over the heads of the crowd of which they were members. Tests by ballistic experts have established that the bullet which injured Mr Carberry was fired from the revolver on issue to and used by one of the constables on 13 August. The question which immediately arises is how bullets fired from a first floor window, according to police evidence, "upwards at an angle" and "well over the heads" of the crowd could strike targets at ground level a short distance away.

18.43 One explanation might be that the bullet which struck Mr Carberry had ricocheted from a hard surface; the fact that it displayed "damage to the nose together with extensive damage to one side" lends some colour to this hypothesis. The two ballistics experts who examined the bullet reported that the damage to it could have been caused either by ricochet or by striking bone. After consideration of the hospital report, however, both experts thought that the nature of the wound sustained by Mr Carberry suggested the second alternative: that the bullet had not ricocheted before entry.

18.44 The conclusion must be that at least one of the two police constables who fired from the station fired for effect. There can be little doubt that shooting was in fact directed at the station from the crowd outside; a spent bullet of a kind not on issue to the RUC was found on the first floor window sill the following morning and two areas of bullet damage were identified. Nevertheless, there was no justification in the circumstances for firing for effect. Ugly in mood

and aggressive in action though the crowd was, neither the security of the station nor the safety of the police was at such risk as to permit "firing for effect", a euphemism for firing to injure or kill people in the street below.

18.45 As we have already described, this second attack on Springfield Road station was brought to an end by the arrival of armoured vehicles under the command of DI Cushley. It was probably when leaving the vicinity of the station on this occasion that Mr Cushley heard light pistol shots and the sound of bullets striking the side of the vehicle. No fire was returned.

18.46 A third attack on Springfield Road station took place at about 2 00 am on the morning of the 14th. After the previous incident Sgt Devine had placed a policeman with a Sterling sub-machine gun on the roof of the station. A number of people threw petrol bombs at the station but this was checked when the officer on the roof discharged eight rounds into the air. Mr Linton was among this crowd, which he described as being in aggressive mood after the shooting of the two men earlier on. By the time of this third attack petrol bombs had been prepared in quantity and people were seen carrying crates filled with them.

18.47 All the disturbances so far described involved the activities of Catholic crowds in Catholic areas. In marked contrast with what took place on the following night there is no evidence of any sectarian clash on the night of 13/14 August.

18.48 The RUC Deputy Commissioner, Mr Bradley, told the Tribunal that during the evening Protestants did gather in Percy Street and Dover Street and were contained by members of the RUC and USC. DI Cushley, however, who was in these streets and better able to observe what was happening, denied that there were any gatherings of Protestants which had to be contained by the police. There are also a number of references in the police log (Exhibit 43) to Protestant crowds at North Howard Street, Third Street and Cupar Street. During the night DI Cushley saw a crowd of Protestants at the junction of North Howard Street and Third Street. This crowd, which was out of sight of the Falls Road, had collected piles of missiles as well as some petrol bombs. Some time before midnight members of this crowd erected a barricade across North Howard Street. DI Cushley did not disperse them because he was unwilling to open up another front as he did not have sufficient men with him. In addition he seems to have regarded their activities as defensive and perhaps therefore as legitimate. However, an entry in the police log suggests that Finnegan's pub at Cupar Street/Argyle Street junction was looted (presumably by Protestants).

18.49 A significant feature of the rioting on 13 August in the Divis/Lower Falls area was the use of firearms. A further point to note is the similarity between the events of the early part of the evening of 13 August and those of 20 and 21 April of the same year when after confrontations between the police and residents of the Bogside, there were demonstrations at, and attacks on, the RUC stations at Hastings Street and Springfield Road in protest against "police

brutality" in Londonderry*. This similarity tends to confirm the evidence of several witnesses that the Catholics responsible for the disturbances on 13 August were motivated by a desire to protest against the activities of the RUC in Londonderry. Some of them appeared to want to draw the police into the area and engage them. The element of simple hooliganism was also present —as always.

The reaction of the authorities to the disturbances of 13 August.

18.50 One effect of the province—wide disturbances on the night of the 13th was to convince the heads of the RUC, and the Government, that they should expect very serious trouble on 14 August. The Belfast Deputy Commissioner managed to arrange for a force of about 400 RUC to be available for riot duty in Belfast on the evening of the 14th. It was also decided, in spite of the risks, that County Inspectors could, if necessary use the USC for riot control.

18.51 During the early hours of 14 August Dr Paisley, and some of his colleagues in the Ulster Constitution Defence Committee, had a meeting with the Northern Ireland Prime Minister. Dr Paisley called for much stronger action by the Government, and offered to organise a Protestant force to assist the Government, if the Army was to be available only upon unacceptable terms. This meeting must have made clear to the Government the greatly increased risk of communal tension.

18.52 It was, in fact, the only occasion, of which we have evidence, of any action by the Ulster Constitution Defence Committee in the events under review. That committee, in which Dr Paisley was the dominating figure, had been founded by him and controlled a politically active organisation, the Ulster Protestant Volunteers. There is no evidence that the Ulster Protestant Volunteers as a body played any part in the disturbances under review.

*It was on 21 April that DI Lagan, the senior officer in Belfast "B" District, was savagely attacked by rioters at Falls Road/Balaclava Street. Mr P Devlin MP and others attempted to protect him but he sustained injuries to his back.

FS1 .308

PART VI—THE ARMY

CHAPTER 19—OFFICIAL DISCUSSIONS ABOUT DEPLOYMENT OF THE ARMY IN EARLY AUGUST

19.1 At the beginning of August 1969 39 Brigade was the Garrison Brigade for Northern Ireland. It comprised the 1 battalion, Royal Regiment of Wales, the 2 battalion, Queen's Regiment, the 1 battalion Prince of Wales Own Regiment and the 17/21 Lancers at Omagh. In July 1 Prince of Wales Own Regiment had been moved to Magilligan, because of possible risks arising from the situation in Londonderry. During 1969 there had been some modest liaison about crowd control between the Army and the RUC, culminating in two half-day study periods about how the army and police would work together if the army was called in. Brigadier Hudson told the Tribunal that the likelihood of the Army being called in had been growing throughout the summer and that the Army was taking all measures short of actually deploying soldiers to be ready if they were called upon to intervene.

19.2 When the crisis came in mid-August 1 Prince of Wales Own Regiment was near Londonderry. One company of the Royal Regiment of Wales was in Omagh with the 17/21 Lancers. The total effective strength available for deployment in the Belfast area was five companies which totalled, excluding one company in reserve at Holywood, about 300 men. Once troops began to be committed a further battalion—the 3rd Light Infantry—was brought into Belfast. It arrived during the night of 15/16 August. The Tribunal did not inquire into the policy of the Ministry of Defence, but it is a striking fact that the troops available for deployment were so few. It is a reasonable inference that their role was expected to be very limited.

19.3 Mr Wolseley, the Police Commissioner for Belfast, told the Tribunal that after the rioting on the night 2/3 August he recognised that his men were exhausted and had to be sent home to rest. The result was that, when trouble did break out in the afternoon of the 3rd, there were very few policemen available. Mr Wolseley contacted Lt Col J Fletcher, commanding officer of the 2 battalion the Queen's Regiment, which was based at Palace Barracks Holywood. At 10 am one company of this battalion had been ordered to be placed on 2 hours notice from 4 pm onwards. Col Fletcher travelled to Mr. Wolseley's headquarters at Castlereagh. At about 4 45 pm Mr Wolseley told Col Fletcher that all police reserves had been committed and asked for his assistance. Col Fletcher replied that he would do all he could to help but that he would not deploy any of his soldiers without permission from higher authority. He communicated with Brigadier Dyball, the then Chief of Staff, who said that this was a political decision and confirmed that troops were not to be committed without the approval of higher authority.

19.4 During the afternoon Mr Wolseley telephoned the Inspector General, who with his Deputy was attending a Cabinet meeting called at 4 00 pm, and told him that he had been in touch with the military. Mr Wolseley and Mr Bradley, the Deputy Commissioner, were both of the opinion that the situation was such that troops would have to be deployed on the ground in West Belfast.

FS1. 309

19.5 The Inspector-General did not, however, support Mr Wolseley's request for army assistance: he did not think the representations made to him by the Commissioner warranted the taking of such a grave step. (This view appears to have been shared by the GOC, Lt Gen Sir Ian Freeland.) Quite apart from purely tactical considerations on the ground, the Inspector-General was aware of the possible constitutional consequences of calling in troops. He explained to the Tribunal the "background" to his decision not to recommend military intervention in the following terms:

> "(1) I did not think the situation in Belfast—there had been reinforcements brought in from quiet country areas on the previous evening—had got so far as it would be desirable for troops to come in in aid of the civil power; and
>
> (2) there was the point which had been made to me from the political angle that there were constitutional issues involved".

But, while very much aware of the "political angle", by which he meant the risk that, if Westminster committed the troops, it might suspend Stormont, he claimed that it was not a factor in his advice.

19.6 As a result of discussions between the Inspector-General, the Minister of Home Affairs, the Chief of Staff (Brigadier Dyball) and the Secretary to the Cabinet (NI) it was decided to bring in troops on a standby basis. Originally they were to be sent to Musgrave Street RUC Station but in the event, at 5 50 pm, a company of soldiers was ordered to the Commissioner's headquarters at Castlereagh. They arrived at about 6 35 pm by which time police reserves had been summoned from elsewhere in the Province and men from the local force had returned to duty. In the event, the RUC did not lose control of the situation.

19.7 The Minister of Home Affairs, Mr Porter, confirmed that at no stage on 3 August was he advised by the Inspector-General, the Deputy Inspector-General or the Commissioner that army assistance was necessary in Belfast. The Minister had been made aware from as early as April 1969 that "if troops were needed in an extended way in Northern Ireland the Government in the United Kingdom would have to keep under consideration the implication of such a movement" (no doubt, the reason for Mr Peacocke's awareness of "the political angle").

19.8 In case military intervention did become necessary over the weekend the NI Cabinet agreed to seek advance clearance against this contingency from the UK Government in order to avoid any delay once a specific request was made. During the discussions at official level between Stormont and Westminster it became clear to Mr Porter that it was the view of the UK Government that any extensive use of troops to cope with civil disturbances in Northern Ireland could have serious constitutional consequences. This view was also communicated to the GOC by the UK Government. Mr Porter told the Tribunal that the contingent request to Whitehall for military assistance was later withdrawn on the basis that a negative response might inhibit the GOC who was left to rely on his common law powers.

CHAPTER 20—CONSTITUTIONAL IMPLICATIONS OF CALLING IN ARMY

20.1 Discussion between the UK and NI Governments about the calling in of troops in aid of the civil power had taken place in 1966 and again in April 1969. The Minister of Home Affairs told the Tribunal that after the 1966 discussion

> "It was understood that while the Inspector-General should feel free to make the request* if the situation demanded his doing so immediately; it was understood also that where possible a consultation should take place at government level through the Minister of Home Affairs in the first instance and in the normal way that would be taken up through the cabinet office."

When the matter was raised again in 1969

> ". . . it was made clear that the GOC should only consider this question after consultation with London and again it was understood that there would be consultation at government level. I think at the time my Lord, it was also indicated that in that eventuality the government in Westminster would have to consider the implications of such intervention".

20.2 The possible constitutional consequences of the use of the army in Northern Ireland were, as we have seen, very much to the fore of the minds of the Minister of Home Affairs and the Inspector-General on Sunday, 3 August. During the following week consultations took place between officials at Stormont and Westminster; on Tuesday, 5 August, the Secretary to the NI Cabinet visited the Permanent Secretary to the Home Office in London.

20.3 On the next day Wednesday, 6 August, a report appeared in the *Financial Times* by the Lobby Editor, John Bourne. It was in the following terms:—

> "British troops would be used to restore law and order in Ulster only if the Northern Ireland Government first agreed to surrender its political authority to Westminster. This, it is understood, is the position as explained by Mr Wilson and Mr Callaghan first to Captain O'Neill when he was Prime Minister of Northern Ireland, and then to his successor, Major Chichester-Clark, the present Premier. The proposition was probably not spelt out quite so bluntly. The formula used by Mr Wilson was more likely to have been to the effect that if Northern Ireland wanted troops to restore order this would involve a fresh examination of the constitutional relationship between the two countries. The underlying meaning, however, is said to have been clear.
>
> "The British Government's view is that it would be the height of folly to allow its troops (or police) to be under the political direction of another Government which, rightly or wrongly, is regarded as essentially Protestant in outlook and which would use the troops to deal with disorders which were religious in origin. Ministers believe that it would be equally unacceptable for troops to be used—no matter whose direction they came under—if they were there to maintain law and order for the existing Northern Ireland Government.

*i.e. for military intervention.

FS 1 . 310

> "The only solution acceptable to Whitehall, if troops were asked for, would presumably be for the Ulster constitution to be suspended and for an interim Government to be appointed. But merely to pose the problem in this way demonstrates how reluctant the British Government would be to assume political authority in Northern Ireland. Ministers fear the consequences of Westminster becoming once more responsible for governing Ulster. At the very least, every action of Whitehall would in such circumstances raise the passions of either Roman Catholics or Protestants or both. At worst, it is felt, there could be a recurrence of the troubles of the 'twenties.
>
> "Neither Government would want Westminster to reassume direct control of Northern Ireland, and each is hoping that the Royal Ulster Constabulary and the 'specials' will be able to contain the present disturbances".

20.4 Mr Porter was very concerned on reading this report. He went immediately to the Prime Minister who had already read it and who was equally concerned. On 8 August the Prime Minister and the Minister of Home Affairs went to London where they saw the Home Secretary. Asked what was the view expressed by the Home Secretary in relation to the use of troops in Northern Ireland to quell civil disturbances, Mr Porter replied

> "Without indicating what necessarily would in fact happen it was indicated that the extended use of troops would involve a consideration of Northern Ireland's constitutional position by the United Kingdom Government in Westminster".

20.5 During this period leading up to mid-August the Minister was also conscious of the fact that the right to call in military aid depended in the first instance upon using such forces as the NI Government had at its disposal. In discussion with the Army Chief of Staff it was made clear that the USC was regarded by the army as a reserve force which would normally be deployed before requesting military assistance. Brigadier Hudson told the Tribunal that it was his understanding that the army "would not be committed until the Westminster Government were pretty certain that all the resources which the Stormont Government had had been deployed".

20.6 In Northern Ireland the civil authority for the purpose of making a request for military aid was the Inspector-General or other specified officer of the RUC. In common with the Minister, Mr Peacocke also assumed that the calling out of the USC was a precondition to military intervention. Soon after his appointment on 1 February 1969 the Inspector-General had given a press conference at which he stated that troops would not be called in "until there was armed intervention followed by the loss of control by the police in certain areas". In his evidence to the Tribunal, however, Mr Peacocke appeared not to take such a rigid view and to concede that army assistance should be sought either where control had been lost by the police or where there was imminent danger of this happening. Thus when troops were deployed in Londonderry on 14 August control had not been lost although this "was a matter of minutes". The army view, as expressed to the Tribunal by Brigadier Hudson, was that the military would come to the aid of the civil power "when the circumstances

are such that the civil power, whatever its [illegible]es, reckons that if they get any worse they are going to lose control. In other words, not after they have lost control but when they are about to . . ."

20.7 On 11 August an NI Cabinet meeting was held at which it was agreed that the Minister of Home Affairs was to feel free to take the initiative in calling for Army assistance if he thought this necessary. Mr Porter told the Tribunal that this last decision was taken not in anticipation of trouble occurring in mid-August but to simplify the procedure in the light of the difficulties which had been experienced on 3 August.

20.8 The Tribunal is satisfied that the NI Government and senior police officers were well aware in August 1969—

(1) that they must call out the USC before seeking the aid of the Army; and

(2) that there was the possibility of "constitutional implications" if and when they asked Westminster for military assistance in maintaining law and order.

FS 1 . 311

CHAPTER 21—THE WEST BELFAST RIOTS: PRINCIPAL FEATURES

21.1 Very severe rioting occurred in West Belfast on the night of 14/15 August. Because so many interpretations have been put upon these events, an examination of them is of critical importance to our inquiry. The principal features of the night's rioting were:—

(1) Between 7 and 9 pm an aggressive Catholic crowd assembled in Divis Street between Northumberland Street and Hastings Street. Elements of this crowd attacked Hastings Street RUC Station with missiles and petrol bombs.

(2) Between 10 and 11 30 pm this crowd spilled over into Dover Street and Percy Street and in each street fighting broke out with opposing Protestant crowds. During the early stages of the fighting there were no members of the RUC on the scene. A few special constables were, however, present in each street. At about 10 30 pm a shotgun was fired from the Protestant crowd in Percy Street.

(3) Contemporaneously with disturbances occurring in Dover Street, Percy Street and Divis Street, trouble broke out further west in Cupar Street and Conway Street. Opposing crowds clashed in Cupar Street and were separated by the police. Shots were fired at the police from the Catholic crowd; the police responded by firing in the air. In neighbouring Conway Street a similar pattern developed, but here the police returned fire for effect with hand guns. For the first time during the evening the police opened fire with a Browning gun mounted on a Shorland armoured car. Protestants began to set fire to homes in the Catholic section of Conway Street.

(4) At about 12 30 am shots were fired from the Catholic side across Divis Street at a group of policemen and civilians in the mouth of Dover Street. Mr Herbert Roy, a Protestant civilian, was killed and three policemen received gunshot injuries.

(5) After the death of Mr Roy and the shooting associated with it, HC Gray brought up three Shorland armoured cars armed with Browning machine guns. Shortly after 1 am one or more of these weapons were fired in Divis Street, killing 9 year old Patrick Rooney in his home in St Brendan's Block, Divis Flats.

(6) Almost immediately after the Shorland firing in Divis Street police marksmen on the roof of Hastings Street station, believing that gunfire was coming from the roof of the Whitehall block in Divis Street, fired in that direction, killing Mr Hugh McCabe, a soldier on leave.

(7) The rioting in Percy Street led to an incursion of Protestants into Divis Street where they set fire to homes on the north side of the street and threw petrol bombs at St Comgall's School. At about 2 am automatic weapons, operated probably by members of the

IRA, were fired from St Comgall's School in Divis Street into Percy Street inflicting a number of casualties. This fire was returned from a Shorland in Percy Street.

(8) Disturbances in Conway Street continued throughout the night and by morning most of the homes in the Catholic occupied part of the street had been destroyed by fire.

SECTION 1—INTRODUCTION

21.2 On the morning of Thursday, 14 August, the damaged and destroyed property and the littered streets in Falls Road and Divis Street contributed to a general air of tension in the area. The police were anticipating trouble again in the evening which, as it happened to be the eve of the Feast of the Assumption, was also a traditional occasion for lighting bonfires in the streets. On previous occasions, when there had been disturbances, it had been police policy "to saturate" the area with large numbers of vehicles: it had been successful and, according to DI Cushley, had been well received by local residents. But this was not now possible because the police were dispersed to deal with trouble arising elsewhere in the Province.

21.3 Unable to saturate the areas with a sufficient force of police, the DI had to make do with patrolling by vehicle the border areas to prevent clashes between the two sections of the community. The Shankill side of the "border" had to be left to the USC, armed parties of whom were detailed to police the northern ends of the streets linking Shankill Road with Falls Road. Although the District Inspector for "B" district, Mr Lagan, returned to duty at 6 pm on 14 August, he did not take command. Overall command was in the hands of the Deputy Commissioner, Mr. Bradley, while DI Cushley was in charge of police operations on the ground.

SECTION 2—TROUBLE IN DIVIS STREET

The Beginning

21.4 The first activity in the area was the gathering of Catholic crowds around bonfires in Divis Street and Lower Falls Road where, shortly before 7 pm, there was some stoning of motor vehicles. Mr Managh estimated that from about 7 pm, a crowd of some 150 to 200 congregated in Divis Street.* At about 9 pm this witness, a professional journalist, saw the crowd breaking up paving stones and throwing petrol bombs at the houses in Divis Street to the east of Percy Street junction, but he did not see them catch fire. About an hour later (after 10 pm) another reporter, Mr Hastings of the London *Evening Standard*, described a crowd of some 300, mostly young people, at Northumberland Street/Divis Street who were lighting fires in the street and breaking up paving stones. Some had petrol bombs. Mr Hastings formed the impression that the people in this crowd were looking for a fight. A little later this crowd was swollen by another smaller crowd which came up Albert Street. The whole

*Evidence was given of a meeting at about 7.30 "in behind the (Divis) flats" where protests were made against RUC brutality in Derry. Afterwards the crowd marched up the Falls Road. Mr Shannon saw a crowd of about 100 people in Divis Street outside Divis Flats. They marched up to Northumberland Street, "seemed to have a meeting", and marched back again.

body then started to move down Divis Street. As the crowd passed the houses on the north side of the road between Percy Street and Dover Street several young children threw petrol bombs. The houses did not catch fire but the Arkle Bar which was situated at the Dover Street/Divis Street corner did take fire when one or two petrol bombs were thrown at it, again by young children.*

21.5 These crowd movements along Divis Street were observed not only by the police in Hastings Street but by watching Protestants in Percy Street and Dover Street. Mr J McQuade (MP (NI) for Woodvale) was in Dover Street shortly after 9 pm when he observed "a mass of people" milling around in Divis Street, singing "the usual rebel songs, and of course the odd Tricolour being carried". He said there were very few people around in Dover Street: but he did see six young men who were there "as a group"

"just taking stock . . . trying to see what was happening in Divis Street".

"They were watching", he added. No doubt, they reported what they saw. By the time the Linfield supporters† had returned from their club's away match at Newtownards, there must have been Protestants (as well as the Catholics observed by Mr Hastings) spoiling for a fight.

21.6 The situation was explosive. Catholics were alert to move up along their ends of Dover and Percy Street. Protestants were sensitive to any movement up these streets. If the police should not be present in sufficient strength on the borderline between the two communities, as in the event they were not, each side could well misinterpret the actions of the other. Thus it needed only a movement of Catholics into Dover or Percy Street or a thrust of Protestants down the same streets for there to develop an uncontrolled faction fight. Both these movements did in fact occur: and the result was an "invasion" of Divis Street by Protestants, which ultimately led to Catholic gunfire intended to repel invaders and to much heavier police gunfire intended to silence Catholic gunmen. The immediate price in human suffering and damage to property was tragic enough—a boy and two young men killed, an unknown but substantial number of persons injured, a considerable area of residential and other property devastated. But there was more to pay. The major casualty of the night was the complete loss of confidence by the Belfast Catholic community in the police force as then constituted and the determination thereafter by subversive elements such as the IRA to exploit the opportunities for urban guerilla warfare in Belfast.

The riot between Hastings Street and Divis Flats

21.7 The immediate consequence of the crowd movements in Divis Street was a number of stone and petrol bomb attacks on Hastings Street RUC Station and police officers and vehicles in that vicinity. HC Stinson described two attacks, one at 10 40 pm and another, more severe, at 11 10 pm. From his

*Mr Hastings testified that in the middle of the crowd moving down Divis Street was a yellow mechanical digger which turned off into Percy Street. Mr Managh and Mr McCormick (time 11 pm) saw this vehicle being driven from Albert Street into Divis Street and thence into Percy Street. This episode is referred to below in the context of other events in Percy Street.

†Linfield is a prominent Belfast Football Club with strong Protestant support.

FS 1 . 312

position on the roof of Hastings Street Station Constable Mahood had a grandstand view of these attacks. He saw at least three sorties; petrol bombs were thrown during the third.

21.8 HC Gray arrived in the area at about 10 45 pm. By this time police vehicles were deployed in a number of streets near the police station: HC Gray and his vehicle were, with others, in Pound Street. Their task was to defend the station. He gathered that there had been a light attack before his arrival. As the Catholic crowd advanced along Divis Street, the police vehicles were ordered to close in. Head Constable Gray advanced northwards up Durham Street but by the time he reached Divis Street the crowd had withdrawn along the street past the Durham Street junction towards the flats. His vehicle then came under a severe stone and petrol bomb attack from the flats' direction. HC Gray and his men dismounted and launched a baton charge along Divis Street to a point about 25 yards short of the maisonettes from where they were forced to retire under heavy stoning.

21.9 At least three more baton charges were carried out until at about 11 30 when HC Gray withdrew to Hastings Street. During the period of something under an hour when HC Gray was engaged on Divis Street he was aware from messages heard over the radio that fighting had broken out in Dover Street and Percy Street. At around midnight HC Gray and DI Cushley decided to make a concerted effort to clear Divis Street and relieve the situation at the mouth of Dover Street. Shorland, Humber and Commer armoured vehicles were lined up abreast in Divis Street and, followed by 40–50 men on foot, they advanced slowly along Divis Street in the direction of Dover Street. When the front of this convoy drew level with the northern end of the Whitehall block of maisonettes, a number of people appeared on the roof and showered the armoured vehicles with missiles, petrol bombs, concrete blocks and pieces of grating. So heavy was the attack that the roof of HC Gray's armoured Commer vehicle was punctured in four places. The convoy was unable to advance beyond the Whitehall block and turned back to Hastings Street Station.

21.10 Catholic witnesses described this advance of police vehicles along Divis Street in broadly similar terms. Mr. McGarrigan was one of those on the roof of the Whitehall block of maisonettes. He described how he and others, seeing the fighting at the mouth of Dover Street and fearing that the police might get into the flats, decided to form a human chain to transport stones to the roof of the flats. In addition to this material which was carried up on to the roof, it appears that builders' materials, such as bricks and scaffolding tubes which were being used in building works then in progress, were already on the roof. Mr Wyllie corroborated this evidence about the two sources of supply of material for use as missiles. The men on the roof of the flats held their fire until the vehicles drew level.

21.11 Then one man gave a signal and all the assembled missiles were hurled into Divis Street. The police were pinned down for about two or three minutes after which they retreated towards Hastings Street bringing with them

two or three wounded policemen. We have no doubt that the police operation was intended only to clear Divis Street: but Mr McGarrigan thought otherwise at the time. He said that women and children in the flats were terrified that the RUC would do to them what they had done in Derry: the men were, therefore, determined to keep them from entering the flats. Mr Wyllie's motive appears to have been a desire to prevent the police from reaching and dispersing the Catholic crowd in Divis Street near the Dover Street junction who were at the time under strong pressure from Protestants: his appreciation of police intentions was nearer the truth than Mr McGarrigan's.

SECTION 3—DOVER STREET, UP TO DEATH OF HERBERT ROY

21.12 It is now necessary to move geographically and chronologically to Dover Street and Percy Street, where violence had broken out earlier in the evening. The two streets run north-south connecting Divis Street with Shankhill Road. At the Divis Street end they are only 100 yards apart. In 1969 they were both mixed streets, occupied by Catholics at their southern ends and Protestants at their northern ends. Between Beverley Street and Divis Street both Percy Street and Dover Street were almost exclusively Catholic. Beverley Street was mixed but mainly Catholic; Ardmoulin Avenue was Catholic. In Dover Street Catholic territory extended as far north as Cumberland Street, whereas the stretch of Percy Street between Cumberland Street and Beverley Street is mixed, with a preponderance of Protestant residents. Thus it can be seen that whilst many Protestant witnesses regarded Beverley Street as marking the religious border in this area, this assessment only applies to Percy Street; it does not describe Dover Street where the border was one block further north, at Cumberland Street.

21.13 A description of the outbreak of fighting in Dover Street was given in the evidence of Mrs McKnight, who described herself as having strong Republican views. In the early evening, before 7 pm, Mrs McKnight who was visiting No 116 Dover Street had noticed a tense atmosphere in Dover Street: small groups of people, both Catholic and Protestant, were standing at their doors. At about 7 45 this witness said that she saw the groups of Protestants to the north of Beverley Street increase in size. She could see members of the USC in Dover Street (she denied that there were any Catholic crowds at the Divis Street end but the Tribunal finds that there were). Not until about 8 or 8 10 did any members of the Catholic crowd which had formed in Divis Street enter Dover Street when some "10–20 youths" (undoubtedly an under-estimate) appeared and began to exchange "filthy language" with the opposing Protestant crowd. She and other residents tried unsuccessfully to move this group of youths on. They had come up Dover Street as far as Ardmoulin Avenue. She then saw the special constables line up across Dover Street midway between Beverley Street and Duffy Street and, with the Protestant crowd behind, launch a baton charge in the direction of Divis Street. There emerges from her evidence a picture substantially the same as that given by Mr McQuade MP (NI) and S/Sgt Harpur, and the Tribunal accepts that general picture.

FSI . 313

21.14 S/Sgt Harpur with 10 men had been sent to Dover Street arriving at the Shankill Road end shortly after 8 30. Some time after 10 pm he saw a crowd on Divis Street passing back and forth across the mouth of Dover Street. One or two women at their doors were the only people in Dover Street when a loud banging was heard and corrugated iron barricades were moved into Dover Street from Divis Street. These appeared to be sheets of corrugated iron mounted on wooden frames which supported them in an upright position. They were erected in the carriage-way in Dover Street leaving the footpath clear. S/Sgt Harpur and his men then advanced down Dover Street, crossed Beverley Street and took up a position just below the junction. He made this move because he suspected that the barricade was going to be used as protection for the advance of a hostile crowd up Dover Street. It appears that when they reached this point stones were thrown at S/Sgt Harpur's party which had come on duty equipped with steel helmets, batons and revolvers but without riot shields. Once they came under attack they were given dustbin lids to use as shields by some of the residents in Dover Street.

21.15 S/Sgt Harpur then observed the barricade being slowly moved up Dover Street to a position just short of Ardmoulin Avenue. His men spread out across the street at the Beverley Street junction. Some time after 11 pm men came out from the Catholic crowd behind the barricade and stones and petrol bombs were thrown at the special constables, who were forced to retreat. When there was an attempt to move the barricade further up Dover Street Sgt/Harpur and his men drew their batons and "moved slowly forward, we did not charge". Again they were driven back by stones and petrol bombs to Beverley Street where they reformed. At this point S/Sgt Harpur "looked round and Dover Street was black; a crowd of Protestants had come into Dover Street". He was clear that this crowd had not been there when he and his men made their first advance.

21.16 In her account Mrs McKnight also described the rapid build up of Protestant crowds at around the time of the first baton charge but she gave evidence that the Protestant crowd was gathering behind the "B Specials" when they were first lining up. Mrs McKnight does not appear to have seen any petrol bombs thrown until over an hour after the first USC charges. According to her recollection the corrugated iron barricades were brought into Dover Street after this charge.

21.17 Notwithstanding differences of recollection and emphasis, it is not difficult to see what was happening. Some elements of the Catholic crowd in Divis Street were spilling out into Dover Street. Protestants were assembling to watch, and, if necessary, to fight. Whether the Catholics brought in the mobile barricade on their first entry, as S/Sgt Harpur says, or on a later entry, as Mrs McKnight says, it is not possible to determine—and does not much matter. Both sides were ready for a fight: the Catholics were determined that the Protestants would not reach Divis Street: and, save for a handful of USC, there were no police to prevent a faction fight.

21.18 After the first USC charge or advance about 6 special constables arrived in Dover Street to reinforce S/Sgt Harpur's party. By this time, according to S/Sgt Harpur, two buildings on the east side of Dover Street near the Divis

FS 1. 314

Street junction, the Arkle Bar and the Sarsfield (Bingo) Hall, had been set alight by petrol bombs from the Catholic crowd. With the number of his party now increased to 16, S/Sgt Harpur then decided to remove the corrugated iron barricades, which he did not regard as defensive since they were being used to protect the Catholic crowd which was advancing up Dover Street. There were one or two further advances by the USC party and they succeeded in capturing at least two portions of the barricade.

21.19 It seems clear that the special constables were supported in the fighting in Dover Street by Protestant civilians, although S/Sgt Harpur said he did not know whether they were or not. At about 11 pm a police armoured Humber commanded by HC Stewart drove down Dover Street towards Divis Street followed by three Shorland armoured cars. In the course of this journey the four vehicles penetrated the corrugated iron barricade—or what remained of it after the efforts of the USC to capture it. Members of the USC followed the armoured cars through the barricade and came under attack from the Catholic crowd. At this stage Mr Allen, who witnessed the incident, "saw red" and with about 50 others charged down to the Beverley Street junction where he engaged in hand-to-hand fighting with the Catholic crowd. Behind the barricade Mr Allen found crates of petrol bombs. Some members of his crowd threw petrol bombs into the Sarsfield Hall and he himself threw one in the direction of a fire escape at the side of the building.

21.20 As the Humber which was leading the three Shorlands was about to turn left from Dover Street into Divis Street petrol bombs were thrown at the vehicle which became enveloped in flames. The driver lost control and the vehicle crashed into a lamp standard on Divis Street. A group of Protestants which included Mr Allen rescued one of the occupants and took him back up Dover Street. The Humber managed to continue its journey along Divis Street as far as a point between Townsend Street and Hastings Street where the driver and remaining crew members were rescued by other police. HC Stewart was then taken to hospital.

21.21 It is clear from this account that the movement of police vehicles down Dover Street at about 11 pm provided the Protestants with the opportunity, which they took, of erupting into Divis Street before any RUC foot patrol had arrived in Dover Street.

21.22 Another civilian who participated in the Dover Street fighting on the Protestant side was Mr J McQuade MP (NI). When he saw a mob from Divis Street enter Dover Street throwing missiles, he and others retaliated with stones although he denied that he ever threw a bottle. Mrs McKnight alleged that Mr McQuade was marshalling Protestant civilians armed with sticks and hatchets behind the USC in Dover Street. Mr McQuade agreed that he gave directions and took part in the organisation of what he regarded as the defence of the area. In evidence he claimed not to have seen any USC in Dover Street at the time he was there. Mr McQuade saw the corrugated iron barricade being

moved up Dover Street and says that it got no further than a point between Ardmoulin Avenue and Beverley Street where it was captured by the Protestants who removed it to Beverley Street.

21.23 At about 11 20 pm after the capture or destruction of portions of the corrugated iron barricade, a foot patrol of 8 RUC arrived in Dover Street. This party of police was under the command of Sgt Stanford. The sergeant gave evidence that he saw a crowd of 150 near the Shankill Road end of Dover Street and, further down, a crowd of about 75 behind corrugated iron sheets placed across the road. Sgt Stanford was a stranger to Dover Street and in the course of his evidence to the Tribunal displayed considerable uncertainty as to the exact location of the barricade—which the Tribunal finds was not at any time north of Beverley Street.

21.24 With the arrival of Sgt Stanford, S/Sgt Harpur and his party came under his command. Sgt Stanford observed that most of the stone throwing and all the petrol bombing was coming from the Catholic crowd and he therefore decided to mount a baton charge to force this crowd away from the barricade. He succeeded in forcing the crowd back towards Divis Street. Sgt Stanford noticed that the Protestant crowd had followed him down Dover Street; so he decided not to advance too close to Divis Street. He denied that any civilian in the Protestant crowd overtook him or his men during the baton charge. After the charge, petrol bombs were thrown into the Sarsfield Hall by the Catholic crowd; Sgt Stanford then launched a second charge to drive this crowd away from the hall. The Catholics were forced out of Dover Street into Divis Street where they split into 2 groups on either side of the Dover Street junction. Again the Protestant crowd followed the police charge.

21.25 It is convenient at this point to consider the evidence about the burning of the Sarsfield Hall which was situated in Dover Street opposite the mouth of Ardmoulin Avenue—a point at which the fiercest fighting between the two factions took place. Both Sgt Stanford and S/Sgt Harpur thought that Catholics were responsible. Other witnesses, including Mr Allen, described how petrol bombs were thrown at the Hall from the Protestant side. It is not possible to determine which side first set fire to the Hall: at different times during the evening petrol bombs from both sides landed on or near the building.

21.26 At about 12 05 am Sgt Stanford, who shortly before midnight had left Dover Street to investigate a report of trouble in Percy Street, returned to Dover Street to find that the Protestant crowd which was at Dover Street/Ardmoulin Avenue, was being forced back up Dover Street by a missile-throwing Catholic crowd. It is clear that in his absence there had been a faction fight of some severity near the junction of Dover Street and Divis Street. He decided to wait in Ardmoulin Avenue until the Catholic crowd got as far as the junction and then to baton charge them back to Divis Street. This he did but shortly before he commenced the charge, 4 shots, which to the sergeant (a pistol-shooting expert) sounded like ·45 revolver shots, rang out from the Divis Street direction.

FS1.315

21.27 By now fire in the Sarsfield Hall was well advanced and threatening neighbouring houses. At 12 14 am Sgt Stanford contacted police control and asked them to summon the fire brigade. A few minutes later fire appliances arrived and began to deal with the Sarsfield Hall while Sgt Stanford's party formed a cordon between the firemen and the Catholic crowd on Divis Street. Stones were thrown at them and Sgt Stanford was struck for the fourth time, suffering a laceration of the nose. He was taken to a house in Beverley Street and at 12 33 am he radioed control asking for an ambulance. While he waited in the house for the ambulance to arrive, he received a report of further shooting. Control radioed him that no ambulance could get through, but a local man took him by car to the Mater Hospital. On his way up Dover Street he passed a party of police coming down the street. Almost certainly this was Sgt McPhillips' party—despatched from Glenravel Station to reinforce him after his desperate calls for help between 11 35 and 11 52 pm.

21.28 On arrival it seemed to Sgt McPhillips (whose party included another Sgt), that chaos was "reigning supreme in Dover Street". He found a crowd of USC and Protestant civilians in the mouth of Dover Street confronting 2 crowds in Divis Street, one to either side of the Dover Street junction. Sgt McPhillips thought that there were about 3 or 4 members of the RUC on the scene. He instructed the special constables to attempt to move the Protestants back up Dover Street, but in this they met with little success. In consultation with his fellow sergeant, Sgt McPhillips decided that he and 6 constables would baton charge the Catholics in Divis Street to the east of the Dover Street junction while the other sergeant would attempt to contain both the other Catholic crowd to the west and the Protestants in the mouth of Dover Street. Sgt McPhillips' charge pushed the Catholic crowd into the forecourt of Divis Flats. At about the same time 3 armoured cars drove down Divis Street from the direction of Falls Road; one was set alight by a petrol bomb but managed to drive on towards Hastings Street station. At this stage Sgt McPhillips, his fellow sergeant and their party of police officers had returned to the mouth of Dover Street where the Protestants were. In Divis Street around the mouth of Gilford Street was a Catholic crowd: another group of Catholics was in the forecourt of Divis Flats.

21.29 As the police were attempting to move the Protestants back up Dover Street, Sgt McPhillips heard a number of shots from the direction of Gilford Street and a man, Mr Herbert Roy, was shot in the chest. A policeman told the Tribunal that his shield was penetrated by a bullet and he himself injured in the same shooting incident as that in which Mr Roy was killed. S/Sgt Harpur was also at the mouth of Dover Street and he too gave evidence that three or four shots were fired from Gilford Street injuring Mr Roy who, at the time, was at the corner of Dover and Divis Streets peering round into Divis Street.

21.30 Mr H Johnston and Mr J McQuade MP (NI), who were at the mouth of Dover Street, thought the shot which killed Mr Roy had come from high up in Divis Tower, but the Tribunal is satisfied that his death was caused by a shot fired from Gilford Street. Post-mortem examination revealed that

death was caused by a ·38 bullet (probably fired from a revolver) of a type different from that supplied to the RUC. The bullet entered the right side of the chest and the nature of the wound indicated that its flight was more or less horizontal.

21.31 Hearing the shots Sgt McPhillips drew his revolver and moved to the corner of Dover Street and Divis Street from where he fired three shots at a man in the mouth of Gilford Street who was firing in the general direction of Dover Street. There was more shooting from Gilford Street and St Comgall's School and two policemen were injured. A number of policemen returned this fire. Seeing an RUC sergeant shooting into the air, Sgt Harpur also drew his gun, firing three shots into the air and two shots at flashes which he saw in the Gilford Street direction.

21.32 A question of importance arises at this stage. Who began the shooting at the Dover Street/Divis Street junction? Notwithstanding the evidence of Mr Linton who thought the first shooting came from the Protestants, we find as a fact that it came from the Catholics. The first known casualties from gunfire were Mr Roy, a Protestant, and 3 police constables:* at this early stage there is no evidence of Catholic casualties. No Protestants in Dover Street were seen with guns. Sgt Stanford and Sgt McPhillips both thought that the first shots they heard came from Catholics; Sgt Stanford saw no firing from Dover Street, while Sgt McPhillips said the only firing from Dover Street was police (and USC) return of fire.

21.33 After the first shooting Sgt McPhillips sent a radio message to police control requesting an ambulance and police assistance. There was then a lull in the shooting from the Gilford Street direction. Sgt McPhillips crossed Divis Street with three men in order to see who had been firing. They moved from a position outside No 128 Divis Street to the corner of Gilford Street and at this time there was further shooting from down the street which Sgt McPhillips returned. Looking round the corner, Sgt McPhillips saw two men running towards St Comgall's block of flats.

21.34 The Catholics fired into the mouth of Dover Street because they saw Protestants and uniformed men erupting into their heartland—Divis Street. They believed that Protestants and police were co-operating to attack them. The Tribunal has no doubt that the Protestants in Dover Street saw themselves as helping the police to quell a Catholic insurrection. But the police did not seek their help, although they were far too few in numbers to prevent it being given. The police were, the Tribunal finds, genuinely trying to keep the factions apart: but they also had to defend themselves from the crowd which was attacking them.

FS 1 . 316

SECTION 4—PERCY STREET UP TO ABOUT 1 AM

21.35 Fighting was taking place in Percy Street contemporaneously with that already described in Dover Street.

*Constables Stanley, Gibson and Smyth.

21.36 The evidence of the Percy Street riots is as confused as that of Dover Street. But the main features are clear enough. In each street the riots were a clash between Catholic mobs who were moving up and down Divis Street and surging into the Catholic occupied part of the two streets and Protestant mobs who were determined to keep them out of the two streets and to drive them back, and themselves to invade, Divis Street if they got the chance—as they did. The riot in Percy Street developed in the absence of the RUC but in the presence of a small force of USC who certainly lacked the strength to stop it. In the words of one witness (Mr Hutton) the B Specials lost control: and they did so in the early stages of the riot. After they lost control, some actively participated in the Protestant charges that ultimately drove the Catholics back into Divis Street and brought the Protestants themselves in force into that street.

21.37 Evidence of the commencement of disturbances in Percy Street was given by two employees of Isaac Andrews & Sons Ltd who owned the mill on the western side of Percy Street. Mr Pinder, the mill manager, and Mr. Dunbar, the Company's purchasing manager, had volunteered to spend the night fire watching at the mill.

21.38 Mr Pinder observed the build-up of crowds on Divis Street from about 9 30 pm onwards and at around 10 pm he saw a crowd at Northumberland Street singing and carrying a tricolour. Before they moved off in the direction of Hastings Street he heard someone in the crowd say "Shall we do the mill or shall we do the police barracks". Between 11 00 and 12 00, Mr. Pinder saw the crowd return and charge up Percy Street shouting and throwing stones at an opposing Protestant crowd which had appeared at the Beverley Street junction. The Protestant crowd which included one or two USC men chased the Catholics towards Divis Street. At about 1 am a digger (which, if Mr Hastings' recollection is correct, had been hi-jacked an hour or so earlier) was driven into Percy Street from Divis Street where it struck a telegraph pole a few yards up Percy Street on the left hand side. The Protestant crowd at Beverley Street then charged the vehicle throwing petrol bombs, and retired to Beverley Street.

21.39 The evidence of Mr Dunbar was in broad agreement with that of Mr Pinder. He described crowds gathering in Divis Street from 7 00 to 8 00 onwards. Between 10 30 and 11 00, a crowd marched along Divis Street past the end of Percy Street carrying the tricolour and singing the Soldier's Song. Later a crowd reappeared and entered Percy Street, some coming along Armoulin Avenue from Dover Street and others turning in from Divis Street. Mr. Dunbar described them as a fairly aggressive mob armed with stones and sticks. This Catholic crowd was met by a Protestant crowd which came out of Beverley Street into Percy Street. Battle was joined and the fighting moved to and fro in the section of Percy Street between Beverley Street and Divis Street. At first the only missiles thrown were stones, but later petrol bombs were used, first by the Catholic crowd and then by both crowds. The Catholic crowd broke into a builder's yard in Percy Street between Andrews' premises and the rear of the houses fronting on to Divis Street. Sheets of corrugated iron on wooden frames were removed and used as a barricade from behind which petrol bombs were thrown.

21.40 During this battle a civilian appeared in the front of the Protestant crowd carrying a gun (probably it was a shotgun, though Mr Dunbar, who was no expert, could not be certain) from which he fired two or three shots. No one appeared to be injured but as a result of the shooting the Catholic crowd retreated out of Percy Street on to Divis Street allowing the Protestant crowd to capture their corrugated iron barricades. USC were present in Percy Street but did not appear to take any part in the fighting; nor did they attempt to prevent it.

21.41 While other evidence given to the Tribunal differs in detail from that of Mr Pinder and Mr Dunbar, we believe that they give as fair a picture as any of the start of the trouble in Percy Street. The evidence of other witnesses, many of whom gave detailed accounts of events in Percy Street, is considered only where it refers to specific aspects of the riot which the Tribunal judges to be significant.

21.42 A number of witnesses described the discharge of the shotgun by a Protestant in Percy Street to which Mr Dunbar referred in his evidence. Mr Silvestri, a Catholic who was visiting No 122 Percy Street, heard three shotgun blasts from the Beverley Street direction. He thought that three or four youngsters in the Catholic crowd appeared to be struck by pellets. Mr Thompson, a Sub-District Commandant of the USC who had been on duty in Shankill Road until about 10 30 when he came to Percy Street, heard three loud bangs and later found two or three spent shotgun cartridges in the gutter on the east side of Percy Street about 10 yards south of the Beverley Street junction.

21.43 The evidence clearly establishes the use of a Protestant shotgun in Percy Street. The firing from this gun may have been the first shooting of the riot. While it had considerable effect locally (because it led to the Catholic retreat from Percy Street) it would be wrong to attribute to it the importance that has to be given to the heavy firing which took place in Conway Street and Cupar Street at about the same time. The evidence for the presence or use of any other firearm is tenuous. Mr Johnston, a member of Mr McKeague's Shankill Defence Association, testified that before any fighting broke out he saw a man in the Protestant crowd with what he thought was a ·45 revolver. There was no evidence that this weapon was fired.

21.44 The only indication of the use of guns on the Catholic side came from Mr Hutton, an active Protestant participant in the riot. He said that when he was standing at Beverley Street a man beside him was shot in the shoulder by what he, Mr Hutton, thought was a shotgun. He also saw flashes and heard the sound of rifle fire coming from the roof of Andrews Mill. It is possible that by this stage shotguns were being carried by some persons on each side—though direct evidence is slight. The evidence of rifle fire from the roof of Andrews Mill is also too slight for us to make a positive finding: we think there was none.

21.45 Mr Dunbar thought that the members of the USC in Percy Street did not play any part in the fighting there. Support for this observation came from the evidence of SDC Thompson who was one of the two USC officers in Percy Street. Up until about 10 30 SDC Thompson had been on duty in

Shankill Road. Shortly after this time fighting broke out in Percy Street between the two crowds near the Ardmoulin Avenue junction. SDC Thompson's evidence was that he did not go more than a few yards south of Beverley Street. With only his fellow officer and 5 Special Constables with him, SDC Thompson felt powerless to intervene in the fighting. At 11 50 pm he made a 999 call for help to the police.

21.46 Evidence of active USC participation in Percy Street was given by Mr Hutton who had arrived at about 9 pm, before SDC Thompson. He noticed that there were about 20 Special Constables near the Westmoreland Street junction. Shortly afterwards all but 5 of them left Percy Street and a man who appeared to be in charge of them asked Mr Hutton if he could "get some reliable men" to help contain the crowds who were coming up from Divis Street.* Mr Hutton recruited 10–15 men. A Catholic crowd of some hundreds carrying a tricolour emerged from Ardmoulin Avenue. The Special Constables advanced as far as Cumberland Street, and on the order from the man in command the Special Constables and civilian volunteers charged. Mr Hutton took part in this charge; he was equipped with a motor-cycle helmet, a bin lid and broom handle. Without necessarily accepting all Mr Hutton's evidence in detail, the Tribunal finds that, at a fairly early stage in the Percy Street rioting, some members of the USC and some Protestant civilians co-operated in trying to drive the Catholic crowd back to Divis Street.

21.47 Mr John McKeague played an active role in the fighting in Percy Street. Wearing a crash helmet and carrying a stick he arrived there with two fellow members of the Shankill Defence Association. At the Divis Street end of Percy Street he saw a crowd moving corrugated iron barricades up in the direction of Shankill Road. Stones and petrol bombs were thrown at the Protestants from behind these barriers. A bulldozer was also being used by the Falls Road crowd. The flanks of the advancing Catholic crowd were attacked by the Protestants at Beverley Street who succeeded in capturing the movable barricades. The bulldozer was set on fire by the Protestants who emerged from Percy Street on to Divis Street where Mr McKeague says they planted a Union Jack.

21.48 The only RUC officer who appears to have been in Percy Street before about 1 am was Sgt Stanford who at around midnight left Dover Street for Percy Street to investigate a report that a bulldozer had been brought in by the Catholic crowd. Once in Percy Street he found a crowd of 100–120 Protestants to the north of Ardmoulin Avenue and a Catholic crowd of 100, perhaps less, between Ardmoulin Avenue and Divis Street. In front of the Catholic crowd a man driving a mechanical digger (yellow, tracked) was trying to knock down a telegraph pole on the opposite side of Divis Street from Ardmoulin Avenue. Sgt Stanford and his men baton charged the crowd around the bulldozer and the man driving it jumped off. The Divis Street crowd then threw a petrol bomb into the cab of the vehicle. The police were then forced by the Catholic crowd to retreat to Ardmoulin Avenue from where Sgt Stanford saw a petrol bomb thrown at the bulldozer by a member of the Protestant crowd.

*SDC Thompson denied that either he or his fellow officer had asked Mr Hutton to recruit "reliable men".

The vehicle caught fire but despite this it was again driven a few yards by a member of the Catholic crowd. Sgt Stanford sent a radio message to police control which is probably that recorded in the log at five minutes past midnight: "In the absence of assistance will have to withdraw". Police control asked him to wait for a reply and shortly afterwards, having received the order to withdraw, he returned along Ardmoulin Avenue to Dover Street. Sgt Stanford gave evidence that on this brief excursion into Percy Street he saw SDC Thompson—although Mr Thompson was quite unaware of the police charge from Ardmoulin Avenue described by the Sergeant.

21.49 The evidence of Sgt Stanford, SDC Thompson, Mr Dunbar and Mr Pinder indicates that the bulldozer or excavator incident took place at around midnight after there had been considerable faction fighting in Percy Street. It would appear from the evidence of the two journalists, Mr Hastings and Mr Managh, that the bulldozer had been hi-jacked earlier in the evening when crowds were gathering in Divis Street and before trouble had broken out in Percy Street. Their timing of its entry into Percy Street is earlier than that of other witnesses, but is less likely to be correct.

SECTION 5—DOVER STREET AND DIVIS STREET:

DEATHS OF PATRICK ROONEY AND HUGH McCABE

21.50 The outbreak of shooting at the Dover Street/Divis Street junction, which resulted in the death of Mr Herbert Roy and injury to a number of police officers, has already been described. It was witnessed from a distance by HC Gray who was outside Hastings Street RUC station. He saw a crowd rush out of Dover Street into Divis Street, move back towards the mouth of Divis Street and then heard five or six shots from that direction. A few seconds later HC Gray heard more shots. These shots occurred a few minutes after 12 33 am, the time when Sgt Stanford sent his radio message (overheard by the Head Constable) that he had retired, injured, to 29 Beverley Street. HC Gray reported the shooting to police control and was immediately directed to take his Commer vehicle and crew to Dover Street where he arrived shortly before 1 am. The scene that he saw was one of confusion and uproar. Women were screaming; a policeman was brought to his vehicle with a bullet wound in his thigh; a civilian, Herbert Roy, lay dying on the footpath. Sarsfield Hall was on fire; the fire brigade was endeavouring to put it out. (In fact not one, but three policemen had sustained gunshot wounds.)

21.51 Head Constable Gray sent a radio request for Shorland armoured vehicles, while he himself with a Sergeant and two constables, one of whom was armed with a Sterling SMG, moved down Dover Street to its junction with Divis Street. Here the Sterling gunner fired a burst from his weapon, after which the Head Constable became aware that his men were coming under fire from the corner of Ardmoulin Street; he saw flashes and heard shots which sounded heavier than those from an "ordinary revolver". It may have been the shooting from HC Gray's Sterling gunner which Sergeant McPhillips heard ("light-automatic", "possibly Sterling") coming from the direction of Divis Street after he crossed it in pursuit of the gunman who had been firing from Gilford Street. (If this is so, it will be noted, not for the only time, that what

FS.1 . 318

one police officer took to be hostile gunfire was in fact that of a fellow officer.) It may also have been the incident which was described by Mr McCann, who saw a uniformed man firing along Divis Street from outside the Arkle bar at the mouth of Dover Street. This fire was apparently returned from the mouth of Derby Street by a civilian with a machine gun. HC Gray now became aware that there were police on the far side of Divis Street; he gave them covering fire from the Sterling which, with the added protection of an armoured vehicle which had arrived on the scene, enabled Sgt McPhillips and his three men to return to the safety of Dover Street.

21.52 Mr Hastings also witnessed the scenes in Dover Street at about this time. At the mouth of Dover Street he saw a number of policemen firing Sterling guns and revolvers. He could not be sure at what targets they were firing but they seemed to be shooting in the general direction of Divis Flats.* With the police were a number of youths carrying dustbin lids. When asked by Mr Hastings what these youths were doing mingling with the police a senior police officer (probably the HC) replied that they were defending their homes. At about 1 am three Shorland armoured vehicles with ·30 Browning machine guns mounted on them, reached Dover Street in response to HC Gray's request. By now HC Gray assessed his situation as critical, even warlike. He thought that a determined attempt was still being made to shoot the police.

21.53 In the Tribunal's opinion this was a fair assessment: and in judging subsequent police action it must be constantly borne in mind. It is significant that HC Gray did believe that there was shooting not only from the St Comgall's school direction but also from the flats—as at this stage Mr Hastings also thought was possible. Other police also believed it: for instance, as the HC's Sterling gunner withdrew with Sgt McPhillips' party from Divis Street into Dover Street, he fired a burst towards the flats. The HC commented that he had heard a burst from the flats before his gunner fired this burst.†

21.54 With the arrival of the Shorlands HC Gray withdrew all his men into Dover Street. The firing had scattered the civilians: there were now very few Protestants about, and no Catholics nearer than St Comgall's school on one side and the precincts of the flats on the other. It is clear that the Protestant crowd which before HC Gray's arrival had broken out of Dover Street into Divis Street had been driven back by Catholic gun-fire.

21.55 The HC now made his plan: it was to move the Shorlands into Divis Street with the object of dispersing the mobs near Percy Street and putting a stop to Catholic gunfire. He described to the sergeant in the leading Shorland the situation as he saw it:

> "that we were being fired at from the streets on the left and St Comgall's school . . . that the police station was being fired on from the flats . . . that a civilian and two police had been shot".

*Mr Hastings thought he might have seen one or two shots from the flats, but he could not say with certainty.

†The Tribunal's finding as to the extent of firing from the flats (it was limited to some shots from the roof of the Whitehall block) is stated in 21.166. But we accept that HC Gray believed there was firing from the flats.

He himself had observed someone shooting at the police from Ardmoulin Street and the school: and he believed he had heard firing from the flats. The information about the police station he had derived from overhearing a radio message at 1 2 am:—

"Hastings Street Station under fire from low storey flats opposite station".

He then instructed the Sergeant to take his vehicles up Divis Street, to fire in the air to disperse the crowd and, if fired on, to fire for effect. The Shorlands turned right into Divis Street from Dover Street in the direction of Northumberland Street. Almost immediately HC Gray heard shooting from the school direction followed by short bursts of Browning fire from the Shorlands. The three vehicles then came back along Divis Street towards the flats and HC Gray heard a mixture of light shooting and heavy Browning fire, as they went down towards Hastings Street.

21.56 HC Gray was at this stage joined by DI Cushley who had come to Dover Street after receiving reports of shooting and himself hearing the sound of shots. When he arrived, a fire appliance was still fighting the fire at the Sarsfield Hall; but the firemen were complaining that they were being shot at from Divis Towers, and soon afterwards withdrew. DI Cushley also heard the Browning fire. He ascertained, and approved of, the orders HC Gray had given to the Shorland crew.

21.57 The Shorlands, having reached Hastings Street turned and came up past the flats: HC Gray heard the same sort of mixed firing as before. At this moment in consultation with DI Cushley he ordered their commanders to cease firing and return to Dover Street. On their return he placed two vehicles in the mouth of Dover Street, one facing up and the other down Divis Street. The Shorlands operation appeared to him to have been a success, and at 1 11 am hours he radioed that firing had ceased in Dover Street. He now gave orders to the occupants of all three vehicles, instructing them "that there was to be no further firing unless absolutely necessary". DI Cushley said that he too gave orders that if gunmen were in crowds the Brownings could fire over their heads to disperse the crowd; that they could engage identifiable targets and that bursts were to be kept short.

21.58 The evidence adduced puts beyond doubt that during the period that the three vehicles were in Divis Street a considerable number of rounds of Browning ammunition were discharged in the direction of the flats on the south side of Divis Street. The episode is of critical importance and we return to it later.* It is sufficient to say at this stage of the narrative that the Tribunal finds that this firing, from Browning machine guns mounted on Shorland armoured cars, fatally injured Patrick Rooney, a boy of 9, in his home at No 5 St Brendan's Path, in Divis Street flats.

21.59 The injury to the boy was reported to HC Gray by Mr Hastings and an ambulance was summoned to Dover Street by the Head Constable at 1 19 am. Having seen the boy into the ambulance Mr Hastings left Dover Street and

*Section 9, below.

returned in the company of a Mr Bryan who was carrying a white flag and requesting help for the injured in the flats. Mr Gray offered to send one of his constables, Constable Officer, who had experience of First Aid, over to the flats to attend the injured. The offer was accepted and Mr Hastings, Constable Officer and Mr Bryan crossed Divis Street and entered the flats. Before leaving Dover Street Constable Officer took the precaution of removing his tunic and neck-tie so that he would not be readily recognised as a police officer. Within the flats Constable Officer treated about six people for what he assumed were gunshot wounds, in the Gilford, St Brendan's and Whitehall blocks. In the end flat on the top floor of the Whitehall block he saw a priest giving the last rites to a man whom on recollection he took to be Hugh McCabe.

21.60 Eventually ambulance men arrived and some of the injured were removed to hospital. During the period when they were inside the flats neither Mr Bryan, Mr Hastings nor Constable Officer saw any firearms or heard any being used by the occupants of the flats. Mr Hastings did however see a large number of crates of petrol bombs and Constable Officer also saw men carrying liquid-filled bottles which he assumed were petrol bombs.

21.61 At one of their meetings HC Gray and Mr Bryan discussed the possibility of a "truce". After this Mr Bryan summoned a Mr B from the flats to act as spokesman. Accounts of the ensuing negotiations given by the three witnesses differ. Two aspects are important. HC Gray said that Mr B told him there were people in the flats who were not wanted there but who were afraid to leave as the police were waiting in Pound Street. On being told that these persons were free to escape by other routes Mr B went back to the flats, returning to HC Gray about 20 minutes later with the news that all people not connected with the flats had left so that there would be no further trouble. The second important aspect of these negotiations was Mr Bryan's evidence, that he and others, including Mr B, decided on one of their visits to Dover Street to give the police the impression that there were firearms in the flats. He stated that this was done, even though they were persuaded that there were no weapons, in order to deter the police from taking further measures against the people in the flats.

21.62 The other person killed by gunfire in Divis Flats was a soldier on leave, Trooper Hugh McCabe. He was shot at about 1 am while he was on the roof of the staircase built on to the north (Divis Street) end of the Whitehall block. The detailed circumstances of Mr McCabe's death are considered in a subsequent section.* It is sufficient here to record that the Tribunal finds that he was shot by a police marksman from the roof of Hastings Street station.

SECTION 6—CONWAY STREET AND CUPAR STREET

Introduction

21.63 Although the most violent disturbances in the Divis Street/Lower Falls area on the night of 14/15 August took place in Divis Street, Percy Street and Dover Street, there was also serious rioting in Cupar Street,

*Section 10.

S1.316

Conway Street and a number of smaller neighbouring streets. While [illegible] were no deaths and fewer injuries in this area, it appears that firearms were [illegible] both by and at the police before they were brought into use in Dover [illegible] or Percy Street. The first shooting from an RUC Shorland armoured car [illegible] place at Conway Street/Falls Road. Property damage was severe too: [illegible] houses were destroyed in Conway Street than in any other street in the city.

21.64 Conway Street and Cupar Street run northwards from the [illegible] Road some 500 yards to the west of the Percy Street/Divis Street junction. They are separated by Norfolk Street, which runs parallel to them, and [illegible] nected by David Street. The events with which the Tribunal was concerned [illegible] place in the part of Cupar Street to the south of Argyle Street and in the part [illegible] Conway Street south of Ashmore Street. These are the exclusively Catholic occupied sections of the two streets. Norfolk Street and David Street (in which there were only three houses) are also Catholic streets.

21.65 Early in the evening of 14 August there had been rumours among Catholic residents of Conway Street that the Protestants planned to attack [illegible] that night. Some residents boarded up their windows with hardboard, [illegible] even evacuated their homes. Mr Sloan, a Protestant, formed the impression that by about 6 pm all the houses in Conway Street south of Ashmore Street had been evacuated, in preparation for a riot.

21.66 At about 10 pm HC Rooney left Springfield Road RUC station (where he had been station sergeant for the previous eight years) with 28 men in two Commer armoured vehicles and after assisting in the dispersal of a crowd attacking Hastings Street station he commenced a border patrol of streets connecting Falls Road with Shankill Road. He found small groups of people on the streets, particularly at Ashmore Street/Conway Street and Percy Street.

21.67 At about 10 30 pm in response to a radio message HC Owens and two land rovers met HC Rooney and his men at this junction. About 200 civilians had assembled there. HC Owens gave evidence that they were restless but not riotous; some of them wore motor-cycle crash helmets and carried Union Jacks, sticks and bottles. They appeared to him to be hostile towards the police on the Falls Road. Before HC Rooney left he instructed HC Owens to relieve him and prevent this Protestant crowd from advancing any nearer the Falls Road.

Cupar Street

21.68 HC Rooney took his two Commer vehicles to Cupar Street in response to a radio message that there was trouble there. He arrived at about 11 30 pm. At the David Street junction (which marks the religious divide in Cupar Street) he found two crowds of about the same size, totalling 400 people, throwing stones and petrol bombs at each other. HC Rooney said his first action was to drive his vehicles between the crowds and baton charge the Catholic crowd back down Cupar Street in the direction of Falls Road. His reason for this was that the Catholic rather than the Protestant crowd was that they, and not the Protestants, were throwing missiles at his men.

21.69 One member of HC Rooney's party, Constable Elliott, gave evidence that after the police had dismounted from the two vehicles they pushed the Protestant crowd back before baton charging the Catholics. Although the [illegible] Constable denied it, we think it likely that the police did push back the Protestants before dealing with the Catholic crowd. Constable Elliott also [illegible]ed that there were houses on fire in Cupar Street when the police arrived. [illegible] this was denied by HC Rooney. But we prefer the evidence of Constable [illegible]ott on both these points; coupled with that of Mr Cormican (see below) it [illegible]sts that the Protestant crowd was the more aggressive of the two.

21.70 During the first baton charge against the Catholics the Protestant [illegible]d followed HC Rooney's men down towards the Falls Road; this crowd [illegible] then ushered back up Cupar Street to the Argyle Street junction. Although [illegible] members of HC Rooney's party were detailed to keep the Protestants [illegible], they do not appear to have been successful.

21.71 As the Catholic crowd again came up Cupar Street from Falls Road [illegible]ing missiles, a second baton charge was mounted and again the Protestants [illegible]ed. In neither of these two charges did HC Rooney make contact with [illegible]Catholic crowd. During this period the Catholic crowd was throwing missiles [illegible] police, while the Protestants were throwing missiles over their heads [illegible]ds the Catholics.* It will be noted that during this phase—and indeed at [illegible]er times in this area on the night of 14/15—the Catholic crowd never [illegible]eir own territory, which was, however, "invaded" by Protestants.

21.72 While leading one of these baton charges HC Rooney heard three [illegible], probably revolver, coming from the Catholic crowd in front of him. [illegible]able Elliott remembered seeing a man come out from the Catholic crowd, [illegible]down on one knee and fire on the police. HC Rooney drew his own revolver [illegible]ired one shot in the air. He ordered his men to take cover and moved [illegible]rotestant civilians into Argyle Street out of the range of the gunfire. A [illegible] was then pushed up Cupar Street and set alight by the Catholics. Soon [illegible]wards HC Rooney noticed that two houses at the end of Norfolk Street on [illegible]side of David Street junction were on fire. A public house, Finnegans', at [illegible] Street/Cupar Street in front of which the Protestant crowd was standing [illegible]also set on fire, he assumed by someone in the crowd. HC Rooney tried to [illegible] with the Protestants and get them to go home but they remained, saying [illegible]y were there to help the police.

21.73 The fire brigade was summoned and, after HC Rooney had shouted [illegible]Catholic crowd behind a barricade at Norfolk Street/David Street to go [illegible] began to deal with the two fires at the end of Norfolk Street. The records [illegible] Belfast Fire Brigade indicate that three calls to Norfolk Street were [illegible]d at 11 42 pm.

21.74 After the fire brigade had left more fires broke out in Norfolk Street [illegible] whole street eventually caught fire. HC Rooney saw a fire appliance in

* There were 3 baton charges led by HC Rooney against the Catholic crowd in Cupar [illegible]

FS 1. 320

Cupar Street but the officer in charge would not go into Norfolk Street because he believed there there was shooting there. Shortly after the fire brigade had left Norfolk Street a man from the Protestant crowd ran down Cupar Street towards the burning lorry. There was the sound of automatic fire from the Falls Road end of Cupar Street and the man fell to the ground. When rescued by two policemen under covering fire from a Sterling and a revolver he was found to be uninjured but drunk.

21.75 Another account of events in Cupar Street in the early part of the night 14/15 was given by Mr Cormican, a Catholic. At about 11 pm he saw a crowd of 150-200 people at the junction of Falls Road and Cupar Street; some of them were throwing missiles at an opposing crowd near David Street who were returning them. A small number of petrol bombs was thrown by either side and at 11 15 pm (timed precisely by Mr Cormican) a petrol bomb was thrown into the upstairs window of a house in the middle of the block on the east side of Cupar Street. The house caught fire and more petrol bombs were thrown at other houses in the block from which the residents fled in their nightwear.

21.76 At around 11 30 pm Mr Cormican was aware of a bullet passing down Cupar Street, fired from the Argyle Street end. More single shots and bursts of automatic fire followed. His recollection was that he counted [illegible] fire or hand over their guns. At 20 minute intervals there were [illegible] Falls Road end and the police who were in Argyle Street fired into the air. From their position they were unable to see along the length of Cupar Street.

21.78 Who started the shooting? While we accept Mr Cormican as a witness who told the truth to the best of his recollection, we find, despite his suggestion to the contrary, that the first shooting in Cupar Street came from the Catholic crowd and that the police did not use their guns until they themselves were fired on. There is no evidence of any firearm in the hands of a Protestant civilian.

21.79 According to Tribunal records (Exhibit 55) two Protestant civilians were injured by gunshots in Cupar Street and one in Argyle Street. No police officer sustained a gunshot wound and no evidence is available to establish whether Catholic gunshot casualties occurred. According to HC Rooney, by about 1 am the situation in Cupar Street had quietened down although there were still two crowds, one Catholic and one Protestant, watching one another. At about this time HC Rooney moved into Conway Street.

F.S. 1. 321

Conway Street

21.80 As has been stated, HC Owens and his party of 14 men had taken over from HC Rooney at Conway Street/Ashmore Street/First Street at about 10 30 pm. The crowd there was hostile to the Catholics of the Falls Road area: they were talking of the events of the previous night—the wrecking of Messrs Isaac Agnew's car showrooms on the corner of Conway Street and the throwing of a hand grenade at the police in Leeson Street. The crowd grew in size to about 300 and HC Owens became aware that an opposing crowd was gathering nearer to the Falls Road end of Conway Street. Mr Donnelly, a Catholic resident of Conway Street, described both crowds as being in "a very ugly mood". HC Ownes radioed for reinforcements.

21.81 A section of the Protestant crowd (about 40-60) surged forward down Conway Street. Police in HC Owens' party succeeded in stopping them from advancing beyond David Street; some individuals turned right into David Street. The Head Constable went into David Street from where he was able to see petrol bombs being thrown at policemen on foot and a police armoured vehicle at the David Street/Cupar Street junction. HC Owens sent the following radio messages to police control at 11 24 "Both parties now fighting in Cupar Street, police assistance required", and "Fighting in Cupar Street". HC Owens was, however, unable to lend any assistance in Cupar Street; [illegible] when he tried to cross the junction of David Street with Norfolk Street, his

Mr Donnelly was similar to that of HC Owens. At first Conway Street was quiet since the Protestant crowd at Ashmore Street and the Catholic crowd at the Falls Road end were well separated. In response to a police request for assistance in dispersing the Catholic crowd, Mr Donnelly spoke to a Councillor Lavelle who succeeded in temporarily clearing them from the street. Fierce fighting then broke out in Cupar Street, David Street and Norfolk Street. A house at the David Street end of Norfolk Street was set on fire. The Catholic crowd which had reformed at the Falls Road end of Conway Street began to move up towards David Street. The Protestants gradually moved towards them. Missiles were exchanged. Mr Donnelly then saw police in David Street mount a baton charge against the Catholic crowd, forcing them back to the Falls Road.

21.83 This baton charge was probably that which HC Owens with 5 or 6 men (the rest of his party remained at Ashmore Street/Conway Street) launched against the Catholic crowd which, he said, had begun to throw missiles at his party in David Street. Mr Donnelly testified that the police were followed in their charge by Protestant civilians. We think this likely since the attention of the Head Constable and his men must have been monopolised by the Catholic

crowd which was attacking them. During the charge HC Owens heard three single shots (possibly ·45 revolver) coming from the Catholic crowd. The police party retreated to David Street where a man was lying on the ground, apparently having been shot.

21.84 HC Owens heard other shots and he and his men fired a volley of shots in the air. Only revolvers were used at this time. The shooting from the Falls Road direction continued and HC Owens authorised his party to fire for effect. This time at least two short bursts were fired from a Sterling. Most of the Catholic crowd drew back down Conway Street to the Falls Road but some remained in shop doorways. There was further shooting, but none by the police.

21.85 Shortly afterwards HC Owens discovered that a second civilian appeared to have been shot at the Conway Street/Ashmore Street junction and at 25 minutes past midnight he sent the following radio message: "Conway Street/Shankill Road 2 persons shot". Although HC Owens was not aware of it at the time, one of his police constables, Constable Harris, had also received a gunshot injury. Tribunal records indicate that one Catholic and one Protestant civilian were shot in Conway Street.*

21.86 As a result of the shooting, at 7 minutes past midnight HC Owens sent a radio request for "heavy vehicles"; the call was answered by the arrival a few minutes later of three Shorland vehicles from the Shankill Road direction. He told the commander of the leading vehicle that they had been under fire from further down Conway Street. The vehicles moved off down Conway Street, two abreast with the third behind. At the end of Conway Street they turned right into Falls Road. As it turned one vehicle (probably the last) was illuminated by petrol bombs thrown at it and a burst of Browning gunfire was discharged from it.

21.87 The vehicle which opened fire on this occasion was the one commanded by Mr U.† He believed that he made two journeys down Conway Street into the Falls Road, while the HC spoke of only one. Be that as it may, the Tribunal is satisfied that there was a shooting incident which involved his vehicle as it turned from Conway Street into the Falls Road. His gunner Mr Y heard shots from the rear and saw a man firing "what appeared to be a service Colt ·45 automatic" at the vehicle. He shouted to Mr U who ordered him to fire a burst over the head of the gunman. Mr Y then fired the burst from the Browning machine gun. Mr Y thought the shots might have struck the gable end of No 29 Falls Road which is on the corner of Norfolk Street. The two vehicles travelled up the Falls Road to about the junction with Grosvenor Road where they turned and drove back down the Falls Road towards the city.

*Also 2 Catholics in Balaclava Street and one in Raglan Street.

†Evidence taken from witnesses in these Shorlands was given anonymously and in secret. A transcript of this evidence with letters substituted for the witnesses' names was later published (Appendix I).

FS 1. 322

21.88 It is not possible for the Tribunal to determine whether Mr U's vehicle was in fact fired on in Conway Street. (Mr Donnelly who saw an armoured vehicle open fire at about midnight said he heard no other shooting.) But the Tribunal accepts that Mr Y believed that his vehicle was being fired on and that he responded by firing in the air.

21.89 We find as a fact that the Shorlands answered the Head Constable's call for heavy vehicles and that from one of them, Mr U's vehicle, there was machine gun fire into the air in the general direction of the Falls Road. This firing, which occurred shortly after 12 40 am, was the first Browning fire of the night and was heard, and its tracer seen, in many parts of the city.

SECTION 7—PERCY STREET AFTER 1 am

21.90 It is now convenient to return to Percy Street which became the centre of activity from about 1 am onwards.

21.91 After the shooting in Dover Street, Mr Linton (a soldier of the Royal Irish Rangers at home on leave) ran along Divis Street to the mouth of Percy Street. In Percy Street he saw a large Protestant crowd and a smaller Catholic crowd near the Divis Street junction. He saw two men from the Catholic side fire revolvers up Percy Street: but not before shooting had begun from the Protestant side. On one occasion 50 or 60 members of the Protestant crowd from Percy Street came on to Divis Street and set fire to a newspaper shop on the western corner of the Percy Street/Divis Street junction. Mr Pinder (Andrews Mill) also testified that property on Divis Street to the west of Percy Street was set on fire at about this time. Mr Pinder's fellow employee, Mr Dunbar, gave evidence that property on either side of the junction with Divis Street went on fire shortly after the Protestants in Percy Street had broken through to Divis Street.

21.92 Although the evidence is not clear, it may have been at about this time that a block of six shops with residential accommodation above them on the north side of Divis Street between Dover Street and Percy Street was set on fire. Protestants who had got out on to Divis Street from Percy Street were probably responsible for this: HC Gray saw some of them throwing petrol bombs at "the bank and a few yards on the Dover Street side of Percy Street". Mr Silvestri lived in one of these houses (No 141). He heard boarding being ripped from the front of the houses and although he succeeded in putting out one fire which had started in his premises, another fire spread from neighbouring buildings and Mr Silvestri's house was destroyed. Because of the amount of shooting the members of the fire service were unable to deal with these fires and with the fire at the Arkle Bar, a fact which must have contributed to the severity of the fire damage in the area.

21.93 One of the houses (No 161) in Divis Street to the west of Percy Street which were destroyed by fire on the night of 14/15 August was then occupied by a Mr Shannon. He said that after three armoured vehicles had come down

Percy Street about 200 Protestants emerged from Percy Street on to Divis Street. Some of them jumped on to the railings surrounding St Comgall's School and threw petrol bombs at the building, which was not, however, set on fire. (Mr Pinder also saw members of the Protestant crowd climb on to the railings in front of the school.) Petrol bombs were then thrown at the houses on the north side of Divis Street to either side of Percy Street. The windows of No 161 were broken by a flagpole carrying a Union Jack and petrol bombs were flying into the house. Mr Shannon and his family were then forced to make their escape from the rear of the house over the roof of Andrews Mill to safety.

21.94 Many witnesses observed the throwing of petrol bombs into St Comgall's School. Mr Linton said that this was done by a crowd of 40–50, some of whom were wearing police uniform. According to Mr Silvestri about a dozen members of this crowd were brandishing guns. Mr McKeague gave evidence that a large number of Protestants took over the section of Divis Street between the mouth of Percy Street and Gilford Street. Some USC tried to get the Protestants back into Percy Street but it was an impossible task for them. Some Protestants remained on Divis Street for a considerable period of time.

21.95 Police accounts of these events were given by DI Cushley and HC Gray. From their position at Dover Street/Divis Street these two officers observed the flare-up of fighting at the Percy Street/Divis Street junction. As there was no police officer above the rank of sergeant at that location, DI Cushley took a party of men via Ardmoulin Avenue to Percy Street. There he witnessed a "knot of incensed Protestants" breaking through an irregular police cordon and throwing petrol bombs at both St Comgall's school and the newspaper shop on the corner of Percy Street. These events took place at about 1 30 am (the police log records the following message from DI Cushley at 1 33: "fighting in Percy Street—crowd out of control"). HC Gray overheard this transmission and seeing for himself that the Protestant crowd were throwing petrol bombs, ordered one of the Shorland armoured vehicles at Divis Street/Dover Street to fire a burst over the heads of the crowd. This forced the crowd to run back up Percy Street allowing the police "to regain some sort of control".

21.96 After the initial petrol bomb attack on St Comgall's School, Mr Linton and others entered the building to extinguish a fire which had started. Their fear was that, if the school was destroyed, St Peter's Church would then be vulnerable to attack*. After they had been in the school for a short time about 3 or 4 men entered the school carrying two weapons which Mr Linton took to be Thompson sub-machine guns and one or more revolvers. It is not to be doubted that these men were members of the IRA. They opened up with the two sub-machine guns against the Protestant crowd in Divis Street outside

*Mr McCann spoke of a rumour that the Protestants were going to burn this church. This was also given by Mr P Kennedy MP as the reason for building a barricade in Derby Street.

FS.1.323

the school and Mr Linton saw at least two people shot. Hospital records suggest that up to 8 Protestants may have received bullet wounds at around this time.

21.97 At 2 06 am DI Cushley reported by radio that there had been further casualties in Percy Street and, one minute later, that there was heavy firing from St Comgall's School. He believed that the weapon being used was a Bren gun. HC Gray sent the Shorland commanded by Mr U to Percy Street and "several sustained bursts" from its Browning gun were directed at flashes which both Mr U and his gunner, Mr Y, saw coming from St Comgall's School. During the shooting exchanges at the mouth of Percy Street, a number of Protestant casualties, and a Constable Linton were brought to HC Gray's position in Dover Street.

21.98 Most witnesses are agreed that there was automatic fire (HC Gray described it as "heavy machine-gun" fire) from St Comgall's School at about 2 am and the entries in the police log support this. Mr Shannon, whose home was directly opposite the school, did not see or hear any shooting from the building; this is consistent with the timing given by other witnesses since Mr Shannon appears to have left his home at about 2 am. However, there was also direct evidence from the commanders of two Shorland vehicles, Mr X and Mr V, of shooting before 2 am. Mr X testified that when his vehicle first emerged from Dover Street into Divis Street at about 1 am after HC Gray's initial briefing "we were fired upon by an automatic weapon from St Comgall's School . . . I then ordered my gunner to fire for effect at the school. He fired three short bursts". Mr V's evidence was that a little later when his vehicle was returning along Divis Street towards Dover Street he saw flashes coming from the front of the school. He gave the order to reply and his gunner fired two bursts. Although we accept that there was some shooting from the direction of the school at about 1 am we think that the first automatic fire did not take place until about an hour later.

21.99 Examination by ballistics experts showed considerable bullet damage to the front of the school, much of which suggested high velocity fire originating from Percy Street. Neighbouring buildings also showed signs of bullet damage. Fragments found in the school appeared to have been the remains of ·30 Browning machine gun bullets and ·455 revolver bullets. Some of the damage was the result of directed shots: there were eleven sites of damage in the brickwork around the circular window above the girls' entrance and one bullet (possibly ·30 Browning) had passed through one of the glass panes in this window and damaged a number of folding wooden chairs stacked in the room within. On 25 of these chairs there were traces of dried human blood; this suggests that some of the Browning fire directed at the school found its target.

21.100 After the Shorland shooting at St Comgall's School, Mr Dunbar and Mr Pinder saw an armoured vehicle in Percy Street discharge some shots at the roof of Andrews Mill. The commanders of two of the Shorlands, Mr X and Mr V, gave evidence of shooting towards Andrews Mill at 3 am (Mr V)

and after daybreak (Mr X), but both witnesses said they were in Divis Street and not in Percy Street at the time. However, a ballistics expert, Mr Price reported seeing numerous bullet holes in a concentrated area on an exterior wall of a building facing Percy Street. He thought this damage indicated automatic fire from Percy Street.

21.101 Mr Hastings, who was in Percy Street and Beverley Street in the early hours of the morning, described both regular and special constables firing towards Andrews Mill from Beverley Street. All this police shooting appears to have been prompted by the belief that there was a sniper operating from the roof: Mr V and S/Sgt Harpur testified to seeing muzzle flashes coming from there. However, neither Mr Pinder nor Mr Dunbar who were on or about the mill premises for most of the night saw any sign of an unauthorised person. The only targets for police fire which Mr Hastings could see were figures on the roof whom the police eventually decided were night watchmen. HC Gray gave evidence that he ordered both RUC and USC officers who had been firing in the direction of Andrews Mill to cease firing. His Sterling gunner was instructed to keep an eye on the rooftops and fire single shots if necessary.

21.102 At some time between 3 and 4 am cartridges of CS gas were discharged on to the mill roof to dislodge the supposed sniper. This was the only occasion on which CS gas was used in Belfast by the RUC during the August disturbances*.

21.103 It is not possible for the Tribunal to make a firm finding whether or not there was a sniper operating from the roof of Andrews Mill on the night of 14/15. On the evidence we think it unlikely that there was and that any figures seen on the roof were night watchmen or night-shift employees, in either case innocent of any shooting. There was some evidence (from Mr Pinder and Mr Shannon) of firing from another mill—the New Northern at Northumberland Street/Divis Street. Some witnesses even claimed to have seen uniformed gunmen on the roof of this building. Mr McCormick, for instance, testified that at about 2 am he saw four men armed with rifles with which they fired about 30–40 shots. As with Andrews Mill, it is not possible to make any finding. Dispersed and sporadic gunfire was part of the general scene that night; and observers would naturally attribute it to different sources, depending not only on their physical location but on what, consciously or subconsciously, they were expecting to see.

21.104 The last shooting in the Divis Street/Dover Street area was at about 3 30 am when a Shorland, probably the vehicle commanded by Mr X, at the mouth of Dover Street fired a burst in reply to a burst of automatic fire which came from the direction of St Comgall's School.

*CS gas was used by the army in the Clonard area on the night of 15/16 August. Permission to use CS gas on the night of 14/15 August was sought by the Commissioner, Mr Wolseley. According to the Deputy Commissioner it was granted between 1 and 2 am. The then Minister of Home Affairs, Mr Porter, gave evidence that he consented to the use of CS in the Cupar Street/Conway Street area. Mr Porter understood that it was not used there. He appears to have been unaware of the use of CS in Percy Street.

SECTION 8—THE BURNING OF CONWAY STREET

21.105 After the first shooting from the Catholic crowd in Conway Street the Protestants at Ashmore Street, to use the words of HC Owens, "ran completely amok". Shuttering from the windows of some of the houses in Conway Street was pulled down and petrol bombs were thrown into them. HC Owens said he did not have the manpower to prevent this or make any arrests. HC Rooney, who had moved into Conway Street, saw a fire appliance which was tending a fire at one of a group of houses between Ashmore Street and David Street which were ablaze. When the appliance left the fire was still burning. There was a Protestant crowd in this area dancing around the burning houses. HC Rooney was unable to persuade them to disperse. According to HC Rooney between 2 am and 7 am there were no crowd clashes in Conway Street where he spent most of the rest of the night.

21.106 Mr Sloan gave a graphic account of the effect the shooting from the Falls Road end of Conway Street, and the injury to the policeman, had on the Protestant crowd. He said that they were in a frenzy because they believed the police were not interested in defending them and that they wanted the police either to hand over their guns or to return the fire directly at the Catholic crowd. Mr Sloan claimed to have seen a police officer firing a sub-machine gun into the air. He saw about ten people from the back of the Protestant crowd throw petrol bombs into houses in Conway Street near the Ashmore Street junction and set them on fire.

21.107 The houses which HC Owens saw set on fire were three of those in the block between Ashmore Street and David Street. The fire brigade was summoned at about 2 am and two appliances arrived. As firemen were dealing with the blazing house there was a burst of machine gun fire up Conway Street from the Falls Road direction. At first the firemen sheltered behind a wall, but later they withdrew. Although HC Owens claimed only to have seen three houses on fire in the block to the north of David Street when the fire brigade arrived, the entry in the fire records of the Belfast Fire Brigade states "Approximately 25 houses well alight 3 jets forced to withdraw due to gunfire". HC Owens' evidence was that it was only after the fire brigade had left that the fire spread from house to house as far as David Street.

21.108 At around 3 am one of HC Owens' constables noticed flames in an upstairs room of Kilfeathers public house on the corner of Ashmore Street and Conway Street. The police extinguished the fire and the building was intact when HC Owens left the area at about 4 am. As he had to conduct a prosecution at Petty Sessions later in the morning he handed over charge to one of his sergeants. He was not aware that he was relieved by anyone at this time although he acknowledged the possibility that another Head Constable, HC Johnston, could have disembarked from the armoured vehicle which was sent to take him back to Hastings Street. HC Johnston gave evidence that the police party which he and his 14 men relieved on arriving at Conway Street at 4 30 am did in fact return to Hastings Street in the Commer armoured vehicle which had

CS.1.324

brought his party. At Ashmore Street/Conway Street/First Street HC Johnston found a crowd of about 200 Protestants. About 10 houses in the block between Ashmore Street and David Street had been damaged by fire. Houses in the block opposite had also been burned. There was a fire engine in Conway Street to the north of Ashmore Street. Kilfeathers public house had been looted and some members of the Protestant crowd were the worse for drink. At 6 am HC Johnston was ordered to Musgrave Street station. He had no clear recollection of being relieved by other police but assumed that the vehicle in which he left Conway Street must have brought a relief party. He thought the relief party comprised four or five constables and a sergeant.

21.109 Two police officers who gave evidence to the Tribunal, Sgt Palmer and Const Elliott, may have been in this party although neither recollected seeing HC Johnston. They arrived in Conway Street in a Commer armoured vehicle at about 6 am. Both thought that their party was commanded by HC Rooney although Sgt Palmer was not quite certain whether he travelled with them in the vehicle or joined them after their arrival in Conway Street. Another armoured vehicle, probably a Shorland, was already stationed in Conway Street.

21.110 Sgt Palmer said that when he arrived a number of houses in the blocks between David Street and Falls Road were on fire. The block on the east side of Conway Street had been on fire but the fire had died down. Most of the block between Ashmore Street and David Street had been burned or were still burning. Const Elliott described seeing fires spreading from one house to another. Sgt Palmer and Const Elliott left Conway Street at about 9 am. Their evidence was that during the three-hour period that they were on duty no buildings were set on fire by individuals and although there were small crowds at the Ashmore Street and Falls Road end of Conway Street there were no clashes or disturbances of any kind.

21.111 It is almost impossible to reconcile this evidence with that of either HC Rooney or HC Johnston. HC Rooney's evidence was that all was quiet in Conway Street when he left at 7 am. Shortly afterwards at about 7 45 am he returned with 24 men to Conway Street where he found a man lying injured and saw Catholics evacuating their homes at the Falls Road end of Conway Street. It is conceivable that Sgt Palmer and Constable Elliott were in this party although it will be remembered that they both gave a time of arrival about 1 hour 45 minutes earlier than HC Rooney suggested.

21.112 Conflicting recollections about times are perhaps to be expected but when Const Elliott and Sgt Palmer's account is compared with that of HC Johnston further discrepancies appear.

21.113 At about 7 am in response to a radio call for assistance at Conway Street HC Johnston returned there, this time with two Commer armoured vehicles and about 25 men. At the junction of Conway Street and David Street he found two crowds engaged in hand to hand conflict. Houses between David

Street and Ashmore Street were burning and some houses between David Street and Falls Road were also alight. One house on the opposite side of David Street and houses in Norfolk Street were also burning. A fire appliance arrived but most of the fires were out of control. HC Johnston was told (by Protestants) that a Catholic crowd had advanced up Conway Street and that the Protestants had counter attacked. But Catholic people on the streets told him that residents had merely been attempting to remove furniture from their houses: they had no aggressive intent. At one stage HC Johnston summoned an armoured car to deal with a suspected sniper but it was a false alarm and after the vehicle had entered Conway Street from the Shankill Road end it returned in the direction from which it had come. This was probably Mr X's vehicle. He gave evidence that at daybreak his Shorland was sent to Conway Street/Ashmore Street as it had been reported that there was a sniper on the roof of Lawther & Harvey's premises in Cupar Street. He thought his vehicle was the only one sent there on that occasion; the Browning gun was not discharged.

21.114 In some of the burned out houses HC Johnston noticed that the gas meter was missing and a flame was burning from the end of the pipe. Some time after 11 am HC Johnston and his party left the area.

21.115 A number of Catholic witnesses, including two Northern Ireland MPs, Mr P Devlin and Mr P Kennedy, gave evidence that at about 7 am Protestants in Conway Street continued to break windows in and set fire to Catholic houses while police in vehicles either took no action or chased away Catholics who were trying to prevent the destruction of their homes. Mr Donnelly, for example, said that after an armoured vehicle (possibly a Shorland) had forced the Catholic crowd out of the street it fired two or three shots. It stopped about mid-way between David Street and Falls Road. The Protestant crowd followed it and set fire to three or four more houses.

21.116 One police armoured vehicle which was present in Conway Street during this period was the Shorland which had opened fire in the same street earlier in the night: the vehicle commanded by Mr U of which Mr Y was gunner. Mr U saw firemen helping people to remove their belongings. A crowd from Divis Street seemed to be throwing stones at these people. The Shorland was driven down Conway Street to deter the stone-throwers who ran away. The Browning gun was not fired.

21.117 While we reject any suggestion that police or police vehicles in Conway Street were deliberately used against Catholics while a blind eye was turned on Protestant arsonists, Mr U's evidence confirms the assertion that an armoured vehicle was driven against the Catholic crowd. It is possible that in the confused circumstances of that morning the people whom Mr U saw being stoned and whom he took to be residents rescuing their own property were in fact looters whom the Catholic stone-throwers were trying to chase away. On the face of it this seems more plausible than the witnesses's own interpretation of a Catholic crowd attacking Catholic residents. This episode illustrates how on that night both police and Catholics were ready to put the worst construction on each others' motives and actions.

FS-1-325

Conclusions on the burning of Conway Street

21.118 Although the rioting in the Conway Street/Cupar Street area produced relatively few injuries and, despite the extensive use of firearms, no fatalities, it took its toll in the destruction by fire in Conway Street alone of some 48 houses, which is over two-thirds of the dwellings in the Catholic section of the street. Every house in the block between David Street and Ashmore Street and in the block on the opposite side of the street was destroyed. Nearly all the remaining houses were damaged to a greater or lesser extent: 16 requiring major repairs and 1 minor repairs. Many houses in Norfolk Street and particularly Cupar Street (between Argyle Street and Falls Road) sustained damage which necessitated either major or minor repairs.

21.119 Protestants were responsible for nearly all this destruction, including all the houses burned down in Conway Street. Although these burnings were precipitated by shooting from the Catholic crowd they can be seen as a violent reaction by Protestants against Catholics for the disturbances which took place in the Falls Road area on that and the previous night. It is not possible to reconstruct with any reliability the comings and goings of the various police parties which performed duty in Conway Street during the night and morning. But the fact remains that police were present throughout this period when the burning of houses took place and did not succeed in preventing it.

21.120 Catholics interpreted events in Conway Street and the neighbouring streets as collusion between police and Protestants. They saw the police as attacking those who were trying to defend their homes from invading Protestants who were allowed to burn and loot property with impunity behind police lines. The Tribunal however rejects this interpretation. No doubt the police concentrated their attention on the Catholic crowd because they saw them not only as a threat to themselves but to the whole system of law and order in the city. Nevertheless, the police on duty in these streets were seriously at fault in that, though there in some strength, they failed to control the Protestant mob or to prevent the arson and the looting.

SECTION 9—DETAILED CONSIDERATION OF THE DEATH OF PATRICK ROONEY

21.121 We find, as we have already stated, that the boy Patrick Rooney was killed in his father's flat, No 5 St Brendan's Path, by Browning machine gun fire from a Shorland police vehicle. In this section we give our reasons for this finding and for our conclusion that the firing which killed him was not justified.

21.122 We have already described the arrival in Dover Street at about 1 am on 15 August of three Shorland armoured cars in response to HC Gray's request. Their commanders, each of whom gave evidence, were identified as Mr U, Mr X and Mr V. Mr U's gunner, Mr Y, also gave evidence. Although HC Gray did not know it at the time, one of the Browning guns mounted on the Shorlands (that of Mr U) had already been fired in Conway Street. After

FS 1. 326

reporting the situation as he saw it in Divis Street, HC Gray ordered Mr X to take the vehicles up Divis Street, to fire in the air and if fired upon to fire for effect. Mr X passed these instructions on to Mr V and Mr U.

21.123 The three vehicles then drove to the mouth of Dover Street and turned right into Divis Street, ie away from the city centre. As the leading Shorland, that of Mr X, passed St Comgall's School, he was, according to his own evidence, fired on by an automatic weapon from the school. He ordered his gunner to return the fire for effect, and three short bursts were fired at the school. This exchange of fire was heard, but not seen, by HC Gray, who had remained in Dover Street. Neither of the other two vehicles fired although Mr Y said that he was fired at, either by an automatic or by a revolver being fired quickly as his vehicle was passing the mouth of Ardmoulin Street. The Tribunal has no reason to doubt that an exchange of shooting took place but we do not think that the police were subjected to automatic fire at this time.

21.124 The three Shorlands continued their journey up Divis Street as far as the Northumberland Street junction where they demolished a barricade, turned round and began to retrace their path along Divis Street back towards the city centre. For Mr X and Mr U the journey as far as Dover Street was uneventful: their vehicles did not fire nor did they hear shooting from the other two. But Mr V told the Tribunal that as he passed St Comgall's School on this second occasion, he saw flashes from the front of the school: he gave the order to fire and his gunner fired two bursts at the school.

21.125 It is not possible for the Tribunal to say whether this shooting took place as Mr V described it. We do not doubt that his gunner did return fire towards St Comgall's School; but he may have done so on the first occasion that he drove past it.

21.126 Having passed the mouth of Dover Street the three Shorlands continued along Divis Street towards Hastings Street where they turned before returning to Dover Street. If, as we find, fire from a Shorland killed Patrick Rooney, it must have occurred while the Shorlands were on this part of their patrol, ie when they were in Divis Street, between Dover Street and Hastings Street. But the only Shorland witnesses who admitted to firing during this part of their patrol were Mr U and his gunner, Mr Y, and they denied that the firing was into the flats. Mr X and Mr V denied that their vehicles fired at all at this stage.

The evidence of Mr Y

21.127 When his vehicle had passed the mouth of Dover Street and was heading for Hastings Street, Mr Y heard shots and saw a person to his right throw an object at the vehicle in front. He thought this was a grenade, and as his vehicle passed over it, there was an explosion, shaking the vehicle violently. By revolving his turret Mr Y had kept this man in his sights: the Browning gun was now facing slightly to his left as he looked towards the rear of the vehicle. Mr U ordered him to fire and he fired two short bursts at the man. The vehicle was positioned about opposite 91 Divis Street and at the time he fired

the man was about at the north east corner of Divis Tower. Mr Y would therefore have expected his shots to have either struck this corner of the building or No 104 Divis Street. There were however no signs of bullet damage to No 104.

21.128 The vehicle drove on as far as Hastings Street where, still following the other two Shorlands, it turned and proceeded along Divis Street, away from the city. As his vehicle passed Divis Flats he heard heavy bursts of machine gun fire as well as single shots. He did not think that any of this shooting could have come from the Browning guns on the other Shorland vehicles. As he passed a fence between Divis Tower and No 104 Divis Street he thought he saw a dark object pointing at his vehicle. All three vehicles then returned to Dover Street.

The evidence of Mr U

21.129 Witness U's account of what appears to be the same incident is, however, quite different. Contrary to the evidence of all the other witnesses, he described all three vehicles turning left out of Dover Street into Divis Street. His vehicle did not fire on the journey towards Hastings Street. Here it turned and retraced its path away from the city. As it passed Divis Flats petrol bombs were thrown at all three Shorlands. A man standing outside the flats on the city side then threw into the road a silvery-coloured object which exploded as Mr U's vehicle passed over it. Immediately afterwards he saw another man outside Divis Tower firing a machine gun at his vehicle. Mr U ordered his gunner to shoot the man who had thrown the bomb and who was running up Divis Street. His gunner fired one burst at this man. (Since Mr U could not see the position of the barrel of the gun he could not see the direction of fire: he could not remember seeing any tracer.) Mr U's Shorland then followed the other two into Dover Street. It will be noted that the chief difference between the evidence of Mr Y and Mr U is that the latter describes the incident as taking place when their vehicle was travelling *away* from the city, whereas Mr Y recollects it as taking place on the trip *towards* the city. But both witnesses denied firing into the flats.

The death of Patrick Rooney

21.130 While the vehicles were out of his view in the stretch of Divis Street between the mouth of Dover Street and Hastings Street, HC Gray heard the sound of light weapons as well as the heavy fire of the Brownings. He ordered the vehicles to cease fire and return to Dover Street where he was joined by DI Cushley. This he reported to police control. He then told the crew of all three vehicles "that there was to be no further firing unless absolutely necessary", and at 1 11 am he radioed to police control that firing had ceased in Dover Street.

21.131 Shortly after the return of the Shorlands to Dover Street, HC Gray was approached by Mr Max Hastings who told him that a young boy (as we now know, Patrick Rooney) in Divis Flats had been shot. A few minutes earlier when he was outside St Brendan's block, Mr Hastings had been told of this and had been taken into a flat at about the middle of the block (in fact No 5 St Brendan's Path) where he saw the boy lying on a bed with what was obviously a severe head injury. HC Gray and Mr Hastings arranged that the latter would

have the boy brought out to an ambulance which would be called to Dover Street. The Head Constable's request for an ambulance was sent at 1 19 am. Mr Hastings went back to the flats and returned accompanied by a man carrying Patrick Rooney.

21.132 The boy was admitted to hospital in an unconscious condition and died just after 2 am. Death was due to a gunshot wound of the head. The character of the injuries and the bullet fragment found in the brain (which fragment was not identifiable) were consistent with wounding by a fragment of a high velocity bullet.

21.133 Thus, only the occupants of vehicle U/Y admit to having discharged a Browning gun in the section of Divis Street between the Dover Street and Townsend Street junctions, that is, the general vicinity of Divis Street flats. But both witnesses denied firing into the flats; their evidence does not explain how Patrick Rooney came to be shot in his home or how the bullet damage to the flats and adjacent buildings was caused. The bullet damage is described below.

The ballistics evidence

21.134 At the request of the Tribunal two ballistics experts, Dr Martin of the Department of Industrial and Forensic Science, Belfast and Mr Price of the Forensic Science Laboratory, Nottingham, inspected the marks and damage inflicted upon the flats complex by the gunfire of this night. They found several areas of the complex had been subjected to high velocity gunfire,* ie the fire of rifles or Browning MGs or both.

21.135 The main areas of high velocity bullet damage were: *Boundary wall of electricity transformer station, Divis Street* (between Divis Tower and Whitehall block).—Three deep bullet holes in this brick wall were indicative of high velocity fire, probably from a position across and slightly up Divis Street. *Divis Tower.*—Bullets penetrated flats 1B, 3D, 4C, 6D, 7D, 8D and 9D, as well as the entrance hall of Divis Tower. Much of this damage suggested high velocity fire. Bullets discovered show that at least three weapons caused this damage. These were probably a ·30 Browning machine gun (flats 1B and 3D), a Lee Enfield ·303 rifle and a 7·62 self-loading rifle. The firing position of the two rifles was probably some distance down Divis Street towards the City Centre; that of the Browning was probably from a point in Divis Street nearer the Tower in the vicinity of the entrance to Bath Place. *St Brendan's block* (and wall round plant area in front courtyard as well as brick wall at side of Divis Tower)—There was bullet damage to six flats in this block. In No 5 St Brendan's Path, where Patrick Rooney was shot, the tracks of four bullets could be traced and unidentifiable bullet fragments were found. Two bullets entered the flat next door, No 6 St Brendan's Path. Both ballistics experts agreed that the penetration and fragmentation of the bullets which entered these

*Map of high-velocity bullet damage to Divis Flats at Appendix VIII (L).

FS 1 · 321

two ground floor flats indicated high velocity shooting. Dr Martin thought the pattern of this damage suggested automatic fire but Mr Price was less sure of this.* Sightings made by Dr Martin on the bullet damage to Nos 5 and 6 St Brendan's Path indicated that the weapon was probably 7–8 ft above ground level. This suggested to Dr Martin that it was probably mounted on a vehicle.† Six typical bullet holes consistent with high-velocity damage (Martin) were found in a low brick wall surrounding the garden area between St Brendan's block and Divis Tower. The 7 ft high projecting wall at the entrance to Divis Tower contained a series of 13 holes which suggested high-velocity automatic fire possibly in three bursts (Price). Dr Martin concluded that the damage to St Brendan's, the low wall and the high wall, was all consistent with the firing of high velocity ammunition from a weapon located in Divis Street in the area of the entrance to Boundary Street.

21.136 *Whitehall block* (east face, Divis Street end).—The two ballistics experts could not agree whether or not the five bullet holes found indicated high velocity fire. In the absence of evidence of any other type of fire at this building the Tribunal finds it was high velocity.

21.137 Our conclusions on this evidence can be shortly stated:—

(1) The flats were subjected to a considerable volume of high velocity gunfire;

(2) this gunfire must have come from Browning machine guns, Lee Enfield or self-loading rifles, situated at various points on or near Divis Street;

(3) some of the gunfire, particularly that directed towards St Brendan's where Patrick Rooney was killed, originated from vehicles in Divis Street.

Evidence of eyewitnesses

21.138 A considerable volume of evidence was given by civilians who claimed to have witnessed Shorland shooting into the flats. We deal with this evidence in detail in another context. It displayed, as one would expect, differences of recollection and a number of inconsistencies: nevertheless, it supports the inference which arises from the expert evidence that high velocity fire was directed from vehicles in Divis Street into the central area of the flats. Further, the same evidence, if accepted, establishes that there was no firing from the central part of the flats, which is where the Rooney flat was situate: in particular the evidence of Mr B and Mr Max Hastings was categorical that they neither saw nor heard any firing from this area.

*His doubts were based on the fact that while he agreed that the external damage to Nos 5 and 6 considered together suggested automatic fire, the variation between the angles and flights of individual bullet tracks was inconsistent with this and was indicative of single shot fire.

†Mr Price examined a Shorland armoured car (which did not have a Browning gun mounted) and estimated that a mounted Browning gun would be about 6½ feet above ground level.

Conclusion

21.139 Having considered all the evidence relating to the use of guns in Divis Street we have no doubt that at least one of the Shorlands opened fire on the flats, hitting St Brendan's block and the city face of the Tower block, and killing Patrick Rooney.

21.140 We reach this finding notwithstanding the evidence of the Shorland crew members who would have the Tribunal believe that the only Shorland firing was directed not into St Brendan's but up Divis Street towards a man on the footway near the Tower who had thrown a grenade. Thus the Shorland crew members offer no explanation for the high-velocity bullet damage done to the central (ie St Brendan's) area of the flats. If they are to be believed, this was not caused by Shorland fire: but we find that it was. The ballistic evidence, and the testimony of civilian witnesses, put the fact of Shorland shooting into the central area of the flats beyond doubt. We believe that, appalled at the human consequences of their shooting and frightened by the spectre of revenge, the Shorland crew members have not made to the Tribunal a full disclosure of what they know occurred.

Was the firing justified?

21.141 Since their case is a denial of such shooting, it is hardly surprising that the Shorland crew members did not develop in evidence any real explanation for it. Shooting at the man who had thrown the grenade explains nothing: for he was in the street. There are allegations in their evidence of automatic firing from the flats: but, since their case is that they did not return the fire, the allegation is suspect and, even if true, did not apparently call for a return of fire.

21.142 Thus the Shorland crew members have not indicated in their evidence any justification for shooting into the flats (which of course they deny having done). There is no other evidence which suggests any justification for such firing. It is possible, though very unlikely, that Mr U and Mr Y heard some shots fired from the roof of the Whitehall block where Mr McCabe was killed. But, if they did, firing from that roof at the eastern end of the flats complex could not justify machine gun fire into the central area of the flats or at the Tower, from which we are satisfied that there was no firing.

21.143 Accordingly, we are unable to justify the shooting from the Browning machine gun which we find was directed towards the flats and was responsible for the death of Patrick Rooney.

SECTION 10—DETAILED CONSIDERATION OF THE DEATH OF HUGH McCABE

21.144 Shortly after the firing from the Shorland vehicles in the direction of the flats, Mr McGarrigan who was on the roof of the Whitehall block became aware that there was firing from elsewhere. Mr Wyllie who was also

FS 1 328

on the roof was shot in the neck, and Mr McGarrigan was certain that at the time this happened the Shorlands were stationary in Dover Street. He thought the shot which struck Wyllie must have come from Hastings Street or the Technical College, a tall building in Millfield. He then found Mr Hugh McCabe, who had been shot, lying on the roof of the staircase built on to the northern end of the Whitehall block. Mr McCabe was carried down, still alive, to one of the flats, where he died.

21.145 Mr McCabe was a soldier on leave. The Tribunal does not doubt that before his death he had been assisting Messrs Wyllie, McGarrigan and others in assaulting with missiles the police in the street below. Post-mortem examination showed that death was caused by a bullet, possibly from a high-velocity rifle, which entered the right cheek and traversed the neck and left lung before leaving the back of the chest.

21.146 Evidence of shooting from the roof of Hastings Street station at targets on the Divis Street end of the roof of the Whitehall block was given by Constable Mahood who was on duty with two other officers. These two constables, one armed with a 7·62mm self-loading rifle (SLR) the other with a ·303 rifle, had joined Constable Mahood on the station roof at about 9 pm.

21.147 During the earlier part of the evening Constable Mahood observed the crowd attacking Hastings Street station and the advance of police vehicles along Divis Street. At about the time when he heard gunfire he saw what he believed to be muzzle flashes from an automatic weapon at the top of the Divis Street end of the Whitehall flats. He had seen petrol bombs thrown from the roof of the staircase which was at a slightly lower level than the roof of the flats themselves but the shooting appeared to come from the latter position. Constable Mahood also gave evidence that he heard bullets whistling down the street. One of the constables with him on the roof notified police control by radio that he had seen flashes and that at the next flashes he would return the fire.* There were further flashes, after which the two constables opened fire with their rifles probably not long after 1 am. Constable Mahood estimated that about 18 single shot rounds were fired over a period of 5 minutes.† Constable Mahood was not armed and did not fire himself.

21.148 The post-mortem findings are consistent with Hugh McCabe having been shot by rifle fire from the roof of the Hastings Street station. The other gunshot injuries sustained on the roof of the flats and stairs can also be attributed to this police shooting, although Mr Wyllie thought that he was shot from Messrs Campbell's premises on the opposite side of Divis Street from Whitehall. It also seems likely, and Constable Mahood accepted this possibility in cross-examination, that bullets which entered the east face of Divis Tower at flats 6D, 7D and 8D and were identified as probably having been fired from a 7·62 SLR (6D) and a ·303 British Military rifle (7D, possibly 8D) were fired by the two marksmen at Hastings Street. While the bullet damage to the east face of Whitehall at the Divis Street end was not unequivocally established as high velocity, the shooting from Hastings Street station seems the likeliest explanation for it.

*His message may be the one recorded in Ex 43 01 02 15 August "Hastings Street station under fire from low storey flats opposite station" or 00 53 "Firing coming from low level flats—Falls Road".

†In fact the statements of the two marksmen give 12 rounds from SLR and 9 from ·303 — 21 in all.

21.149 We, therefore, conclude that Mr McCabe was shot by one of the police marksmen on the roof of the Hastings Street station. The possibility that he was shot by some unidentified civilian gunman remains: but there is no evidence to support this possibility, and we reject it. There is one other possibility—that he was shot by police fire from the Millfield Technical College where armed police observers were stationed; but we accept unreservedly the evidence of Constable McKittrick that there was no firing from the College, and that in any event his party had no rifles.

Was there any shooting from the flats?

21·150 We have already stated our finding that there was no shooting from the central area of the Divis flats. There is however some evidence of firing from the roof of the Whitehall block. We consider now the state of the evidence as to firing from the flats.

21·151 If there was any firing from the Whitehall roof it ceased when Mr McCabe and Mr Wyllie were shot. We have already referred to the testimony of Constable Mahood who claimed to have heard gunfire and seen muzzle flashes coming from Whitehall roof. Constable Mahood was not sure of the time at which he witnessed this although entries in the police log suggest it may have been around 1 am.

21.152 Another police witness gave similar evidence of shooting from the roof of Whitehall which he observed from Hastings Street roof between 12 00 and 12 30 am. At around midnight Head Constable Johnston who was inside Hastings Street RUC station heard two or three bursts of sub-machine gunfire. He went out of the building into Divis Street where he thought he could hear firing coming from the flats. He returned to the building and climbed up to a trap door in the roof from which position he could see along Divis Street to the flats. There were two other police officers already on the roof. During a period of about 10 minutes he saw the flashes and heard the reports of about 3 or 4 bursts of automatic fire coming from the Divis Street end of the roof of Whitehall, although he admitted that visibility was indistinct. Head Constable Johnston thought the weapon sounded like a Thompson sub-machine gun and he had the impression that bullets were landing in Divis Street 25–50 yards short of Hastings Street station. Head Constable Johnston also saw petrol bombs being thrown from the roof to his left of the source of the gunfire, ie further away from the Divis Street end of the Whitehall block.

21.153 A third police officer who testified to shooting from the flats was the Deputy Commissioner, Mr Bradley, who like Head Constable Johnston ran out of Hastings Street station on hearing heavy machine gun fire just before 1 am. He went into Hastings Street itself, where he saw flashes and heard short bursts of fire, which sounded like a Bren or Thompson sub-machine gun, coming from the northern end of the Whitehall roof.

PS1 ·329

21.154 When one turns to the evidence of witnesses in Dover Street, one finds it is consistent with that from Hastings Street. Undoubtedly it was believed by police and others who were at the junction of Dover Street with Divis Street that at about 1 am, before the Shorlands were committed, they were being fired upon from the flats. The firemen thought so: so did HC Gray. There was also evidence from an ambulance driver and his attendant to the effect that there was heavy firing from the direction of the flats. Mr Hastings who was also in Dover Street thought he might have seen one or two shots coming from the Whitehall block but he "could not say with any certainty". Later, however, after he had visited the flats, he concluded that there had been none for, he said:—

"it is astonishing that one of the facts about both the Dover Street and the Beverley Street situation when I was there was that had there been any marksmen of the remotest consequence operating that night they could have mown down half the RUC".

21.155 Two witnesses attributed shooting at this stage to people in the Tower block. Mr McQuade said he saw single shots from the Tower, while Mr Hugh Johnston, a member of the Shankill Defence Association, who was with the Protestants when they erupted out of Dover Street into Divis Street, asserted that he saw two gun flashes at the top of the Tower and appeared to suggest that Herbert Roy was killed by fire from the flats.

21.156 The evidence of fire from the Tower block is extremely suspect. The medical and ballistic evidence of the fatal injury to Roy points to him having been shot from across the street rather than by a descending bullet from the Tower: and it was a revolver shot, the effective range of which is in any event limited. It is also likely that the other casualties in Dover Street at this time (eg the 3 policemen) were due to fire from Gilford Street, and not the Tower. The flashes and noises interpreted by Messrs Johnston and McQuade do not, by themselves on a night of uproar, necessarily indicate gunfire. Nevertheless there was a belief shared by all those witnesses at the time that shots were being directed from the flats area towards the Dover Street junction. If they were not coming from the Tower, they must in all probability have been coming from the Divis Street end of the Whitehall block.

21.157 Mr B did not believe that there was any shooting from the flats: he was certain that there was no shooting from the maisonettes where he was— he spent much of the night walking along the open galleries from the St Comgall's block to the Whitehall block. Nevertheless, he did not know where the first shots came from: his evidence on this point was:—

"Where the first shots came from I would not swear, but I certainly know they did not come from the maisonettes in which I was situated".

As soon as the Shorland firing began, he "fell flat", and could not have seen much.

21.158 Mr B's evidence does not rule out the possibility of firing from the roof of the Whitehall block: he was never there, and could speak with certainty only of the galleries he walked, the people he met, and the areas he could see.

FS. 1. 330

21.159 Mr Bryan, the occupier at the time of a flat in Whitehall Row, gave evidence and denied that there was any shooting from the flats. While he asserted that he saw uniformed men firing into the flats, there is a startling absence in his evidence of any reference to firing from Shorlands. The shooting by uniformed men that he saw was probably that associated with Sgt McPhillips' sortie into and withdrawal from Gilford Street. That he missed the Shorland firing indicates that he by no means saw all that was happening. His denial of shooting from the flats extends, therefore, only to his own incomplete observations and cannot be interpreted as evidence that there was none.

21.160 Mr Wyllie and Mr McGarrigan, who were on and near the roof of Whitehall block at the critical time, while admitting their missile assault on the police in Divis Street, deny that there was any shooting from there or elsewhere in the flats. We are not prepared to found any conclusions on the basis of their denials.

21.161 Mr John Mitchell watched events from the front door of his house, No 80 Divis Street. He had a good view up the street as far as Bath Place: but his vantage point did not give him an unobstructed view of the Whitehall block, since it was masked to some extent by the terrace of houses which include No 80 itself. Mr Mitchell saw one Shorland firing into the flats from a point in Divis Street opposite St Brendan's and was quite clear that there had been no shooting whatsoever from the flats. His evidence must be taken as confined to the limits of his own observation. It does not rule out the possibility of some shots fired earlier from the roof of the Whitehall block.

21.162 Similarly, the evidence of Mr O'Connor, who saw and heard Shorland fire directed into the flats, must be interpreted as confined to the limits of his observation. While he and Mr Mitchell powerfully support the contention that there was no firing from St Brendan's or the city face of Divis Tower, they cannot exclude the possibility of some shooting from the roof of the Whitehall block.

21.163 The effect of the evidence so far considered is, if accepted (always excluding Mr Wyllie and Mr McGarrigan), to establish that there could have been shooting from the roof of the Whitehall block, but none from the galleries of the Whitehall block, from St Brendan's, or from the city face of the Tower.

21.164 Some further evidence was given which is consistent with the fact of firing from the Whitehall roof. First, there is the evidence of two members of an ambulance crew who brought an ambulance out of Durham Street up Divis Street to the flats. Their evidence needs to be approached with caution, since they had been badly scared by the situation in which they found themselves; but one of them, the driver, spoke emphatically of "heavy firing from the direction of the flats". In fact he could not have known where the firing he says he heard came from, since it was behind his vehicle. He could, therefore, have been referring to firing from the police station, on the Whitehall roof, or both.

21.165 Secondly, there was the evidence of Constable McKittrick. If there was in fact gunfire from the roof of the Whitehall block one police witness

who might have been in a position to observe it was Constable McKittrick who, with four other constables, spent the night of 14/15 from 7 pm onwards on duty in Millfield Technical College, a four-storey building to the north of Hastings Street RUC Station. Constable McKittrick saw about 12 people on the roof of the Whitehall and on the staircase roof from where petrol bombs were being thrown. He did not, however, see any gunfire from the Whitehall roof. Nevertheless he heard gunfire—single shots and automatic—which came from the countrywards direction—the direction in which, as far as he was concerned, the flats (including the Whitehall block) stood.

Conclusion

21.166 Upon full consideration of all the evidence we conclude that there was no firing from the Divis flats save for some shots fired either from the staircase roof, or from the roof, of the Whitehall block. We are satisfied that the RUC at Hastings Street fired in the justified belief that shots had been fired from the Whitehall roof. One of their shots killed Mr Hugh McCabe, after whose death there was no further firing either from the police station or from the Whitehall roof. The Tribunal consider that the firing which killed Mr McCabe was justified. While the police marksmen ran the risk that they might kill or injure innocent people in the flats, their target was a legitimate one. It was a grave decision to take, but (unlike the Shorland firing) the shooting consisted of single shots carefully and skilfully aimed.

SECTION 11—POLICE USE OF BROWNING GUNS IN THE DIVIS STREET/FALLS ROAD AREA

21.167 We have already made clear our view that the Browning gun should not have been used in city areas during the disturbances under review. We have also criticised its use in firing upon the Divis flats on the night of 14/15 August. In this section we consider the nature of the gun, and the facts leading to the decision to make it available for use in Belfast. We also examine the allegation of indiscriminate shooting from Shorlands in the area south of the Falls Road.

The nature of the weapon

21.168 The Shorland is an armour plated vehicle built on a Land Rover chassis and is designed to carry a machine gun. It is manned by a crew of three; the commander, who acts as observer, a driver and a gunner. It was designed for patrolling border areas of the Province and not for use in urban areas. By 1968 the RUC had taken delivery of ten vehicles. Of these, five were based at police stations near the border, three were under the control of the Reserve Force, and the remaining two were held in reserve.

21.169 The weapon mounted was a ·30 Browning machine gun. Mr Peacocke testified that this was the only weapon which could be fitted into the vehicle's turret. The Browning is a high velocity automatic gun with a rate of fire of 500/600 rounds/minute. A number of witnesses testified that it was virtually impossible to fire a single shot from a Browning—unless of course only a single round was loaded in the ammunition belt.

FS 1 · 331

21.170 The gun is aimed by lining up a graticule marked on a periscopic sight with the target. Before firing it is necessary to "zero" the gun, since the barrel is not in line with the sight but displaced to one side of it. To do this the gunner dismantles part of the gun, looks down the barrel and aligns it with an object some distance away. Then, keeping the barrel in position, the periscopic sight is adjusted so that the graticule is lined up with the same object. Apparently it is army practice to test fire the gun after zeroing but this was not the practice of the RUC because of lack of ammunition and suitable firing facilities. In 1969 spotlights were mounted on RUC Shorlands. These could be adjusted so as to focus on the gun's target.

21.171 The Browning is so constructed that even if held rigid it will not fire at the same spot. The gun is designed to fire a pattern of shots having an area in the centre known as the beaten zone where the majority of strikes are concentrated. It follows therefore that whether it is being fired by day or night it is in practice necessary to fire a sustained burst in order to be sure of hitting the target. At night it was sometimes difficult to see the graticule on the sight and its position had to be guessed. For this reason tracer bullets are used to enable the gunner to line up on his target.

The decision to use it

21.172 Although Shorland armoured vehicles were used on the streets of Belfast on the night of 13 August Browning guns were not mounted. This was not a deliberate act of policy but due simply to the lack of time available.

21.173 On the 14th Mr Bradley and Mr Wolseley decided that the Shorlands should be armed for the night of 14/15. It was not clear from the evidence of senior police officers, however, which of them was responsible for taking the decision to fit the Brownings. Both Mr Bradley and Mr Wolseley pointed out that since the Shorlands were operated by the Reserve Force they would have expected the decision to be taken by the Inspector-General who was responsible for the Reserve Force. But Mr Peacocke denied that he took any such policy decision or that the mounting of Browning machine guns was a matter on which he would be asked to give a decision.* It was clear from Mr Peacocke's evidence that he regarded this as a matter for the officer in charge of the vehicle:

> ". . . a Browning gun is part of the vehicle, and it would be a decision for the operational commander as to whether he would mount the gun or not".

21.174 Thus while it might appear that the fitting of Browning guns on Shorlands on 14 August was a major decision taken at the highest levels of the RUC it may be that it was not regarded as such at the time by at least some of the officers concerned.† On this basis the crucial decision was the mobilisation of the Shorlands on 13 August which were unarmed simply because there was not sufficient time to mount the guns. On the next day when there was sufficient time available, the Brownings were fitted because they were "part of the vehicle".

*But see his answer to the Chairman ". . . I cannot fully recall whether I decided it or whether the Commissioner told me he had done it and I approved it, but whichever way it was, my Lord, it basically comes back to being my decision".

†Mr Bradley, however, thought the decision was one of policy for the Inspector-General.

21.175 On the afternoon of 14 August a number of police officers were assembled in Musgrave Street RUC Station and assigned to armoured vehicles. Crews appear to have been made up for five Shorland vehicles and at least one Humber armoured car. The crews had not worked together as such before. Mr U had never seen either a Shorland or a Browning before this briefing and Mr X had not done duty in a Shorland previously. The three Shorland vehicles commanded by Mr X, Mr U and Mr V subsequently performed duty in Divis Street/Lower Falls area and two went to Crumlin Road.

21.176 Earlier in the day it seems that some at least of the Shorland gunners, of whom Mr Y was one, had come to Musgrave Street to mount the Browning guns and prepare them for use. In the afternoon the crews were briefed by HC Stewart and HC Patterson. The men were told that on the previous night police personnel and vehicles had been attacked with bombs and firearms. It was possible that there would be further shooting that night. According to Mr Y:

> "We were told that if we were to return fire we must have a proper target and be sure of our target. Also safety was greatly emphasised; we were told that we would be operating in a built-up area and the danger to civilians, etc, was very strongly emphasised".

Each gunner was provided with 500 rounds of Browning ·30 ammunition.

21.177 At about 5 pm three Shorlands and a Humber under the command of HC Stewart left Musgrave Street and travelled to Tennent Street where they remained until about 9 pm when they were called to Hastings Street station where they commenced operational duty. Their subsequent activities during the night have already been described. One important matter, however, remains to be considered.

The allegation of firing south of the Falls Road

21.178 A number of Catholic witnesses gave evidence that Shorland armoured vehicles positioned on Falls Road/Divis Street fired down side streets on the south side of the main road; other witnesses said that one or more vehicles drove into these side streets and discharged their Browning guns there.

21.179 Mr McCormick described how after he saw armoured vehicles shooting in Divis Street he ran down Albert Street and into Mary Street. An armoured vehicle followed him into Mary Street. During the night Mr Linton saw vehicles fire down Derby Street on four or five occasions as they passed along Divis Street. Mr P Kennedy MP (NI) testified that after a Shorland had fired at St Comgall's School it travelled along Divis Street to the junction with Albert Street where it stopped and fired down Albert Street. On its way up Divis Street towards Albert Street it appeared to Mr Kennedy to fire down Derby Street although he did not see this. Dr McAllister who was responsible for the first-aid post in Sultan Street thought he heard gunfire discharged on about three occasions down Sultan Street and Plevna Street.

FS 1. 332

21.180 All the Shorland witnesses denied any responsibility for these alleged shootings; it was their evidence that at no time did they move south of Divis Street into Albert Street or any of the neighbouring side streets. In the absence of any Browning bullet damage in this area the Tribunal accepts these denials and finds that the Shorlands did not move south of Divis Street/Falls Road and could not, therefore, have discharged their weapons there. The evidence does not justify a finding that there was firing into side streets from the Falls Road or Divis Street.

PART VII—CHAPTER 22—CRUMLIN ROAD AND ARDOYNE RIOTS: PRINCIPAL FEATURES

22.1 The Tribunal has received a great volume of evidence dealing with the catastrophic riot that developed in the Ardoyne on the night of 14 August. Very naturally the evidence contains inconsistencies, many of them irreconcilable; and some of it is, the Tribunal believes, pure fantasy. While it is not possible to resolve all the conflicts and differences to be found in the evidence, the Tribunal is satisfied as to the principal features of the night's rioting. They were:—

(1) Hostile crowds assembled between 8 and 10 pm in the side streets north and south of the Crumlin Road.

(2) On the south side, the Protestant crowds were at first held back some 75/100 yards from the Crumlin Road.

(3) On the north side in Hooker Street Catholic crowds built barricades.

(4) At or shortly after 10 30 pm—darkness having come and their barricades being complete—the crowd in Hooker Street started to riot—attacking the police standing on the Crumlin Road with petrol bombs and other missiles.

(5) Protestant crowds began to assemble on or very near the Crumlin Road.

(6) Police baton charged into Hooker Street. Some small arms fire was directed at the police.

(7) Large dangerous Protestant crowd (estimated at 300 by some: probably nearer 100) followed the police into Hooker Street. They hurled petrol bombs and missiles.

(8) Police introduced a Humber barricade-breaker into Hooker Street. It broke the barricade, turned left into Butler Street and re-emerged on to the Crumlin Road.

(9) Second journey of the Humber: it turned right from Hooker Street into Butler Street, was set on fire: and a shooting incident developed.

(10) All foot police were withdrawn to the Crumlin Road.

(11) Trouble in Crumlin Road near Herbert Street and Butler Street. Shooting: deaths of Mr McLarnon and Mr Lynch as a result of police firing.

(12) Attack by Protestant youths on Chief Street school: police fired warning shots from Holy Cross grounds.

FS 1. 333

The Tribunal is satisfied that the Hooker Street crowd began the night's rioting, that a gun-battle developed between Catholics and police in the course of which no gunshot injury (save possibly to DI Gilchrist's leg) was inflicted by the Catholics but two men were killed and at least 10 others were injured by police fire, and that widespread damage to buildings was done by petrol bombs flung by both Protestants and Catholics (but none by the police). There are two important negatives: there was no gunfire by the Protestant crowd, and none from the Holy Cross Church or its grounds (save for two warning shots fired by a policeman). No positive finding can be made as to the degree of organisation that lay behind the riot. Clearly, preparations were made by the Catholics, as

evidenced by the barricade building, the heavy initial attack with petrol bombs and the evacuation of Hooker Street, normally a residential area but observed by the police this night to be deserted, save for the rioters. Some rudimentary preparations must also have been made by the Protestants. Certainly both sides were spoiling for a fight.

SECTION 1—PRELIMINARY.—5 PM–10 30 PM

22.2 On Thursday, 14 August, there was considerable tension and apprehension among the residents of the Crumlin Road area: in the words of one witness "everybody seemed to think that something was going to happen".

22.3 It was to try to placate and reassure the residents of this area that a number of clergymen, both Catholic and Protestant, met at 5 pm in the Crumlin Road near the Hooker Street junction. Recollections differ as to whether it was the intention of all the clergymen to visit both sides of the main road jointly but in the event only the Catholic priest, Fr Delaney, entered Hooker Street.

22.4 Before the clergymen parted, Fr Delaney was asked to investigate a rumour that petrol bombs were being stored on the roof of the Edenderry Inn. He carried out a partial search but discovered nothing. Later in the evening at about 8 pm HC Kyle arrived at Hooker Street to investigate a similar complaint that petrol bombs were stored on the roof of Graham's old premises which adjoin the Edenderry Inn in Hooker Street. One crate of empty milk bottles was discovered, probably on a part of the roof which Fr Delaney had not been able to examine. As HC Kyle and his party were leaving Hooker Street after their search, a petrol bomb was thrown at them from the waste ground in Hooker Street. It landed harmlessly on the roadway and ignited.

22.5 By 8 pm the building of a barricade in Hooker Street about 100 yards from the Crumlin Road was already in progress. An hour later a second barricade near the junction with Chatham Street was in course of construction. By 9 pm, or shortly after, two parties of police had arrived to reinforce the patrols on the Crumlin Road. One, under HC Kyle, arrived in two land rovers which took up position in the main road to the east of Hooker Street. The other party, under HC Seay, comprised a sergeant and six men patrolling the Disraeli Street side of the Crumlin Road from that street to Chief Street, and a sergeant and six men on static duty at the corner of Chief Street. At this time there were no police on the Hooker Street side of the Crumlin Road.

22.6 Shortly after HC Seay's arrival (just before 9 30 pm) about a dozen members of the USC under SDC Hagen reported to him in Disraeli Street, having been sent there by DI Montgomery. The special constables wore steel helmets and were armed with batons and ·45 revolvers. Some carried shields. A hostile crowd of at least 200, some wearing helmets and armbands and carrying sticks, had gathered in Disraeli Street and the USC were instructed to form a restraining line 75 to 100 yards down the street, between the crowd and the Crumlin Road. This crowd became increasingly difficult to control as events developed at Hooker Street/Crumlin Road. At 11 pm another force of special constables under S/Sgt Miller arrived to perform the same task of crowd control in Palmer Street; men were also sent to Bray Street.

22.7 Although the members of the USC in Disraeli Street and, later, Palmer Street and Bray Street, were largely successful in preventing the crowds in those streets moving bodily up on to the Crumlin Road,* they did not and could not prevent the build up of crowds on that side of the main road, since there was nothing to stop the people in those streets gaining access to the Crumlin Road via Ohio Street and Rosebank or Chief Street in which there were no USC on duty. One or two members of USC did move from their position in the side streets on to the Disraeli Street side of the Crumlin Road, but there is no clear evidence that any special constable crossed the main road or took any active part in ensuing events that evening.

22.8 Between 9 00 and 10 00 pm work on constructing the barricade in Hooker Street continued and some time between 10 00 and 10 30 pm the crowd behind the barricade grew rapidly and a man approached the barrier from Hooker Street waving an Irish Republican Tricolour and shouting abuse designed to incite the police to take action. The large crowd being restrained by the USC in Disraeli Street was too far away to observe the incident, but by this time a smaller crowd had gathered in the mouth of Disraeli Street and there were knots of people along that side of the road.

SECTION 2—THE HOOKER STREET RIOT

The Catholic attack on the police on Crumlin Road

22.9 Some time after 10 30 pm the crowd behind the barricade in Hooker Street attacked the police on the Crumlin Road and a large number of petrol bombs were thrown at them. One struck a policeman and according to Rev Sansom and Constable Loney a civilian was also injured.

22.10 According to police witnesses some of these petrol bombs coming from the mouth of Hooker Street struck the side wall of the Edenderry Inn and that of the greengrocer's shop on the opposite side of the street. Both buildings caught fire. Some petrol bombs even landed across the Crumlin Road near Graham's bookmaking premises and struck the wall of that building. HC Kyle, who left the scene shortly before, returned to find the roadway in front of Hooker Street "a mass of flame" and Constable Loney described "a thick blanket of flame across the roadway" at the entrance to Hooker Street.

22.11 Other witnesses, however, testified that the Edenderry Inn, Graham's betting shop and the Rosebank Inn were set on fire by petrol bombs thrown from the crowd on the Disraeli Street side of the road. S/Sgt Moore also saw petrol bombs thrown at the Edenderry Inn and Graham's by a crowd which he took to be Protestants. In a riot situation with petrol bombs flying in all directions it is seldom possible to attribute any particular conflagration to a specific missile. It is probable that petrol bombs from both sides struck the Edenderry

*Some individuals did penetrate the line of special constables in Disraeli Street.

PS 1 . 334

Inn and possible that the same happened to the Rosebank and Graham's. But, when one recollects the fate of these Catholic-owned premises on the Disraeli Street side of the road on previous nights, it is likely that the Protestants, who were by now very angry, made it their business to burn them, whether or not assisted by a few bombs coming over from Hooker Street. A number of houses were also burned on the north side of the Crumlin Road between Hooker Street and Herbert Street. HC Wallace saw petrol bombs coming from the Chatham Street direction and landing on the roofs of these houses and other witnesses confirmed this. But Mr Wallace also saw petrol bombs being thrown at the same houses from the Disraeli Street side of the road. The Tribunal has no doubt that these houses were caught by the bombs of both sides.

22.12 The missiles and later petrol bombs thrown from the Disraeli Street crowd into Hooker Street followed shortly after the first petrol bombs came from that street. When DI Gilchrist arrived he saw hand to hand fighting in the Crumlin Road and HC Kyle described the scene he saw as a pitched battle.

The rioting in Hooker Street

22.13 The first police action in Hooker Street was a baton charge from the Crumlin Road. It seems that there were two or three such charges in which foot police were followed by Protestant civilians. Each baton charge was repulsed by petrol bombs and missiles thrown by the crowd in Hooker Street. One police officer, Constable Loney, gave evidence that during this phase he came under small arms fire from an entry off Hooker Street.

22.14 Unable to make any headway on foot the police summoned a Humber armoured vehicle which broke through the barricade in Hooker Street. Foot police followed the vehicle down Hooker Street as far as Butler Street. At this junction DI Gilchrist came under fire from Butler Street and withdrew to Crumlin Road. Shortly afterwards the Humber vehicle, which was commanded by HC Patterson, made a second trip down Hooker Street and turned into Butler Street. Here a shooting incident took place: shots were fired both by the police occupants of the vehicle and by civilians in the Catholic crowd. Foot police then withdrew from Hooker Street on to the Crumlin Road.

22.15 These events are of such importance that it is necessary to consider the evidence relating to them in some detail.

22.16 The Tribunal accepts HC Kyle's account of the Hooker Street riot, supported as it is in certain material respects by that of Constables Loney and Robinson and Rev Sansom. The first baton charge was by police on foot: as they advanced down Hooker Street resistance built up and they were forced back. An armoured vehicle was then brought in and eventually broke the barricade opposite Chatham Street. There was fierce fighting in Hooker Street, the police being under almost continuous attack from petrol bombs and other

vicious missiles. (According to Constable Loney, the police were also attacked by gunfire—a topic to which we return later.)

22.17 It is not easy, after the event, to reconstruct a riot situation such as now prevailed as it must have appeared to those who were present. But the effort must be made. The street lights in Hooker Street had been deliberately extinguished during earlier disturbances and the street was plunged in darkness relieved only by fires burning in houses and other adjacent premises. In the Crumlin Road and the side streets were to be found, and stumbled over, all the clutter of urban rioting—barricades, debris, flame, and liquid petrol. Normal traffic movement had stopped: the noise of hostile, jeering crowds, the crackle and explosions of burning buildings, and the shattering of glass had enveloped the area. But, save where the fighting was in progress, the streets were empty.

Protestant participation

22.18 The small gatherings of people which had formed on the south side of the Crumlin Road during the evening grew rapidly in size after the attack on the police from Hooker Street. After the police had moved into Hooker Street they were followed by a number of people from the Disraeli Street side of the road, some of whom were wearing helmets and armbands.* It appears that no police had been left behind on the Crumlin Road to control this crowd. Once the police were into Hooker Street their attention was monopolised by the crowd ahead of them: they failed to prevent the civilians who had entered behind them from throwing stones and petrol bombs at the houses in Hooker Street. However, once again other witnesses said that some of the houses in Hooker Street were set alight by petrol bombs thrown from the Catholic crowd in that street.

22.19 While it is clear that civilians from the Disraeli Street side of the road did follow the police into Hooker Street, estimates of the number involved vary considerably. HC Kyle saw "a few", DI Gilchrist "about 20", while HC Seay saw about 30–40 turn off Hooker Street into Chatham Street while about the same number continued down Hooker Street. At that time the police officers must have been preoccupied with what was happening in front of rather than behind them and their estimates of numbers must have been very approximate. Messrs Lannigan and Elwood, both of whom were among the Protestant crowd which entered Hooker Street, put the number at 20–30 and 20 respectively.

22.20 Another witness, Mr. McMullan, told the Tribunal that from some distance away (Butler Street/Crumlin Road) he saw between 200 and 300

*Some of these armbands were white, improvised from a handerchief, others were red, white and blue and seemed to have been specially made. Wearers of armbands were among the most active combatants from the Disraeli Street side and some of them (eg Mr Elwood) crossed into Hooker Street behind the police. By his own account Mr McKeague was present when the Protestant people crossed the Crumlin Road and entered Hooker Street and dealt with the people concerned "giving them a lesson which I do not think they will forget". But he did not himself enter Hooker Street. His general part in the Ardoyne rioting on 14 and 15 August is discussed at 26.44.

FS 1 . 335

civilians enter Hooker Street immediately behind the police. This estimate is supported by the evidence of Mr Walsh, a staff reporter with the *Irish Times*. We believe the number was substantial, certainly no less than 100.

22.21 Mr Walsh's evidence was that between 10 00 and 10 30 pm he was in the vicinity of Hooker Street/Crumlin Road from where he saw 300 to 400 people being marshalled by men wearing armbands into a position opposite the mouth of Hooker Street. From this crowd petrol bombs were thrown at the Edenderry Inn, the Rosebank Inn and Sean Grahams. A large crowd then entered Hooker Street followed by the police. This crowd smashed windows and set fire to houses in Hooker Street. Most of the crowd turned left into Chatham Street.

22.22 Clearly Mr Walsh did not see the beginning of the affair. The main body of the police, the Tribunal is satisfied, had entered and were fully engaged in Hooker Street, when the Protestant crowd made its incursion. No doubt some more police came in after the Protestants, perhaps to reinforce police already in the street, perhaps in the vain hope of restraining the Protestants. But the Tribunal acquits the police of deliberately encouraging the Protestants. The police were under attack from the Catholic crowd, and had neither the numbers nor the opportunity to control their uninvited supporters. Nevertheless the effect on the Catholic crowd who saw themselves under attack from a mixed force of police and civilians is obvious: a further piece of "evidence" of police bias and hostility against them.

22.23 The police party which followed these civilians into Hooker Street could well have been that under the command of HC Wallace who arrived at the Crumlin Road with all available men from Tennent Street RUC Station at about 10 45 pm. By this time all four corner buildings at the Hooker Street/Crumlin Road Junction* were ablaze as well as two houses on the Hooker Street side of the Crumlin Road itself. The roadway was littered with bricks and broken bottles. Youths from both Disraeli Street and Hooker Street were fighting in the middle of the Crumlin Road and the fighting stretched into Hooker Street as far as the junction with Chatham Street. HC Wallace's party divided into groups: one remained on the Crumlin Road to keep back the crowds which had gathered in the mouths of Disraeli Street, Bray Street and Palmer Street, while the other, under the Head Constable himself, entered Hooker Street. Here he met DI Montgomery who, with a party of police, was withdrawing from Hooker Street, driving before him about 25–30 civilians. At this time several houses in Hooker Street were burning. HC Wallace was able to ascertain that they were not occupied. Shortly after the appearance of DI Montgomery at the Crumlin Road end of Hooker Street, HC Seay and his party also withdrew from Hooker Street. At this stage, therefore, the parties of HC Wallace, HC Seay and DI Montgomery temporarily joined up.

The first shots

22.24 Constable Loney, a member of HC Seay's party of police, gave evidence. He told the Tribunal that, while taking part in the first baton charge down Hooker Street, he found himself under small arms fire coming from an

*Edenderry Inn, Rosebank Bar, Graham's betting shop, greengrocers.

entry on his left just beyond Chatham Street. He thought it "possibly a revolver or a small rifle, something of the calibre of a ·22", and, disclaiming any precision as to the number of the shots, said he might have heard 3 or 4: he added:—

> "I know there were at least two struck a wall on the right. I did not hear the whine of the bullets but I heard what I took to be the ricochet from the wall on the right".

He and other policemen immediately took cover, where they remained until "the shooting had stopped" when they came back to the Crumlin Road. It would appear from DI Montgomery's evidence that these men, or some of them, told him on their return to the Crumlin Road that they had been under fire. DI Gilchrist, who participated in one of the early baton charges into Hooker Street (he said it was led by the Humber, whereas PC Loney said there was no Humber in the charge in the course of which he came under fire), spoke of the sound of a bullet going over his head and another hitting a wall to his right. He heard the ricochet and had no doubt he was fired on. No police officer saw any weapon: PC Loney saw no flashes, though the DI did. The firing, if it occurred, caused no casualties other, possibly, than a superficial wound to DI Gilchrist's thigh: but this could have been done by a missile discharged from a catapult.

22.25 It is possible that these officers were mistaken: the noises of the riot must have been loud, varied and confusing. Further, the police were apprehensive, on the alert to detect shooting after the Leeson Street incident of the previous night. But we do not believe that they would have been deceived. Were they then giving us an honest recollection? We are satisfied that they were: and it is to be observed that after the incidents described the police withdrew to the Crumlin Road and reported the fact of shooting to DI Montgomery.

The shooting incident in Butler Street

22.26 The next shooting followed soon after. The barricade at the Butler Street end of Hooker Street had been broken by a Humber armoured vehicle under the command of HC Patterson. On its first run it turned left into Butler Street where it penetrated a barricade before emerging on to the Crumlin Road. From the Crumlin Road the vehicle entered Hooker Street for a second time, this time turning right at the junction with Butler Street with the object of clearing any barricades in that direction. Immediately after turning into Butler Street, HC Patterson's vehicle was confronted with two barricades separated by a short distance of roadway. At the first barricade, according to the evidence of HC Patterson, a liquid—presumably petrol—was poured over the windscreen of the Humber and ignited. The driver and HC Patterson himself were set on fire, but the progress of the vehicle continued for another 20–50 yards when the engine stalled. The rear doors of the vehicle were thrown open because of the fumes inside, and a number of police leapt out of the vehicle. According to HC Patterson one of the policemen who had emerged shouted "Look out they're shooting".* The Head Constable left the vehicle and as he was running

*The time of this incident can be fixed at about 11 10 pm since at this time the following message is recorded in the police log as having been received: "Red 2 on fire, crew bailing out. All vehicles to scene".

for cover at a bunker in Butler Street to the east of the Brookfield Street junction he heard what he thought was shooting and saw flashes from a crowd of at least 50 which had appeared in Butler Street between the second barricade and the police vehicle. The crew of the Humber (with the exception of the injured driver and another police officer) had taken refuge behind a projecting wall in Butler Street. According to HC Patterson shooting, which he took to be from a revolver, continued from both ends of Butler Street and stones and petrol bombs were thrown at the police. He then ordered his men to fire a warning volley over the heads of the crowd and this was done using revolvers and Sterling sub-machine guns. After a short lull, shooting from the crowd continued and the Head Constable ordered his officers to fire for effect. They did so and most of the crowd dispersed although occasional shots were fired at the police, from whom there was a further discharge of fire.*

22.27 Eventually the police returned to the Humber vehicle, restarted it and made their escape before the arrival of a Shorland armoured vehicle which had been sent to assist them. Having reached the safety of Crumlin Road HC Patterson examined the outside of his vehicle and discovered what he believed to be a bullet mark. DI Gilchrist also inspected the vehicle and saw 14 of what could have been lead marks but he accepted that "equally they could have been stone marks". This matter could only have been resolved by tests carried out by a ballistics expert. HC Patterson's Humber was not, however, subjected to such an examination.

22.28 The account of the Humber incident, given by another witness, Mr P M Toal, conflicts with HC Patterson's evidence in a number of important respects. Mr Toal told the Tribunal that there was only a single small barricade in Butler Street to the east of the junction with Hooker Street; that immediately the rear doors of the Humber vehicle opened a policeman fired shots from within the vehicle; that there was no crowd on the streets at the time, only 6 youths and 4 neighbours; and that there was no shooting from these civilians. Mr Toal's evidence was supported by that of a Mr Deeds—unfortunately a witness on whom the Tribunal was not prepared to rely.

22.29 It is not possible to accept Mr Toal's account of the incident: his picture of a crowd exhibiting little or no hostility towards a police vehicle in trouble and its wounded occupants in the heart of the Ardoyne while a bitter struggle was in progress in Hooker Street is not very likely in the circumstances. Nevertheless it could well have happened that a member of the police party, at a time when the vehicle was on fire and its engine stalled in a hostile area, panicked and fired to cover the escape of himself and his comrades from the vehicle.

22.30 In view of all the circumstances it is not possible to be certain whether as the police leapt out of their vehicle they were in fact fired upon or merely thought that they were. In either event it is very probable, and we so find, that a policeman, as he emerged believing he was under fire, did himself fire: he would have done so before the Head Constable left the vehicle and knew

*HC Patterson's party fired 20 rounds of ·38 revolver ammunition and 13 rounds of 9 mm Sterling ammunition = 33 rounds in all.

PS 1 339

from his own observation what was going on. We are satisfied that, as the incident progressed, shots were fired from the crowd and that, thereafter, the affair developed as described by the Head Constable.

22.31 The episode marked a turning-point in the riot. The shooting was heard by many: interpretations of it varied according to the loyalties of those who heard it. HC Seay, for example, assumed that the shooting was exclusively Catholic in origin. From then on the Protestants believed the Catholics were provoking a gun-battle, the Catholics were sure that the police had decided to use firearms against them: and the police, some of whose senior officers already believed they were faced with an armed uprising, were confirmed in their belief. The ensuing tragedy of death and maiming by gunfire which overwhelmed the area this night and the following day developed from this incident.

22.32 The immediate consequence, however, of the shooting and of the reports of small-arms fire emanating from Hooker Street, was a police withdrawal from the Ardoyne to the Crumlin Road.

SECTION 3—THE RIOT IN HERBERT STREET: THE DEATH OF SAMUEL McLARNON

22.33 We had taken the chronology of events that evening up to the time when DI Montgomery, HC Seay and HC Wallace met at Hooker Street/Crumlin Road. As the police were leaving Hooker Street they were attacked from Chatham Street with petrol bombs. With the protection of an armoured vehicle, HC Wallace then took his party into Chatham Street across Herbert Street towards Butler Street. Chatham Street rises in this direction and HC Wallace's party found themselves unable to advance any further because of the hail of petrol bombs. They were then forced back to Herbert Street/Chatham Street where they were again attacked from Herbert Street—the worst the Head Constable had experienced in all the rioting.

Shooting in Herbert Street

22.34 At this point HC Wallace and DI Montgomery heard shooting from Herbert Street in the Crumlin Road direction. They took cover behind a Shorland armoured car which was sitting at Chatham Street/Herbert Street. This vehicle became enveloped in flames and reversed towards the Crumlin Road with the police officers sheltering behind it. As the Shorland armoured vehicle backed out of Herbert Street a second armoured vehicle nosed in. This second armoured vehicle was HC Patterson's Humber although he was not inside it when it moved into Herbert Street. At about this time a number of police witnesses heard firing from Herbert Street. Some (including DI Montgomery) thought it was automatic fire while others thought they heard only single shots. For reasons which we state later the Tribunal is satisfied that there was no Catholic automatic fire in this area this night.*

22.35 Although it is not in dispute that police officers on foot returned the fire into Herbert Street, the evidence is conflicting as to whether there was firing from the Humber or Shorland armoured vehicles as well. HC Kyle was in

*Our conclusion is stated in 22.41.

FS 1 337

Chatham Street to ... of Herbert Street and he saw the burning Shorland reverse into his view from his right in Herbert Street and disappear to his left. When it was out of sight he heard two very heavy shots from that direction which he assumed were fired from the Browning gun mounted on the vehicle. But DI Gilchrist, who was in command of the two Shorlands, and Sgt Catterson, who was in charge of one of them, denied that the Browning guns were fired. The Tribunal finds as a fact that they were not fired in the Crumlin Road area on that night*.

22.36 Sgt St John observed the driver of the Humber vehicle firing four shots with a revolver from the window. Neither HC Wallace nor DI Montgomery nor HC Patterson seems to have seen this and there is no reference to firing from the Humber vehicle in the schedule of police discharge of weapons extracted from the police statements submitted to the Tribunal. However, Sgt St John's recollection seems quite clear when he describes the driver taking careful aim. HC Seay testified that one police officer fired from behind the open front left-hand door of the Humber as it faced into Herbert Street and another officer fired from within the vehicle. According to HC Seay an SLR repeating rifle and a Sterling SMG were used by the police to return the fire into Herbert Street.

22.37 The records furnished to the Tribunal by the RUC show that fire was returned into Herbert Street by three policemen on foot using Sterling SMGs. Two of these officers fired bursts of shots while the third discharged single shots amounting to a total of 55 rounds. The firing of the two Sterlings on automatic would appear to contravene an order given by DI Montgomery earlier in the evening that these weapons were only to be used for single action fire. The explanation may be that the two officers responsible were from the Reserve Force and would not therefore have been briefed by Mr Montgomery.

The Riot

22.38 Once again, the Tribunal was faced with conflicting evidence. Mr McCargo was present in Herbert Street while the police were entering Hooker Street and his evidence is that shortly afterwards a crowd of police, B Specials and civilians entered Herbert Street and began to throw petrol bombs at the houses there. This invading force was resisted by some of the people in Herbert Street and it eventually withdrew. Later a police armoured vehicle entered Herbert Street from the Crumlin Road and drove towards Butler Street, passing the bend in Herbert Street. It then returned, reversing slowly in the direction of the Crumlin Road. As it passed the junction with Elmfield Street, two petrol bombs landed on the vehicle and ignited. The vehicle increased in speed and Mr McCargo heard a burst of automatic fire coming from it. As the vehicle reached the Crumlin Road uniformed men on foot appeared in Crumlin Road and fired down Herbert Street. The difficulty with Mr McCargo's evidence is that he asserts that there were no shots fired by anyone other than the police that night: this, in the Tribunal's view, is not true. But in other respects his evidence is credible and agrees, in its main features, with that of Sgt St John.

*Of the 5 Shorlands available to the Reserve Force in Belfast, 3 were on the Falls Road and 2 on the Crumlin Road.

22.39 The general course of events in Herbert Street was outlined in the evidence of Sgt St John. When he arrived a crowd from Herbert Street had emerged on to the Crumlin Road and was throwing stones and petrol bombs down the Crumlin Road. This crowd was forced back into Herbert Street by a mixed body of police and civilians which advanced up the Crumlin Road. This group contained about 15 civilians and about the same number of policemen. Some of the civilians were wearing steel or safety helmets and were armed with sticks and stones. When this group reached the mouth of Herbert Street the policemen joined up with others and prepared to baton charge while the civilians were pushed back down Crumlin Road, clear of the junction with Herbert Street. Another witness, Mr Lannigan, a resident of Disraeli Street, told the Tribunal that when he and some of his friends offered assistance to a group of policemen at the mouth of Herbert Street, one policeman accepted and he and his friends joined in the fighting. At one point the police asked them to move away because they were afraid guns might be used and when police reinforcements arrived he and his friends were moved away.

22.40 Sergeant St John told the Tribunal that the baton charge took the police about 30 yards into Herbert Street, beyond the junction with Chatham Street. They met with considerable opposition and eventually returned to Herbert Street/Chatham Street. By this time a few civilians had followed the police into Herbert Street and a house was on fire between the police party and the Crumlin Road. The police then withdrew to the Crumlin Road. They reformed and again entered Herbert Street this time preceded by a Humber armoured vehicle which turned left into Chatham Street. The foot police followed the vehicle into Chatham Street but returned to Herbert Street where two civilian factions were fighting. It was at this point that Sgt St John first heard shots and saw the fire being returned by revolver from the Humber armoured car. Mr McCargo believed B Specials took part in these incursions into Herbert Street: but his identification was too doubtful to enable the Tribunal to find as a fact that they did.

22.41 In relation to the allegation of civilian fire from Herbert Street, it may be noted that while some police officers heard what they took to be bullets striking the roadway and the front of the Humber and Shorland armoured vehicles there is no objective evidence of firing in the form of spent bullets or bullet-damaged property in the Crumlin Road/Chief Street area. To some extent this is understandable since bullets from Herbert Street whose path was not obstructed by the armoured vehicle would probably have travelled into the part of Chief Street where there are no houses or into the grounds of Holy Cross Church, Ardoyne. Bullets or damage caused by them would not therefore be easily discoverable. It will also be noted that no individual—civilian or policeman—was injured by gunfire coming out of Herbert Street. However, having considered all the evidence relating to civilians' fire from this street, the Tribunal is satisfied that single shots were fired at police from the back of Herbert Street but that there was no automatic fire.

22.42 Although no one was injured by fire coming out of Herbert Street a civilian, Mr Samuel Mc Larnon, was shot dead by police fire directed down the street from its junction with the Crumlin Road. He was in the sitting-room of

FS 1. 338

his house, No [illegible]ert Street, when he was shot. Although the conclusion that he was shot by police fire was not accepted unequivocally by DI Montgomery, it appears to us from the forensic and other evidence to be irresistible and we so find.

22.43 Mr McLarnon's death was due to laceration of the brain caused by a gunshot wound of the head. The fatal bullet was a 9 mm copper jacketed pistol bullet of the type fired by a Sterling or Sten sub-machine gun or a Luger pistol. One report submitted to the Tribunal states that the bullet was partly flattened at the nose, indicating the possibility of ricochet. Examination of Mr McLarnon's home, No 37 Herbert Street, revealed three bullet holes in the front downstairs window but only two marks in the room consistent with bullet damage. The line of fire which can be inferred from this damage indicates a firing position from the Chatham Street/Herbert Street corner on the opposite side of Herbert Street from No 37 and from the western portion of the Herbert Street/Crumlin Road junction. The neighbouring houses, Nos 35, 39 and 41, also sustained bullet damage. Clearly police shooting in the street was for a time heavy: but the police were fired on first.

SECTION 4—THE RIOT IN BUTLER STREET: THE DEATH OF MICHAEL LYNCH

22.44 After the shooting in Herbert Street the centre of activity moved up the Crumlin Road with police and rioters in the Ardoyne area engaging one another successively at Butler Street and in the vicinity of Kerrera Street. From these streets, and Butler Street in particular, a crowd of about 100 to 150 emerged throwing stones and petrol bombs at the police. Using the cover of an armoured vehicle positioned between Herbert Street and Butler Street the police succeeded in forcing the rioters back into Butler Street. At this time there were groups of youths from the south side of the Crumlin Road, some wearing helmets and armbands, assisting the police and intermingling with them. DI Gilchrist gave evidence that the Protestant civilians were "incensed" by the shooting from Herbert Street and that the police had difficulty in restraining them. At one stage youths wearing steel helmets who had come out of Chief Street threw petrol bombs at the crowd in Butler Street over the heads of the police. According to one witness, Fr O'Donnell, both civilians and policemen moved into Butler Street. Some kind of explosive device was thrown at a Shorland armoured car which was stationed at Butler Street by a crowd which had come out of Kerrera Street.

22.45 At this stage the shooting began again. The evidence again is full of inconsistencies. We are reasonably sure that the explosion near the Shorland led to some warning shots being fired by police, that at a later stage some shots were fired from Butler Street, and that a policeman returned fire with a Sterling SMG. We also find as a fact that Michael Lynch was killed by police fire in Butler Street. All else is unclear. Two policemen spoke of Browning gunfire from the Shorland at Butler Street: its commander, Sgt Catterson, strongly denied it, and there are no police records of any such firing. One witness described "slow automatic fire" from Butler Street, while another denied there

was any firing from the street at all. We are not prepared to find as a fact that there was Browning fire from the Shorland or automatic fire from Butler Street.

22.46 It is impossible on the evidence to establish who fired the bullet which killed Mr Lynch, although in all probability it was the policeman who fired the Sterling into Butler Street. Mr Lynch, with his companion (Mr Morris, who gave evidence) had been sheltering in the doorway of No 10 Butler Street near its junction with Upper Elmfield Street. They were attempting to make their way into Elmfield Street when Mr Lynch was shot through the chest: the wound was "consistent with wounding by a bullet of medium or high velocity fired at more than short range". Again, though there were fatal consequences for a bystander, the police were in fact returning fire.

The shooting in the chapel grounds

22.47 Some of the petrol bombs which were thrown out of Butler Street at the police landed in the grounds of Holy Cross Church. DI Montgomery himself entered the grounds to extinguish the flames and detailed 6 police officers to stand guard at the church gates. In addition 3 policemen (one of whom was Constable Robinson) were placed in the grounds of the church. After they had patrolled the grounds for about 10 minutes they were approached by a priest who told them that youths were burning the Holy Cross Girls School in Chief Street. Here the police found petrol bombs burning in the grounds of the school and within the building itself. Three youths carrying petrol bombs entered the yard of the school from Chief Street and one of them attempted to throw a petrol bomb into the school. Constable Robinson fired 2 shots in the air from his revolver and the youths made off.

22.48 It appears to have been this shooting which was heard by a number of policemen, including Sgt St John, who were on the Crumlin Road. Some of these officers appear to have assumed that they were under fire and shots were fired by them into the grounds of Holy Cross Church.* This incident in which policemen fired in error on, or in the direction of, their colleagues was acknowledged by DI Montgomery as being "undisciplined", and accepted by him as a "mistake".

22.49 Some evidence was received alleging shooting from the Holy Cross Church. Upon the instructions of the Tribunal Mr G Gibson, a senior Architect in the Ministry of Finance, and Dr Martin of the Northern Ireland Department of Industrial and Forensic Science, examined the church and its towers. In the opinion of these two experts there could not have been any shooting from the church. The Tribunal is satisfied that there was none and that the evidence to the contrary was mistaken.

SECTION 5—GENERAL

22.50 Hospital records of casualties show that in the Ardoyne area on the night of 14/15 August 1969, gunshot injuries were sustained by twelve men of whom two, Mr Samuel McLarnon and Mr Michael Lynch, died. Ten of the

*There is no reference to this police shooting in the schedule of discharges of firearms by the RUC compiled from reports submitted to the Tribunal.

twelve were injured by bullets and two by shotgun pellets. Since there is no evidence of bullet firing weapons in the hands of Protestant civilians it is probable that the ten bullet casualties were caused by police fire. All those who sustained gunshot injuries during the period 11 pm 14 August to 1 am 15 August were Catholics.

22.51 DI Montgomery described the night of 14/15 August as "the worst night I have ever experienced", "absolutely frightening", and he was convinced that it "was certainly a very well planned calculated affair". However obvious this may have seemed to Mr Montgomery on the night in question, the evidence does not permit us to go so far. He was impressed by the fact that the police were attacked first in Hooker Street, which was cleared, and then attacked in turn from Chatham Street, Herbert Street, Butler Street and Kerrera Street. But this is not difficult to explain simply in terms of the police driving rioters from one street to another and the rioters reforming and counter-attacking. Mr Montgomery's other reason for assuming that the rioters were organised appears to be the persistence and intensity of the fighting. However the steady deterioration in police-Catholic relations in the area marked by increasing violence over the preceding three months shows that this is by no means an inevitable inference.

22.52 Nevertheless, the riots in the Ardoyne that night were started by the Catholic crowd; Hooker Street had been "cleared for action" before the riot began and firearms were used by the Catholics as well as by the police. In contrast with the riot of the previous night, it is not open to suggest that the object of the Catholics was to relieve pressure on Londonderry, because, by 5 pm on the 14th, the police had been withdrawn from conflict with the Bogsiders and the conflict itself had ended. Our conclusion is that certain elements in the Ardoyne were determined to embroil the police and saw a further opportunity this night. There is no evidence of any link between the Ardoyne and the Falls Road, but those who were out for trouble must have seen that the disturbed state of the City offered them a chance to stretch the police to breaking-point.

22.53 But equally, the Protestants on the south side of the Crumlin Road must have been ready to resume the conflict begun the night before and to crush the Catholics, if they could. For their part, the RUC, advised of possible and widespread armed subversive activity, were all too ready to see a community in armed rebellion in the actions of the Ardoyne mobs, especially after they had experienced gunfire from the Catholic side.

FS 1. 336

PART VIII—THE BELFAST DISTURBANCES: 15 & 16 AUGUST
CHAPTER 23—DIVIS STREET/LOWER FALLS

23.1 In the early daylight hours and throughout the morning of Friday, 15 August, the chief activity to be seen in Percy Street, Dover Street and Ardmoulin Avenue (as well as in Conway Street, Cupar Street and Norfolk Street) was the evacuation of Catholic families from their homes. Hand carts, cars and vans were used to carry away furniture and household effects. Lorries and other vehicles were hijacked for the same purpose. DI Cushley interpreted this Catholic exodus from border areas as "clearing the decks for further trouble that evening" and Rev Beattie testified that this view was widespread among Protestants whom he met in the area and who believed they had been attacked by the Catholics the previous night. Mr Allen said that he saw a man directing the moving out of Catholic residents and their belongings from Dover Street. He said that some people were unwilling to leave but they were told they had to go whether they liked it or not.

23.2 It was suggested that this activity was IRA inspired, but the Tribunal is satisfied that it was essentially a movement of residents and their friends organising their own self-help and protection, determined to quit areas where there had been vicious fighting and damage to property and where trouble might be expected to recur that night.

23.3 These apprehensions were not confined to Catholic residents. Rev Beattie spoke of an atmosphere of "tremendous fear" among Protestants whom he visited in the Dover Street area. He saw Protestant residents moving their valuables and shopkeepers moving stock. This contrasted with the complete evacuation of their houses by the Catholics. In Beverley Street Protestants were moving into houses which had been left empty by Catholics.

Afternoon riot in Percy Street

23.4 During the afternoon, fighting broke out in Percy Street. At about 2 30 pm Mr Pinder and Mr McAnally (Security Officer at Andrews Mill) saw a Belfast Corporation bus drive along Ardmoulin Avenue and park across Percy Street by the gates of Andrews Mill. After Mr Pinder and Mr McAnally had remonstrated with the driver of the bus, who was not wearing a uniform, it was moved away from the Mill gates but later put back into position across Percy Street just north of the Ardmoulin Avenue junction. Mr Pinder then left the Mill.

23.5 Mr McAnally described how after opposing crowds had gathered on either side of the bus the Catholic crowd charged up Percy Street towards it throwing stones and petrol bombs. The bus and houses nearby on the east side of Percy Street went on fire. Once the battle had started both sides were throwing petrol bombs some of which were hitting and igniting both the bus and the houses. Mr McAnally's view of Percy Street to the north of the bus was obscured by the vehicle itself but at the time of the first Catholic charge he thought there was a crowd of Protestants beyond Beverley Street. Both crowds reached 300–400 in number and exchanged missiles over the bus.

FS 1. 340

23.6 Evidence was given to the Tribunal about firing from Andrews Mill. Mr Hutton saw five men on the roof of Andrews Mill armed with rifles open fire on the Protestant crowd causing a number of injuries. Mr Morgan, on the other hand, described seeing flashes from the roof of the Mill as shots were fired into the *Catholic* crowd. This witness, who said that trouble started when two crowds of about 30 people clashed at around 5 45 pm, heard shooting from the Protestant crowd some of whom, including a man firing a revolver, entered the Messrs Andrews premises. A shotgun was fired from the Protestant crowd and fire was returned by the Catholics.

23.7 The reliability of the recollection of Mr Hutton and Mr Morgan must be suspect in the light of the evidence of Mr McAnally who saw no gunmen on the mill buildings and asserted that the only people on the roof of the granary were a fire-fighting squad of mill employees. According to this witness both Catholic and Protestant crowds broke into the mill yard. Fighting took place and eventually the Protestants forced the Catholics out of the yard, remaining there themselves until the arrival of the military. The only firearm which Mr McAnally saw was a shotgun being fired by a man from the Catholic side who was lying on the west side of Percy Street and shooting towards the bus (time 3 30 pm). Mr McAnally did not see anyone hit.

23.8 That there was at some stage shooting from both Catholic and Protestant factions is apparent from casualty lists which show that two Catholics and two Protestants sustained bullet wounds in Percy Street on the afternoon of 15 August. Mr McAnally thought that the placing of the bus barricade in Percy Street followed by the attack from the Falls Road crowd indicated a planned operation. Although the positioning of the bus precipitated violence in Percy Street the fact, as Mr McAnally acknowledged, that it formed an effective barrier between the two factions may suggest that this operation was originally intended as a defensive one by the Catholics responsible.

23.9 An attempt was made by a group of Catholics, including Mr Morgan, to set fire to Andrews Mill by igniting petrol poured on to the roof but the flames were extinguished with fire hoses manned by mill employees. This attempt was intended as a reprisal against the supposed use of the mill by snipers. The firing of the New Northern Mill at Divis Street/Northumberland Street, shortly afterwards, in which Mr Morgan was also involved, was a more successful enterprise: the building was completely destroyed. It was suspected of having housed snipers the previous night.

23.10 In the late afternoon Mr McKeown, returning to his home in Ardmoulin Avenue, observed a crowd of 10–20 people at the Percy Street end of Ardmoulin Avenue kicking open doors and throwing petrol bombs into the houses. By this time all the other residents of Ardmoulin Avenue had moved out. Mr McKeown telephoned both the police and the fire service but neither came.

23.11 Seven houses at the Percy Street end of Ardmoulin Avenue were destroyed as were another group of seven in Percy Street itself to the north of Ardmoulin Avenue. All these were occupied by Catholics. Other houses in both

streets sustained minor damage. The Tribunal has no doubt that Protestants were responsible for the damage and destruction of houses in both Percy Street and Ardmoulin Avenue.

23.12 The disorder in Percy Street was not brought to an end until the arrival of the military who were in position by about 6 45 pm (see below). It appears that throughout the fighting in this area during the afternoon there were no police present. Mr McAnally thought he made about 20–30 telephone calls to the police from about 3 pm onwards. Entries in the police log from 3 23 pm onwards show that reports of trouble in Percy Street were reaching police headquarters. The reasons for the absence of police during this period are discussed in paras. 24.4–6.

The arrival of the army

23.13 Between 5 30 and 6 30 pm on Friday, 15 August, the 2 Battalion Queen's Regiment, under the command of Lt Col Fletcher, arrived in Shankill Road and having dismounted from their trucks advanced southwards along the side streets. By 6 45 pm they had taken up position in Divis Street from Northumberland Street to Millfield with orders to keep the two sides apart. The New Northern Mill was still burning. The troops met with no opposition; indeed Col Fletcher told the Tribunal that the small crowds which gathered around the army control points were "friendly and curious and the atmosphere on the whole was good".

23.14 By the time the military were in place barricades were in position in both the Catholic streets to the south of Divis Street and the primarily Protestant territory to the north. Those to the north were removed with little opposition from the residents but the army was denied access to the barricaded Catholic streets. It was apparent to Col Fletcher that there was some organisation behind the barricades on the Catholic side. After the army's deployment the police continued to operate mobile patrols in the area not occupied by the army.

23.15 HC Gray gave evidence that shortly after 11 pm at the request of the army he took his armoured vehicle to Dover Street where he saw houses on fire on both sides of the road between Beverley Street and Divis Street. There were also four or five houses burning on the south side of Beverley Street. In the vicinity was a Protestant crowd some of whom appeared to be evacuating a Protestant occupied house which was threatened by fire. "Some of them were well under the influence of drink and my assessment of the thing was that between drink and hatred they were practically insane, some of them". Eventually fire appliances arrived.

23.16 An entry in the fire log (call timed at 12 44 am 16 August) shows that six two-storey dwelling houses in Beverley Street and their contents were destroyed by fire. Other evidence before the Tribunal suggests that seven houses in Beverley Street were so severely damaged that they had to be demolished. All but one were occupied by Catholics. The inference that these houses were destroyed by Protestants is a strong one and the Tribunal accepts it. It may have been these events which Col Fletcher referred to in his evidence when he described some trouble he had with petrol-bombing Protestants in Dover Street on the night 15/16 August.

CHAPTER 24 DECISIONS OF THE POLICE AND ARMY

24.1 At 4 30 am, on the 15th, after the worst of the night's rioting was over, Mr Wolseley, in consultation with his deputy, Mr Bradley, made two important decisions. The first was to order the arrest, with a view to detention under the Civil Authorities (Special Powers) Act, of a number of suspected members of the IRA. This was done because, in Mr Bradley's words, he and the Commissioner were "satisfied that the night's events had been the work of the IRA". During the morning of 15 August six men in Belfast were detained under the Act.*

24.2 The second decision was a momentous one: to request the deployment of army units on the streets of Belfast. It was the final recognition by the two senior police officers in the city that the situation was beyond their control. The request was passed to the Inspector-General who met the Minister of Home Affairs at around 11 30 am, shortly before a Cabinet meeting was to be held. By this time the Inspector-General had prepared a written request for army assistance in Belfast. This was shown to Mr Porter and the matter was discussed by the NI Cabinet at a midday meeting. At 12 25 pm, with the agreement of the Cabinet, a formal request for military aid in Belfast was transmitted to the Home Office in London.

24.3 The request from the Inspector-General to the Army was as follows:

"From Inspector-General, Royal Ulster Constabulary to the General Officer Commanding, Northern Ireland. I have to inform you that, following the violence in the City of Belfast last night, renewed clashes are occurring at this time, 11 30 am, 15 August 1969. The Commissioner has informed me that all immediately available police have been committed but that he is unable to separate the rioting crowds and has had to fall back to defend his police stations. In the circumstances outlined, I now request further assistance of forces under your command in Belfast City. Information is to hand from a reliable source that an infiltration of members of the Irish Republican Army is about to commence from Eire into Northern Ireland. It is the intention to escalate the degree of control over inward-bound traffic and to this end assistance in the form of patrols by armoured cars is also requested. The information indicates that the infiltrators will be armed and the support of mobile armoured units, which I cannot supply, would be of material assistance in countering these subversive activities against the Government and people of Northern Ireland".

United Kingdom ministerial approval for the deployment of troops in Belfast was given at 3 10 pm. They were not however in position on the streets until early evening after rioting had broken out in West Belfast. Serious rioting also occurred in the Ardoyne but troops were not sent there until the following day.

24.4 One of the key features of the rioting which broke out during the afternoon in Percy Street, Ardoyne and Clonard was the absence of police in any numbers. In his evidence to the Tribunal, Mr Bradley thought it was going

*Four of these were released before the end of the month and charges were preferred against the other two. Outside Belfast 18 men were detained; all were released after a short period.

PS 1 . 341

too far to describe Belfast as being unpol[illegible] 15 August although he acknowledged that "the men were thin on the ground; not in sufficient numbers to deal with an emergency". Mr Bradley expected army units would be deployed by 10 or 11 am and although small numbers of police came on duty at 6 am and 12 30 p.m. it seems that he was not expecting further serious trouble until the evening, by which time he assumed the military would be in position. A number of senior police officers, including DI Lagan and DI Cushley, gave evidence that, because of a threatened IRA attack on police stations, priority was given to station defence so that the limited number of policemen available were retained inside the stations instead of being deployed on the streets.

24.5 This falling back to defend their stations by the police is referred to in the I-G's request for troops set out above. Mr Bradley did not however accept that this had taken place; he said that the stations were "slightly strengthened" as a precaution against IRA attack. The evidence of the Commissioner, Mr Wolseley, on this point was that there was no general order to the police to remain in stations although it could be taken from his order given on the night 13/14 August that it would be unwise to patrol except in armoured vehicles.

24.6 By the morning of Friday, 15th, the police had been extended to the point of exhaustion and with casualties mounting rapidly they confined their street patrols to a few armoured vehicles. Rumours of IRA attack led to the reinforcement of police stations at the expense of street deployment, a role which senior police officers believed would be taken over by the army before the evening when trouble could be expected to recur.

24.7 Police tactics this day were clearly dictated by their interpretation of the previous night's events which they saw in terms of an IRA led uprising. The Tribunal does not question the sincerity of this belief, but it was quite mistaken. The Tribunal finds that the RUC are to be criticized for their failure to disperse mobs or protect lives and property on 15 August during the hours of daylight before the arrival of the army.

24.8 By 3 10 pm when permission to deploy troops had been received from London, preparations for military intervention had already been discussed by senior army and police officers. Shortly after midday the Commanding Officers of two battalions, Lt Col Fletcher of 2 Battalion Queen's Regiment and Lt Col Napier of the Royal Regiment of Wales, together with the Brigade Commander of 39 Brigade, Brigadier Hudson, met the Commissioner and Deputy Commissioner at Castlereagh. District Inspector Lagan was also present. The details of this meeting are of some importance in the light of criticism of the army's eventual decision as to where to place its forces, particularly those under Col Napier which were sent to the Clonard area.

24.9 The first meeting was between Brigadier Hudson and Mr Wolseley alone. The account given here is that of the Brigadier whose recollection was supported by notes he took at the time. Mr Wolseley could not remember anything about the meeting. Brigadier Hudson pointed out to Mr Wolseley that the limited forces at his disposal were only sufficient to occupy and operate

FS 1 . 3412

from a stretch of r[illegible] about a mile long. Mr Wolseley described the unrest, shooting and arson which was taking place in various parts of Belfast. He thought troops should be put into Falls Road and Divis Street and the area immediately to the north. There were rumours that Catholic residents of houses to the north of Divis Street had been evacuated and that these houses had been occupied by the IRA. There was also a report that there were armed men in the grounds of Royal Victoria Hospital in Grosvenor Road and that the operating theatre had also been occupied. Mr Wolseley may have mentioned the need for troops in the Crumlin Road but Brigadier Hudson's forces were insufficient for deployment in both this area and Falls Road/Divis Street.

24.10 After a decision to deploy in the Divis/Falls area had been taken there were further discussions in which senior police officers pointed out to Brigadier Hudson the path of the "Orange-Green" line which separates the Catholic and Protestant area of West Belfast. This line runs roughly east-west to the north of Divis Street/Falls Road'.* It appears that after these consultations Brigadier Hudson decided that he did not have sufficient men to occupy the twisted path of the Orange-Green line which ran along small side streets. He decided instead to put his men initially on the main Falls Road/Divis Street. The Royal Regiment of Wales under Col Napier were to be positioned along Falls Road between Grosvenor Road and Northumberland Street and 2 Queen's under Col Fletcher along Divis Street between Northumberland Street and Millfield. Although Brigadier Hudson's decision to deploy his men in Falls Road/Divis Street instead of along the Orange Green line had unfortunate consequences in the Clonard area†, the Tribunal fully appreciates the factors which led to it and makes no criticism of what was essentially a matter of professional judgment.

CHAPTER 25—CLONARD

25.1 An important phase of the Tribunal's investigation of events in Belfast covered disturbances in a small area in the west of the city between Falls Road and Shankill Road on Friday, 15 August. This is the area where the Catholic Clonard district to the north of the Springfield Road/Falls Road junction abuts on to the Protestant Shankill area further north. The boundary between the two districts was sharply defined by the middle leg of Cupar Street which at the time of the riots had a mixed population in which Protestants outnumbered Catholics by about two to one. The most prominent single building in the area is the Clonard Monastery. Situated about 100 yards to the south of Cupar Street in Waterville Street, the Monastery was in many ways at the centre of the terrible events of the afternoon and evening of Friday, 15 August.

Thursday, 14 August

25.2 The disturbances on the Falls Road on the evening of Wednesday, 13 August, which have already been described, did not spread to the Clonard area. On the following day at about 1 30 pm an anonymous telephone message was received at Clonard Monastery advising the occupants to evacuate as they

*The path of the orange-green line is indicated on the Map M in Appendix VIII.
†Chapter 25.

were going to be burned out. The message was passed to Fr McLaughlin, the acting Superior, who relayed it to the police at Springfield Road station at about 2 pm. Fr McLaughlin was told by the police to take necessary action to secure and protect his property. During this or perhaps a subsequent call to the station Fr McLaughlin informed HC Rooney, who was the senior RUC officer at Springfield Road, that he intended to assemble a fire guard to protect the church that evening. HC Rooney testified that he was told that "vigilantes" would be present in the vicinity of the church and they would be identified by white armbands.

25.3 From men whom he knew through his pastoral duties to be reliable and responsible, Fr McLaughlin assembled a number of volunteers to guard the Monastery in two shifts. Apprehension and fear quickly spread among the Catholic residents as news of the threatened attack became known. Tension was also high among Protestants in the area. A Protestant resident of Cupar Street, Mrs Scott, testified that she was "disturbed and nervous" at a rumour that Protestants in Cupar Street were going to be burned out. Mrs Scott heard that Catholic children in Cupar Street had been evacuated to Clonard Monastery.

25.4 During the evening reports came into the Clonard area of disturbances elsewhere in the city, the nearest being in the southern parts of Cupar Street and Conway Street. Some Catholic residents in the area wanted to erect barricades to prevent an attack from Cupar Street but they were dissuaded by Fr McLaughlin who thought barricades might draw attention to the area. Petrol bombs were however accumulated at a point near Cupar Street. There was a rumour that a sniper was situated in the trees at the bottom of the Monastery garden. Fr McLaughlin was expecting the police to arrive but none came.

25.5 At about 10 30 pm Fr McLaughlin came upon two armed men, one with a shotgun and the other with a ·22 rifle, in a lower corridor of the Monastery. Both men were known to him as reliable. They told the priest that they were there to defend the building. Because of the fear of an attack, the rumour about the sniper and the absence of police, Fr McLaughlin decided to allow them to stay and guard the Monastery. They were taken upstairs to a room overlooking a laneway which led past St Gall's School beside the Monastery into Cupar Street. The door was left open and two priests as well as members of the fireguard were continually going in and out of the room. Fr McLaughlin instructed the two armed men to use their weapons as a last resort if the Monastery was being attacked, and then only to fire in the air. In fact there was no attack on the Monastery on the night of the 14th; nor were there any disturbances in the Clonard area. Before the volunteers guarding the Monastery that night had left they arranged to meet at 7 pm of Friday to discuss the situation.

Friday, 15 August

25.6 Shortly after midday Fr McLaughlin telephoned Springfield Road RUC Station and asked HC Rooney what should be done if an attack were mounted from Cupar Street. According to Fr McLaughlin the advice he received was "Rest assured; if an attack comes from Cupar Street, they'll never get through." Thoughout the morning Catholics were leaving their homes in

Cupar Street. Mrs Scott described how during the morning lorries driven by strangers to the district began carrying away furniture from Catholic homes. Before they left "people who got on to the lorries" broke the windows of these houses.

25.7 At about 1 pm an informal meeting took place in Kashmir Road between Fr McLaughlin, Rev Beattie and a local Protestant businessman. Mr Beattie was not a local man; he had spent the morning among his congregation in the Townsend Street/Dover Street area which had seen severe rioting on the previous night. While in that area he was asked to go to Cupar Street to act as spokesman for Protestants in the Canmore Street/Cupar Street area by making contact with the Clonard priests in an attempt to preserve peace. At their meeting Mr Beattie and Fr McLaughlin both expressed a desire to prevent trouble from starting. Mr Beattie said that he would hold a meeting of Protestant residents at 3 pm; Fr McLaughlin told him that a meeting of Catholics had already been called for 7 pm. In his evidence to the Tribunal Mr Beattie could not recollect any discussion about the appointment of stewards but Fr McLaughlin testified that the outcome of the meeting was an agreement that 30 volunteers should be selected from the respective meetings. These volunteers would form a peace corps who would mount guard at Kashmir Road/Cupar Street to prevent the outbreak of trouble.

25.8 While this discussion was going on Fr McLaughlin noticed that there was considerable activity in Cupar Street: youths with sticks and bin lids were running up and down. Lorries were then placed across the mouths of Kashmir Road and Sugarfield Street. Kashmir Road was a Catholic Street and Sugarfield Street was Protestant, but both barricades appear to have been erected by Protestants. Mr Hemsworth, a Catholic resident of Bombay Street who appears to have become involved in the clergymen's negotiations, also described the positioning of a large mobile container in the mouth of Kashmir Road by a Protestant crowd. Subsequently a lorry barricade was erected by the Catholic residents at Bombay Street/Kashmir Road.

25.9 Mrs Scott gave evidence that before any barricade was erected she saw, from her position opposite the mouth of Kane Street, children and adult men carrying petrol bombs and stones into an entry between Bombay Street and Cupar Street. This was at about 1 pm. After 2 pm this witness saw two barricades erected in Kashmir Road. Unlike other witnesses Mrs Scott testified that the first to appear was a flat lorry which Catholics positioned at Kashmir Road/Bombay Street. Subsequently a large mobile container was placed across the mouth of Kashmir Road by a group of about 12 Protestants.

25.10 At around the same time as these events in the Kashmir Road/Cupar Street area Finnegan's, a Catholic owned public house in Cupar Street about 250 yards east of the Kashmir Road junction, was set on fire. The building was burned down and its contents looted. The schedule of calls to the Belfast Fire Brigade shows that when a fire appliance responded to a call made at 1 39 pm the public house had been completely destroyed.

25.11 At 3 pm the meeting of Protestant residents called by Mr Beattie was held at the junction of Ashmore Street and Canmore Street, only a short distance from Cupar Street. Before the meeting began Mr Beattie noticed a small number of people in Canmore Street making petrol bombs, which he was assured would only be used in defence. Some people also appeared to have been drinking: Mr Beattie was told that liquor had been looted from a public house—presumably Finnegan's.

25.12 Mr Beattie thought that there was a preponderance of women and children at the meeting with only a few men among the 50–100 present. In his address to the meeting he said that they should try and minimise any incidents which took place since the throwing of one stone could lead to a riot. He reported that he had been in touch with representatives of the Catholics whom he was quite sure wanted peace. While Mr Beattie was speaking Mr John McQuade, Unionist MP for Woodvale, arrived. Mr McQuade's account of the part he played in the meeting was brief and to the point:

> "He [Mr Beattie] informed me that he with a Roman Catholic Priest and a Republican had a peace pact. I informed the people that there was no need for any peace pact; if people would obey the law of the land and recognise the constitution there was no other need. I then warned the women and children to go into their homes, and keep off the streets. I told the men they would have to be prepared to defend them."

25.13 In his evidence to the Tribunal Mr Beattie said that far from rejecting the idea of a "peace pact" he thought that Mr McQuade had indicated his approval of such an arrangement. Mr Beattie denied that he was disappointed by the turn of events at the meeting, but when pressed by the Chairman he accepted that he would have preferred there to have been no other speakers. Nevertheless, after Mr McQuade had spoken, Mr Beattie, prompted by the former's reference to defence, resumed the platform to make it clear that he was not advocating that the people should not defend themselves if this became necessary. While understanding Mr Beattie's reluctance to concede that the meeting was a disappointment, we have no doubt that owing to Mr McQuade's intervention it failed in its purpose.

25.14 After the meeting Mr Beattie left the area. The Protestant businessman to whom reference has already been made then called on Fr McLaughlin in the Monastery and, according to the priest, told him that Mr McQuade had broken up the peace effort and only 8 people had volunteered to act as peace-keepers. As Fr McLaughlin was escorting the businessman from the Monastery shortly after 3 pm he saw that fighting was taking place in Kashmir Road; he did not however see its commencement.

25.15 By now the Catholic barricade at Bombay Street/Kashmir Road was in position and the area between it and the Protestant barricade at Kashmir Road/Cupar Street was filled with youths who were throwing stones. They were apparently Protestants from Cupar Street and they were being resisted by 10 or 15 youths on the Catholic side. Shortly afterwards Fr McLaughlin saw a petrol bomb thrown from the Cupar Street direction. While on his way back to the Monastery to telephone the police, he saw smoke coming from the chimney and

FS 1. 344

an upper window of a house in Bombay Street. He assumed that it had been set on fire—perhaps by a petrol bomb thrown into the back of the house from the Cupar Street direction. The occupants rushed from the house into the Monastery from where Fr McLaughlin telephoned the police, telling them that trouble had started and asking for assistance.*

25.16 Father Egan's description of the early stages of the fighting in Kashmir Road corresponded closely to that of Fr McLaughlin. He saw about 45 people between the two barricades in Kashmir Road. They were throwing stones, bottles and petrol bombs at a smaller, younger group of about 20 Catholics who were returning the stones and bottles.

25.17 Neither of the two priests, however, saw the start of the violence in Kashmir Road; for this, the Tribunal had only the evidence of Mr Hemsworth and Mrs Scott. Mr Hemsworth said that shortly after an unsuccessful attempt to push over on its side the lorry which was being used by the Catholics as a barricade at Kashmir Road/Bombay Street, a hail of bottles and stones were thrown at the Catholics from the direction of Cupar Street. A much smaller group of Catholics—never more than 30—returned these missiles. After about 10 minutes the first petrol bombs were thrown by the Protestants. According to Mr Hemsworth the first building to catch fire was a shoemaker's shop (72 Kashmir Road) at the corner of Kashmir Road and Bombay Street. Fr McLaughlin also gave evidence that this building was among the first to be burned (at about 4 pm) and was ultimately destroyed. This witness thought that Nos 17 and 19 Bombay Street were set on fire from the back at about the same time.

25.18 Mrs Scott, however, thought that fighting commenced with the throwing of stones by Catholics from Kashmir Road. The Tribunal finds she was mistaken and that the riot began as Mr Hemsworth described.

25.19 Having witnessed the fighting in Kashmir Road, Fr Egan returned to the Monastery bringing with him some Catholic residents who were by now almost hysterical. At 3 45 pm as he was about to enter the building he heard shooting from the Cupar Street direction. He went upstairs and, looking out from a window, saw a boy whom he had taken into the backyard of the Monastery a few minutes earlier lying face downwards on the footpath in Waterville Street and writhing in agony. Fr Egan rushed out to the boy. He found a trail of blood running from the boy's position some yards along the footpath in the direction of Bombay Street. The injured boy, whose name was Gerald McAuley, was placed on a lorry and then taken by ambulance (the call for which was received at 4 20 pm) to the Royal Victoria Hospital.

25.20 When Gerald McAuley was examined at 4 45 pm he was found to be dead. He was aged 15 and had lived in Colinward Street which is on the opposite side of Springfield Road from Clonard. Death was caused by a medium or high velocity bullet fired at close range which entered the chest and heart, passing right through the body.

*It appears that at this time a fire-appliance was attempting to deal with a fire in a mill in Cupar Street. When one of the occupants of the burning house tried to use one of the hoses on this building, there was an altercation as a result of which the crew of the appliance departed, abandoning their vehicle.

25.21 After hearing of more shooting casualties and seeing houses set on fire Fr McLaughlin once again telephoned the police, this time from a private house. His description of this conversation and of his state of mind at the time was a vivid one.

". . . I was terribly agitated and worked up and terribly afraid there was going to be a holocaust and that the whole area was going to be wiped out, I was absolutely convinced that this was an attempt not merely to wipe out the Monastery but the whole area. I was really in desperation for help and I said to the man whoever answered the phone, 'Why are you not coming up to help us?' Then I said, 'Is it because your own side are doing the attacking?' and he got a bit annoyed at that and he said, 'What do you mean?' and I said, 'You know very well', I said 'the people of Cupar Street'. So I put down the phone and that ended the conversation".

It was not only Catholic residents who sought the help of the police. Mrs Scott telephoned them on several ("about seven") occasions but there was no response to her calls.

25.22 During the afternoon (at about 4 30 pm) Fr Hanly the Superior at the Monastery, who had now returned, went to Springfield Road RUC station to seek police assistance. HC Rooney, the senior RUC officer, had however gone off duty at 2 30 pm so that he did not learn of Fr Hanly's visit or of the several telephone calls which were made from the Monastery until some time later. At around 5 pm a crowd near the front of the Monastery urged Fr Hanly to summon help by ringing the church bell. He thought this would be unwise but the decision was taken out of his hands when a young boy in a hysterical condition ("really he was mad, his eyes were bulging and he had lost all self-control") rushed into the bell-tower and rang the bell.

25.23 Such evidence as the Tribunal has from Protestants indicates that panic and hysteria were not confined to the Catholic side of Cupar Street. Mr McMillan described seeing excited and hysterical people especially women in Sugarfield Street at about 4 30 pm. Shortly afterwards this witness saw bottles and stones being thrown from the mouth of Kashmir Road down Cupar Street towards Sugarfield Street. He went into Cupar Street where he was struck by shotgun pellets immediately after he had seen a flash from the Kashmir Road direction.

25.24 Mr Hugh Johnston, who had been in Dover Street the night before, told the Tribunal that he left his work that afternoon at 4 30 pm, about 10 minutes earlier than usual. He was employed at the factory of James Mackie and Sons Ltd in Springfield Road and on leaving work took the precaution of arming himself with an iron bar. Some of the hundreds of fellow employees who went with him into Cupar Street on their way home may also have had similar weapons. Barricades were being erected by Catholics on the south side of Cupar Street. According to Mr Johnston the Catholics threw stones at the workers on their way home and these were returned. A shotgun was fired from Clonard Gardens injuring one man and forcing a crowd of Protestants which had entered the street back out into Cupar Street. Mr Johnston moved along Cupar Street to the Kashmir Road junction. In the mouth of Kashmir

FS 1 · 345

Road a big Scania lorry had been turned on its side and set on fire with petrol bombs (he thought by the Catholics). Two crowds were exchanging stones across this barricade. At this time Bombay Street was black with smoke.

25.25 At about 5 pm two Protestants, Mr S Wallace and Mr Orr, were walking down Sugarfield Street towards Cupar Street when Mr Orr was shot in the leg. Mr Wallace thought the shot had come from Clonard Monastery although he admitted that he did not know from where it had come.

25.26 Sometime before 6 pm Rev Beattie who since the meeting in Canmore Street at 3 pm had been assisting in refugee work elsewhere in the city heard that there had been trouble in the Clonard area. He drove to Ashmore Street where he heard shooting. Turning into Cupar Street he saw a man firing a gun (probably a shotgun) towards the Catholic crowd in Kashmir Road. Mr Beattie telephoned the police and reported what he had seen. He also telephoned the central office of the Presbyterian Church from which he learned that there were plans to bring in the army. Mr Beattie remarked that if they were to be of any use troops should be deployed without delay.

25.27 At about 6 30 pm Mr Traynor, a Protestant, arrived in Cupar Street in response to a message that the premises of his employer (Lawther and Harvey) were on fire. This message proved to be false. He saw a woman walking southwards along the eastern footpath of Cupar Street. She fell to the ground and he subsequently learned she had been shot. He then saw the barrel of a shotgun protruding from a second floor window at the rear of St Galls school in Waterville Street after which he himself was shot, he thought from the direction of the school.

25.28 During the afternoon older residents in the Monastery had been evacuated. The Eucharist was removed by the priests to a place of safety. At a time he estimated as 6 pm, Fr Egan telephoned Army Headquarters at Lisburn and learned that the army units were on the way to Belfast. Details of what was possibly a subsequent telephone conversation in which Fr Egan referred to burnings, shootings and the death of McAuley are recorded in the log of the 39 Infantry Brigade. This call is timed at 7 40 pm.

25.29 Reference has already been made to the discussion between the military and police authorities about the area where the army were to be deployed*. At this meeting Brigadier Hudson decided to place 1st Battalion the Royal Regiment of Wales under Col Napier along the Lower Falls Road from Grosvenor Road to Northumberland Street. It has been pointed out to the Brigadier by Mr Wolseley and Mr Bradley that the Catholic Clonard area lay to the north of this area of deployment. Mr Wolseley suggested that if possible troops should be positioned in Cupar Street, along the border between Catholic and Protestant territory. Brigadier Hudson, however, decided against this: "Working out the number of troops I had to the area I had to deal with, I decided that what was most important to me was to get a secure

*24.8 ff.

base along that main [Falls] road from which I could operate subsequently . . . " It is clear from this answer that Brigadier Hudson was aware of the advisability of deploying along Cupar Street but decided against doing so because of his limited manpower. Col Napier did not however appreciate the significance of Cupar Street. He "clearly understood" that Falls Road marked the border between the Catholic and Protestant areas. In fact, far from being the border between the two factions, Falls Road was to the south of the conflict area and well within Catholic territory.

25.30 At about 6 30 pm two companies of 1 Royal Regiment of Wales, numbering about 250 men in all, arrived in Falls Road and set up headquarters in Springfield Road RUC station.

25.31 Mr Hemsworth, who saw the army arrive, gave evidence of hearing a sergeant tell people on one side of the Falls Road to stay away from those on the other side although he, the sergeant, was told by local people that Catholics lived on both sides. They moved along Falls Road clearing it of people who began to gather in side streets some of which were barricaded. There was no resistance to the soldiers who were under orders to use their weapons only as a last resort.

25.32 By 7 30 pm the soldiers were in position and had erected barricades to prevent north-south movements across the road. Hearing noises and seeing fires to the north of Falls Road, Col Napier took a small party towards the Monastery at about 8 pm. His evidence was that he made this decision on his own initiative. Fr Egan told the Tribunal that at about 7 pm he went to Falls Road and told the soldiers he found there that they were needed in the vicinity of the Monastery. Rev Beattie testified that Protestant residents in Canmore Street complained to him that soldiers had not yet been seen in their area. When Col Napier arrived at the Monastery he was taken upstairs by Fr Egan. From this vantage point he could see that areas of Bombay Street were ablaze. Fr Egan's evidence was that while they were inside the Monastery he had pointed out to the Colonel the stretch of Cupar Street where he thought soldiers should be positioned. While Col Napier was inside the building he saw a civilian with a shotgun "of some age." Fr McLaughlin and Fr Egan confirmed that the two men armed with guns who had been in the Monastery on the previous night returned on the night in question. This time only one was armed—with a shotgun.

25.33 Fr McLaughlin was not aware of any firing from the Monastery into Sugarfield Street. Fr Egan did not see guns being used at any time although he admitted, with some reluctance, that he had heard it "hinted at" that a shotgun had been fired at or in the direction of two men who had climbed on to a shed in the Monastery backyard. Ballistics experts gave evidence of bullet damage to a front first floor window in 177 Cupar Street. Both Mr Price and Dr Martin found this damage to be consistent with having originated from or passed close

FS 1.346

by the northern corner of the Monastery building at the Bombay Street end of Waterville Street. While Mr Price could not exclude the possibility of the bullets having travelled from further afield, the Tribunal is satisfied in the light of all the circumstances that some shots were fired from the Monastery in the direction of Cupar Street.

25.34 Col Napier spent 10 minutes in the Monastery before returning to his men on the Falls Road. He then ordered one platoon up to the area of the Monastery. From an entry in the platoon diary it appears that 2nd Lieut Adams and a platoon of B Company with Col Napier in command left for the Monastery at about 8 10 pm. This platoon comprising 26 men was deployed around the Monastery for a short period and then sent back to the Falls Road to rejoin B Company under Major Davey. Col Napier ordered this Company to move into Cupar Street and get between the two factions. In pursuance of this order Mr Adams and 8 men were sent into Cupar Street to ascertain whether Cupar Street was in fact the border between the two communities.

25.35 As this patrol advanced up Cupar Street, passing a mill burning furiously on the west side, they observed barricades in the side streets to either side. There were small numbers of people on the east (Protestant) side of Cupar Street, some of whom appeared to Mr Adams to be drunk. Some people on this side told him that there was a sniper in the direction of the Monastery. The Catholic Streets to the west were deserted. His reconnaissance completed, Mr Adams then returned to his Company Commander on the Falls Road, on the way back dispersing a crowd of (presumably) Protestants from Argyle Street, two of whom had come forward and thrown petrol bombs against a wall.

25.36 Having reported back to Major Davey at 9 35 pm, Mr Adams was sent out on his third trip, this time to patrol Waterville Street and ensure that the school next door to the Monastery, St Gall's, was not destroyed. When Mr Adams arrived the school was already on fire.* He took part of his platoon from Waterville Street into Bombay Street where he was "horrified" to see houses burning on both sides of the road. Bombay Street was deserted but there were sounds of activity in Cupar Street. Having halted his men at Bombay Street/ Kashmir Road Mr Adams ordered a Private Tyler to cross Kashmir Road to a position outside the remains of 72 Bombay Street, the shoemaker's shop which, we have seen, had been set on fire much earlier in the day. As Private Tyler was crossing Kashmir Road there was a blast as from a shotgun from the direction of Cupar Street. He fell to the ground injured and a second shot was fired grazing his ear.

25.37 Mr Adams ordered one of his men to fire a round into the gable end of a derelict house to provide cover while Private Tyler was dragged back to safety. The whole section then withdrew along Bombay Street and into Waterville Street (time: about 10 15), regrouped and returned to Kashmir Road. Shortly after the withdrawal Mr Adams learned that the corporal in charge of his rear

*Fr Egan gave evidence that a fire started in the school earlier in the evening had already been extinguished.

section had fired a round at a man who appeared to be carrying a ·303 rifle. This shot and the one fired to cover Private Tyler's rescue were the only two rounds discharged by soldiers on duty in Belfast on 15 August.

25.38 On his return to Kashmir Road, Mr Adams ordered the discharge of CS gas against a Protestant mob of about 20 or 30 people who had entered Kashmir Road from Cupar Street throwing bricks and petrol bombs. They were driven back into Cupar Street. Further along Bombay Street at the Kane Street junction, Mr Adams saw youths throwing petrol bombs into houses in Bombay Street from behind a lorry-barricade in Kane Street. These people could only have come from Cupar Street. Mr Adams thought that only minimal damage to houses in Bombay Street was done at this time. He did not feel that he had sufficient men to advance along Bombay Street as far as Kane Street: this would have exposed his rear and might have allowed rioters to get between his front and rear sections.

25.39 Col Napier, who by this time had returned to the Bombay Street area, was also of the opinion that he had insufficient men to prevent attacks from across Cupar Street. He could not bring other men into this area while he had "to retain the firm defence, if that is the right word, of Falls Road/Divis Street".

25.40 For some time Mr Adams' men continued to use CS gas against groups of people attacking from Cupar Street. At one stage he addressed them through a loud-hailer. In the course of the evening about 50 CS grenades and cartridges were used in the Bombay Street/Cupar Street area. As the situation began to quieten down it was thought safe to bring the abandoned fire engine, manned by civilians, along Waterville Street to deal with the fire in St Gall's school. Other fires in Bombay Street were also dealt with. The soldiers gave what help they could in fire-fighting.

25.41 After midnight Mr Adams with extra men took up position at Clonard Gardens/Cupar Street where flames from burning lorries had spread to nearby houses. From this position he noticed a large barricade from which a Union Jack was displayed in the mouth of Lawnbrook Avenue. By this time soldiers had occupied Waterville Street, Clonard Gardens, Bombay Street, Kane Street, part of Cupar Street and part of Kashmir Road, thus covering all entrances to the Clonard area from Cupar Street. In Cupar Street Mr Adams found substantial crowds of Protestants in each of the side streets to the north: some of them were drunk.

25.42 Earlier in the evening Mr Max Hastings of the London *Evening Standard* had attached himself to Mr Adams' party. Mr Hastings testified to the confused state of affairs which existed in the Clonard area at that time. The military were short of men, did not have adequate maps of the area, nor, according to Mr Hastings, did they appear to know where the boundary between the two factions lay. At one stage Mr Hastings saw a police armoured vehicle drive along Cupar Street from the Springfield Road direction and crash through the barricade at Lawnbrook Avenue. Learning that there was a police officer on the

FS 1.347

far side of the barricade who wished to speak to him, Mr Adams invited him to come forward. This police officer was DI Cushley and he offered to try and talk some sense into the people at the barricade; Mr Adams agreed and provided him with a military escort.

25.43 The District Inspector's party seems to have been the only group of police in the Clonard/Cupar Street area during the afternoon and evening of 15 August. DI Cushley's evidence was that in response to a radio call from DI Lagan (who had been asked for assistance by Fr Egan at about 9 30 pm) he took his two armoured vehicles, a Commer and a Shorland, to the Clonard area. He was apprehensive of the sort of reception he might get: he had heard from a "very reliable source" that there was a detachment of IRA in the area. Having gained access to the area he found himself in a street enveloped in flames, presumably Bombay Street. He spoke to a priest who told him about a sniper in Lawnbrook Avenue. DI Cushley agreed to investigate this. "I left the area as I got the impression that we were not wanted. We were in an armoured Commer and we had a Shorland armoured car with Browning gun mounted and we were not wanted so we left". Moving to Lawnbrook Avenue, DI Cushley met Mr Adams and told him about the situation in Bombay Street and the rumours of snipers in Lawnbrook Avenue. As his instructions were to leave the area in which the army was deployed solely to them, DI Cushley was satisfied that he could do nothing more. He therefore left the area and resumed patrolling elsewhere. After his meeting with Mr Cushley, Mr Adams continued to patrol Cupar Street, witnessing an incident at Bellevue Street where a Protestant crowd threatened Mr Hastings when someone told them he was a reporter.

25.44 Realising that he had insufficient men Col Napier had in the course of the evening sought troop reinforcements. At about 2 am. on the morning of Saturday, 16 August, a company of 90 men of the Third Light Infantry was deployed in Cupar Street. By this time the area was quiet although many buildings were still burning or smouldering. During the evening requests for the fire service were sent out from Col Napier's headquarters. But it was not until the early hours of the morning that a fire engine manned by firemen arrived to supplement the operations of the abandoned engine.

Casualties and damage to property

25.45 There was one fatality during the fighting. The boy, Gerald McAuley, was a Catholic and the evidence available to the Tribunal supports the inference that he was killed by a gunman from the Protestant faction and the Tribunal so finds. In addition there were many non-fatal gunshot casualties. Information collected by the Tribunal based on hospital records shows that over the period 15-16 August 23 Protestants and 12 Catholics (excluding McAuley) were shot. Of the total of 35 casualties 29 were injured by shotgun or ·22 and 5* by bullets (one projectile unidentified). Up until about 5 pm on 15 August Catholics and Protestants were injured in about equal numbers. From that time onwards the records show that of the 17 people injured only two were Catholics.

*3 Catholics, 2 Protestants.

25.46 It is unlikely that these figures are exhaustive of all Catholics who sustained gunshot injuries, since some, particularly those who received slight shotgun wounds, may not have gone to hospital. Instead, they may have attended casualty or refugee centres for treatment. First-aid centres were set up in Kashmir Road and in Clonard Monastery itself. If therefore the figures quoted are taken as minimal it is clear that there was a considerable amount of shooting from both sides.

25.47 If it is true that for the reason given Catholics are under-represented in these totals and that therefore both sides suffered casualties in roughly equal measure, the same is emphatically not true of damage to property, the brunt of which was borne by Catholics. Three-fifths of the houses in Bombay Street, which was almost exclusively occupied by Catholics, were destroyed* by fire. Houses were also damaged--many so seriously that they had to be demolished —in Cupar Street, Kane Street, Kashmir Road and Clonard Gardens. This property was overwhelmingly Catholic. Apart from one block in Cupar Street where the houses required minor repairs, hardly any Protestant homes were damaged. The Tribunal finds that almost all the burnings in the Clonard area were caused by Protestants.

Three important questions

25.48 Three questions arise:

(1) Was the Protestant attack planned?

(2) Why did the police not intervene?

(3) Why did trouble continue after the intervention of the Army?

(1) *Was the Protestant attack planned?*

25.49 The Protestants began the fighting and were responsible for most of the destruction. It is likely that they were retaliating against what they believed was Catholic aggression in neighbouring areas on the previous two nights. Fr McLaughlin thought the first attack was planned rather than spontaneous since it took place in the afternoon when there would be few men in the area. He also thought that the setting up of barricades, the use of sticks and bin lids, as well as the fact that Catholics were being forced to leave their homes on Friday morning, suggested an organised operation. He told the Tribunal that the general impression in the area was that workers in Mackie's factory in Springfield Road had been let out early and had been responsible for the trouble.

25.50 In a letter to the Tribunal prompted by a newspaper report of Fr McLaughlin's evidence, the heads of Mackie's various departments and shops took issue with the implication in the report that the firm's employees had been let out early on Friday, 15 August, in order to take part in an attack. This letter stated that

"In the afternoon of 15 August 1969, the management of the Company, after considering the seriousness of the situation in the area and the fact that public transport had been withdrawn, and in the interest of the safety of

*Out of total of 63 houses, 38 were for demolition, 5 for major repairs and 10 for minor.

their employees, so that they might reach their homes not later than their usual time of arrival, issued a message to all heads of departments that all employees would be free to leave as soon as they received their wages and all essential duties had been completed. Employees left, department by department, as they were paid, between the hours of 3 15 pm and 4 15 pm."

While it seems clear that there was nothing sinister in the early departure of Mackie's employees it is apparent from the evidence of Mr Hugh Johnston* that he and his fellow workers did take part in the fighting in Cupar Street in the afternoon of 15 August. The Kashmir Road/Bombay Street area which was at the centre of the conflict lies directly between Mackie's factory in Springfield Road and the residential Shankill area where many of Mackie's workers live.

25.51 There is no evidence of any military-style planning behind the Protestant mobs. The explanation that fits the facts and the mood of the Shankill on the night of the 15th is one of communal anger against what they believed to have been a Catholic assault on them and the established order of the province.

(2) *Why did the police not intervene?*

25.52 No police reached the area until after 9 30 pm: and then only a token force under DI Cushley. It is not surprising that many Catholics felt that they had been deserted by the police on 15 August. The various requests for help made both personally and by telephone by priests and others (Protestant as well as Catholic) have already been described. Entries in the police log from 3 34 pm onwards show that the police were aware of disturbances in the Clonard area.

25.53 The explanation for the failure of the police to respond to the calls for help was that in their judgment their numbers were not sufficient to enable a force to be sent to the area. DI Lagan, who was in charge of "B" district which includes Clonard, first learned of the calls for help from the Monastery when he returned to Hastings Street RUC station at 6 pm. His informant was HC Rooney who also told him that there had not been sufficient men available in the area.

25.54 The absence of policemen available to do duty on the streets was a feature of the Belfast scene on the afternoon of Friday, 15 August: it was equally noticeable in the disturbances in Percy Street and Ardoyne the same afternoon. The reasons are discussed elsewhere.† Briefly, it appears that the police were exhausted after a sustained period of duty while many had been injured on the previous nights. But there was also their concern for the safety of their stations which led them to concentrate what strength they had on the defence of police stations against the possibility of an IRA attack which they believed was threatened. It seems also that they may have been taken by surprise: they did not expect trouble to break out during the day and so men were stood down until the evening.

*Mr Johnston was armed with an iron bar; it is unlikely he was the only one so armed (see 25.24.)

†24.4 ff.

PS1 · 3488

25.55 Mr Lagan was asked in cross-examination why when, on his return to duty at 6 pm, he learned of calls for help from Clonard he did not notify the military commander. His reply was that, in the light of his knowledge of the fact that the military were being deployed in Falls Road and not in Cupar Street, he assumed that the Clonard area was a police responsibility. Nevertheless it was not until 9 30 pm that he arranged to send DI Cushley there.

(3) *Why did trouble continue after the intervention of the Army?*

25.56 Fr McLaughlin told the Tribunal that Clonard residents were frustrated at the apparent inability of the military to bring the situation under control although he himself accepted that their intervention saved the whole area from devastation.

25.57 Records of gunshot injuries in the area indicate that some were sustained after the army's arrival although very little direct evidence of this was heard. Of greater significance to the Clonard residents was the fact that the military, equipped with firearms and CS gas, were unable to prevent the near total destruction of Bombay Street and severe damage to other Catholic property.

25.58 It may be said, first, that there is evidence which the Tribunal accepts that many fires in and round Bombay Street were started before the army's intervention. Reference has already been made to the evidence of Col Napier that when he first went to the Monastery at 8 pm "areas of Bombay Street were ablaze" and other fires were burning. Later in the evening Lt Adams in command of the first body of soldiers to enter Bombay Street was "horrified" to see houses burning on both sides of the street. Fr Egan put the number of houses on fire before the military arrived at "at least 10". There were no fires in Clonard Gardens, Kashmir Road and—he was not sure of this—the south side of Bombay Street.

25.59 Secondly, it was suggested by the army witnesses that much of the damage caused after their arrival was due to the spreading of fires which had been started earlier on. This may be true to an extent but there is no doubt that petrol bombs were being thrown at houses while the army were on the ground. Mr Adams thought that these petrol bombs did not start many major fires in Bombay Street while he was there. Fr Egan pointed out that the three houses which were burned at the Cupar Street end of Clonard Gardens were not on fire when the army came into Bombay Street. Mr Adams' evidence supported this.

25.60 The possibility of fires spreading from one building to another in Bombay Street does seem a real one since, according to Lt Adams, there was a very strong wind as well as little effective fire fighting. It is true that there was an abandoned fire-appliance in the vicinity but Mr Adams' evidence suggested that it was not brought into use against houses in Bombay Street until later in the evening after the fires had got a hold—and then manned by civilians. A fire-appliance operated by fire officers did not come into action until well after midnight.

FS 1 · 346

25.61 The simple reason why the army was not able to restore order in Bombay Street until late in the evening was the inadequacy of the number of troops available. Col Napier did not feel that he could spare more men in this area without weakening his position in the Falls Road. He was however under the impression that this, his initial area of deployment, constituted the border between the two factions. But this as we have seen was quite incorrect: the Falls Road between Cupar Street and Springfield Road is flanked on both sides by Catholic territory. With hindsight it is easy to see that if a substantial number of Col Napier's men had been deployed initially along the Orange-Green line in Cupar Street peace might have been restored much earlier in the evening.

CHAPTER 26—ARDOYNE AND CRUMLIN ROAD: 15 AUGUST

26.1 After the rioting, shootings and burnings which had taken place the previous night, the residents on both sides of the Crumlin Road were in a state of panic. People were talking about how many were injured and who was dead. Some were boarding up their houses and others were moving out. Their fears were justified. Unknown to them the police, plagued by fatigue, casualties and rumour, had by the morning of 15 August abandoned the effort to maintain or re-establish law and order in the area of the Crumlin Road. In the course of the day DI Montgomery reported that it was essential that the army should assume responsibility for policing the Ardoyne; he had already made up his mind that no police should go on duty in the area unless they had the protection of armoured vehicles. By the morning, if not earlier, police action had been reduced to the patrol of the Crumlin Road with the limited objective of containing an armed uprising. Police officers were thinking of the situation in terms of rebellion: and the rebels, in their view, were to be found (and, if possible, held) in the Ardoyne. This view also determined army tactics when at long last on the evening of the 16th three companies of the 3 Battalion Light Infantry took over the Crumlin Road, approaching through the "friendly" streets lying between it and the Shankill.

Preparations—the two communities

26.2 During the morning and early afternoon barricades were erected in Disraeli Street, Herbert Street and Butler Street*. Some residents were evacuated from the north side of the Crumlin Road, especially women and children. One witness, Miss McGrath, saw children making petrol bombs in an entry off Rosebank Street.

26.3 In the afternoon a number of Protestant clergymen held a meeting at St Mary's Church in the Crumlin Road at which it was decided to request that the army be sent into the area. This message was communicated to Mr Greeves, Permanent Secretary to the Ministry of Home Affairs, by Rev Sansom. According to Mr Sansom he was told by Mr Greeves that the army was being sent in and this reply was passed on to the residents of Disraeli Street. Whether or not there was a misunderstanding, Mr Sansom no doubt spread the news

*There is also evidence that a barricade was erected at some stage on 15 August in Chief Street.

around his parish: so did other clergymen, and we have no doubt that its immediate effect was to quieten the Protestant community. When, however, it proved false, the counter-reaction was serious. The "failure" of the army to arrive combined with the inadequate presence of the police and the hostile activities of the Catholic community provided the opportunity and the incentive for the burning of the houses in Brookfield Street, and the destruction of the Catholic owned public-houses.

26.4 Also in the course of the afternoon, at about 4 45 pm, a number of Catholic residents from the Ardoyne area met and agreed to post lookouts to give warnings of any attack. Two men armed with shotguns were deputed to move about the district and fire shots down the various streets to give the impression that there were many more weapons, including machine guns, in use. This evidence was given by Mr Toal. Another witness, Mr O'Reilly, told of a meeting at about 4 30 or 5 pm held at Herbert Street/Butler Street at which it was decided to get together 12 men to attempt to obtain firearms. Mr McCorry's evidence corroborates this, though he puts the meeting a few hours later.

26.5 It is not clear how many weapons were in the hands of and used by the Catholic population. Mr Toal said that he saw only 2 shotguns. Mr McMullen and Mr O'Reilly saw 2 shotguns and a defective rifle. Father Gillespie who seems to have moved round the area more than most also saw two shotguns and a ·303 which would not work. While it is not possible to make a precise finding, the Tribunal does not doubt that more weapons were available on this night than these witnesses describe, and that they included at least one automatic.

The police withdrawal

26.6 Before he left the Crumlin Road on the morning of the 15th, DI Montgomery arranged for an armoured vehicle to be stationed in the Hooker Street/Disraeli Street area for the rest of the day. The only force of police available for the afternoon was a Reserve Force Platoon of about 30 men plus the crew of one landrover. These men were to come on duty at 3 pm. At 6 pm a section of the local force was due to come on duty. Men from the local force had been working long hours over the previous two days and this, coupled with police injuries, meant that only about 40-45 men would be available from 6 pm onwards. Of these only about 35 could be sent out on to the streets.

26.7 In the early hours of the morning of 15 August, DI Montgomery decided that no foot police should be sent into the Disraeli Street/Hooker Street area because of the amount of shooting which had taken place the previous night. He also felt that it would not be safe to use "soft-skinned" (ie non-armoured) vehicles such as landrovers for the same reason.

26.8 At about 2 30 pm the armoured vehicle which had been on duty in Crumlin Road since 9 am was ordered to the Falls Road by the Commissioner, Mr Wolseley. In a telephone conversation with Mr Wolseley, DI Montgomery urged that the vehicle should be kept in the Crumlin Road but the Commissioner insisted that there was greater need for it elsewhere. It was not until 6 pm that another armoured vehicle, under the command of HC D B Wallace, was made

FS 1. 350

available for the [illegible] Road area. Mr Montgomery was also told by the Commissioner that a [illegible]certed attack on police stations throughout the city was expected and that he, Mr Montgomery, should be ready for such an attack in his district. Mr Montgomery's own view was that there was a "very real threat" of an insurrection. When the Reserve Force platoon of about 30 men came on duty at 3 pm they were sent to the Millfield/Divis Street area.

26.9 Thus for a period of well over two hours, up until 6 pm on the afternoon of Friday, 15 August, there were no police officers or vehicles in the Ardoyne/Crumlin Road area. It was during this period that fighting between Protestant and Catholic civilians broke out across the Crumlin Road and resulted in a number of civilians from both communities sustaining gunshot injuries which in one case proved fatal.

The afternoon riot

26.10 Some time in the late afternoon word got round among the Catholic residents that people on the Falls Road had hi-jacked Belfast Corporation buses for use as barricades. Despite the suggestion by Fr Gillespie that it would be preferable to remove buses from the Ardoyne depot rather than seize those which were in use, this latter course was adopted and a bus coming up the Crumlin Road from the City direction was commandeered between Bray Street and Chief Street by 3 men from the north side of the road.* The Tribunal was told by a number of witnesses that this incident was the first disturbance of any kind in the Crumlin Road during the afternoon.

26.11 According to Fr Gillespie, possession of the bus was taken without any violence and the driver, conductor and passengers left peacefully. The bus was driven via Butler Street and Chatham Street to Hooker Street where the tyres were deflated. Fr Delaney appears also to have witnessed this incident but he described the bus being stopped by a crowd of people spread across the road.

26.12 Even if the hi-jacking which Fr Gillespie described was peaceful, there seems to have been a second such incident which sparked off fighting between those who were attempting to take over the bus and others who were trying to stop them. Miss McGrath gave evidence that at about 4 30 she heard a commotion and saw 3 men trying to pull the driver from a bus which had come up the Crumlin Road and stopped at Disraeli Street. This seems to be another bus from that already referred to since there were no passengers on it. In fact this second bus was probably that of which Mr F C Hill was conductor. Mr Hill was on a bus travelling up the Crumlin Road when, at about the Tennent Street junction, he saw in front of him near Chief Street, a bus which he thought a crowd was attempting to overturn. (This could well have been the bus incident which Fr Gillespie described.) Mr Hill let all the passengers off his bus but instead of turning the bus round the driver drove on up the road and when he reached Disraeli Street a crowd attacked the driver and tried to pull him from

*A number of buses were also removed from Ardoyne depot and placed across Brookfield Street, Hooker Street, Herbert Street and Butler Street, as well as in the streets to the north of these in the Clonard area.

his cab. Apparently, however, the driver succeeded in getting away with the vehicle which he drove on up the Crumlin Road and back to the City centre. Up to this point Mr Hill's story fits in with Miss McGrath's account. She saw 2 or 3 men come out of Disraeli Street and attempt to prevent the bus from being taken. Once the bus had moved off the two factions began to fight amongst themselves and one of the men from Disraeli Street threw a petrol bomb.

26.13 The events which followed must remain obscure owing to the confusion of the evidence. But it is clear that a shotgun battle developed. One witness described two men entering Hooker Street from Disraeli Street and opening fire on the people in the street. According to the same witness, these two armed intruders were themselves hit by a return of fire from Chatham Street. Certainly there were gunshot casualties among the Catholics, as it is known Fr Delaney took two victims to hospital.

26.14 It may well be that yet another two men emerged from Palmer Street and also fired into Hooker Street, as described by another witness: but equally it is possible that this is no more than another account of the incident just described.

26.15 Whatever the course of events, the exchange of shots ultimately led to one man being killed, and another blinded.

26.16 Mr N Irvine, a resident of Palmer Street, gave evidence that at about 5 30 pm two dozen men threw stones and bottles into Palmer Street. Residents of the street, among whom was Mr David Linton who lived at No 37, left their homes and threw missiles back. A small barricade which had been built in Palmer Street was then moved up to the mouth of the street and according to Mr Irvine, while he and Mr Linton were at the Crumlin Road/Palmer Street junction, Mr Linton was hit by a blast from a shotgun. He received multiple shotgun pellet wounds in the head and neck, some of which caused internal bleeding which led to death 10 hours later. The autopsy report states that: "The scatter of the pellet wounds and the degree of penetration suggests that the gun was discharged at a range of perhaps 20-30 yards. The character of some of the skin wounds indicates that if Mr Linton was upright when the gun was fired, then the shot must have come from almost directly in front of him in trajectory roughly parallel with the ground".

26.17 As well as Mr N Irvine, a number of other Protestant witnesses described the events of Friday afternoon as commencing with attacks from the north side of the Crumlin Road into Disraeli Street and the neighbouring streets on the south side. Mr Lannigan and Mr Elwood gave evidence that between 4 30 and 5 pm about 12 men on the Crumlin Road began to throw empty bottles into Disraeli Street where children were playing. They were gradually forced back by a crowd which rapidly formed in Disraeli Street. A mob then came over from Brookfield Street and there was a further exchange of missiles. This, in substance, is Mr Lannigan's evidence, and a significant feature may be that he describes these events as preceding the commandeering of what was probably the first bus. But in our view it is probable that the riot began with the hi-jacking of the buses.

FS 1. 3571

26.18 In addition, Palmer Street and Disraeli Street, fighting also spread to Bray Street where Mr A E Irvine and Mr H Megarry described seeing men with shotguns and others who threw petrol bombs into No 1 Bray Street. Mr Megarry and Mr Irvine entered No 1 Bray Street to extinguish the fire which had started. Having done this Mr Irvine emerged followed by Mr Megarry. As Mr Megarry came on to the footpath he was shot at by a man with a shotgun with the result that he was blinded in both eyes. Both Mr Irvine and Mr Megarry deny being in possession of firearms although 12 rounds of 12-bore shotgun ammunition were found in the pockets of Mr Megarry's trousers when he was later admitted to hospital. By whatever means Mr Megarry acquired these cartridges (his own explanation was not convincing), it is clear that he retained them in the belief that they might come in useful.

26.19 During all these shooting incidents which took place in the Ardoyne/Crumlin Road area between about 4 45 and 5 45 pm no police were present. When at 6 pm the local police force of about 34 men reported for duty, they were retained as a reserve in the station in case of an attack on police stations in the Falls Road or a fresh outbreak of violence in the Tennent Street area.

The return of the police

26.20 When DI Montgomery heard that trouble had broken out he rang the Commissioner's office and requested an armoured vehicle. This request was granted and at about 6 pm a Humber armoured vehicle under the command of HC Wallace was sent to investigate reports that armed men had removed buses from Ardoyne Depot. On his arrival there, Mr Wallace found that the gates had been forced open and that about 20 buses had their engines running. The depot was deserted. Mr Wallace decided to immobilise the front and rear bus in each parked line by discharging rifle bullets into the tyres. These shots were heard in Hooker Street by Fr Gillespie.*

26.21 Between 6 and 6 30 pm, HC Kyle came on duty at Tennent Street from where he led a party of 3 Land Rovers (each containing a sergeant, driver and four constables) to the Crumlin Road near Tennent Street to investigate a complaint that a man was stealing petrol from a petrol station. After this Mr Kyle received a report that there was a sniper on the roof of Ewart's Mill which is in the area bounded by Flax Street, Crumlin Road and Ewart's Place. Some policemen climbed on to the roof of the mill while others remained on the ground. No one was found.†

26.22 While this search was being carried out, HC Kyle was joined at Ewart's Mill by HC Wallace's armoured vehicle which travelled there from Ardoyne bus depot via the Crumlin Road. From a position to the rear of the mill in Antigua Street, HC Wallace saw a figure on a roof, from whose direction

*Subsequent inquiries revealed that during the August riots in the City 54 buses normally based at Ardoyne depot had been taken without authority, either from the depot itself or hi-jacked elsewhere in the City.

†It will be noted that this police expedition travelled in "soft-skinned" vehicles, contrary to the decision of Mr Montgomery that only armoured vehicles should enter the Crumlin Road area. But HC Kyle's party does not appear to have travelled further up the Crumlin Road than Flax Street, some distance short of Disraeli Street/Hooker Street.

3 shots, some of them tracer, were fired at his vehicle. It transpired that the roof on which HC Wallace saw this figure was not that of Ewart's Mill but of the neighbouring Brookfield Mill. (This probably explains why HC Kyle's search proved fruitless.) Fire was returned towards the figure on the roof both from HC Wallace's vehicle (from a self-loading rifle) and from the Browning gun of a Shorland under Sgt Johnston which had joined HC Wallace's Humber at Antigua Street.

26.23 Having left Antigua Street, the 2 armoured vehicles drove out on to the Crumlin Road with the intention of investigating complaints that there had been shooting in Glencairn Estate which is to the west of Woodvale Road. When Sgt Johnston's vehicle arrived in the area of Glencairn Road he was met by a crowd of people who complained that they were being shot at from the Crumlin Road. An architect, Mr Mills, who gave evidence to the Tribunal as an expert witness, testified that a line of fire from Sgt Johnston's original position in Antigua Street and passing over the roof of Brookfield Mill would pass through the area where Sgt Johnston learned that bullets had landed. It is possible therefore that when Sgt Johnston went to the Glencairn Estate he was investigating the destination of his own fire from Antigua Street: but a finding as to the origin of this shooting cannot be made. Some spent bullets were collected in this area and subjected to ballistic examination. It appears that none was ·30 Browning ammunition or 7·62 British Military SLR ammunition.

26.24 Before this, however, another shooting incident took place as the armoured vehicles of Sgt Johnston and HC Wallace were passing the mouth of Hooker Street on their way up Crumlin Road. According to Sgt Johnston, as Mr Wallace's vehicle was passing Hooker Street, a number of shots were fired at it and this fire was returned by the Head Constable.

26.25 Between 8 30 and 9 pm Mr F M Foster was returning to his home in Brookfield Street. He turned into the street from the Crumlin Road and was crossing a barricade which consisted of 2 buses flanked on either side by piles of flagstones, when he heard gunfire coming from the direction of Brookfield Mill. He fell to the ground and then heard firing coming from a Shorland armoured vehicle at the mouth of Brookfield Street. Shots struck the buses, flagstones and the fronts of houses. Mr Foster was hit as this stage, though his wound was not serious.

26.26 Mr Y, a police officer who was acting as gunner in a Shorland vehicle on duty in Crumlin Road on 15 August, gave evidence that on two occasions he fired the Browning gun mounted on the vehicle into Brookfield Street. On the first occasion at about 7 or 8 o'clock Mr Y described how his vehicle was coasting down Crumlin Road out of gear past the mouth of Brookfield Street when it was fired upon. On the orders of the commander of the vehicle Mr Y fired several bursts at puffs of smoke at the side of one of the two buses which blocked the street. This was probably the incident to which Mr Foster referred, since the second occasion when Mr Y fired was later on, after dark. This time his platoon commander in another vehicle had come under fire and Mr Y's

Shorland had gone to assistance. Again he was fired on from Brookfield Street and on his vehicle commander's instructions he fired several bursts into the buses at about 3 feet above ground level. Mr Y's evidence was that he discharged a total of 45 rounds into Brookfield Street. A ballistics expert, Mr Price, found bullet damage to the front of 6 houses in Brookfield Street. This suggested automatic fire from a point on the Crumlin Road. The shooting from Mr Y's vehicle seems the likeliest explanation of this damage.

26.27 Later in the evening at around 11 pm the two vehicles of HC Wallace and Sgt Johnston, having summoned the fire brigade to 2 public houses which were burning at the Agnes Street/Crumlin Road Junction, proceeded to Hooker Street from where it had been reported that there was firing into Disraeli Street. As Sgt Johnston's Shorland, which was leading the other vehicle, turned right out of Disraeli Street into the Crumlin Road, automatic fire was directed at it from behind the bus barricade in Hooker Street. In reply Sgt Johnston's gunner discharged about 4 or 5 bursts into Hooker Street from the Browning gun mounted on the Shorland. About 100 shots were fired.

26.28 When the firing ceased HC Wallace brought his vehicle up to the mouth of Disraeli Street and was in the course of turning to his right to follow Sgt Johnston when his vehicle was subjected to automatic fire from behind the buses. One bullet, which appears to have entered an aperture on the left-hand side of the Humber vehicle, struck HC Wallace's ear and passed out through the windscreen. It was later discovered that the aerial wire to the vehicle's radio had been partially severed. Fire was returned into Hooker Street by the Humber. The incident took place some time between 11 and 11 20 pm.

26.29 The injury to Mr Wallace's ear is the only one to a police officer which can be attributed with certainty to gunfire in the Crumlin Road area over the period 13/16 August.

26.30 The 2 vehicles continued to patrol the area for the remainder of the evening and they were joined by other armoured vehicles. At about midnight an explosive device was set off in the vicinity of HC Wallace's vehicle which was travelling down Flax Street. The loudness of the explosion suggested to Mr Wallace that gelignite or a hand grenade had been used. Two shots were fired into the air from the police vehicle to cover its departure from the area.

26.31 It is difficult to make coherent sense of the evidence concerning the desultory, but none the less frightening, shooting battle that developed with the return of the police in their armoured vehicles. There must have been a sniper on the roof of the Brookfield Mill at one time—though whom he thought he was assisting or attacking remains a mystery. Pot shots were taken by Catholic gunmen at police vehicles, which responded with a fire much heavier than they got. The police no longer felt inhibited about using the heavy Browning machine gun fitted on the Shorlands. From Sgt Johnston's vehicle in Antigua Street, and from Shorlands in the Crumlin Road there was Browning fire. It would not be right to condemn the police in their vehicles for opening fire when they were

FS 1 352

fired upon: but the Tribunal has no doubt that these incidents provide an illustration of the unsuitability of the Browning for riot control. It was a merciful chance that there were no fatal casualties from Browning fire this evening in the Ardoyne. The expert ballistic evidence of bullet damage to the Brookfield Street houses illustrates the menace of the weapon.

The burning of Brookfield Street

26.32 In the early hours of the morning of Saturday, 16th, about 20 houses on the west side of Brookfield Street, extending from the Crumlin Road junction down to the bus barricade, were burned out. The occupants of these houses were Catholics; they had, however, already left because of the riots. Mr McMullen, a Catholic resident, gave evidence that before these houses were burned they were looted by civilians who appeared to come from Rosebank Street. Doors and windows were broken down and material was carried across the Crumlin Road. The houses were then set on fire. Mr McMullen said that at the time that civilians were crossing to and from Brookfield Street there was an armoured vehicle parked at Herbert Street.

26.33 Mr Lannigan was at Brookfield Street at the time when the houses were burned. He said there was a smell of gas and the houses "just sort of blew up", "they did not go on fire". Mr Lannigan also suggested that Protestants had set fire to the houses because a sniper was present in the end house in Brookfield Street.

26.34 No police evidence of the burning of Brookfield Street was available. Yet it is inconceivable that so large a conflagration could have arisen unseen by the police, unless they had conceded the day to chaos and withdrawn. If, as the Tribunal thinks is likely, there was a police vehicle parked near Herbert Street, its occupants could not have failed to observe the fire. But it would be wrong to conclude that the police encouraged or condoned this arson. The truth is that they felt themselves no longer able to exercise any effective control, and were concentrating on their limited objective of containing the Ardoyne trouble-makers north of the Crumlin Road.

26.35 The Tribunal has no doubt about responsibility for the burning: the Protestants did it. Their opportunity was the lack of effective policing: their motives a compound of anger and fear sparked off by a rumour, which may or may not have been true, that there was a sniper in action at the end of the street.

Alleged shooting from Ardoyne Monastery belfry

26.36 Mr and Mrs Jackson, Protestant residents of 9 Woodvale Drive, gave evidence of seeing shooting from Ardoyne monastery belfry, a four-sided tower at the western end of the monastery building overlooking Woodvale Road. At about 10 30 pm on 15 August Mrs Jackson who was in her home heard shooting. She went upstairs to a first-floor window from where she could hear shooting and see red and blue flashes coming from the belfry. She told her husband what she had seen and he left the house and went to a point on the footpath at the junction between Twaddell Avenue and Woodvale Road

where about 50 other people were standing. From here he heard shots and saw blue and red flashes from the belfry. He thought the shooting was in the direction of Chief Street. Mrs Jackson joined her husband and she too saw shooting. Mr Jackson then moved to an alleyway between Nos 164 and 165 which gave him a clear view of the belfry tower from which he again saw shooting. Mr Jackson thought the firing went on until midnight.

26.37 After the evidence of Mr and Mrs Jackson had been heard the Tribunal received seventeen statements from members of the religious community resident in the monastery, whose sleeping quarters were in the vicinity of the belfry. The signatories of these statements denied hearing any shooting from the belfry over the period 13–15 August 1969. At the request of the Tribunal, Mr G Gibson and Dr Martin visited the monastery and belfry. Having first verified that the belfry was visible from each of the points from where the Jacksons claimed to have observed firing, Mr Gibson gave evidence that access to the belfry was by means of a small trap-door in the ceiling of an upper corridor near to the monastery sleeping quarters. A pair of steps was needed to gain entry through the trap-door which led to a water tank on top of which was a second trap-door leading to the belfry itself. In Mr Gibson's opinion it would also have been feasible to enter the bell tower without entering the monastery building using an external fire escape. This would require a certain amount of determination, skill and agility. The effect of Mr Gibson's evidence was that while the bell tower was accessible from within the building and (with greater difficulty) from outside it was highly unlikely that the tower could have been entered and shots could have been fired from it without the knowledge of the monastery residents.

26.38 Fr O'Donnell testified that between 11 pm and 12 pm on 15 August he was in the precincts of the church and monastery and that there was no firing.

26.39 It is not possible to identify what the Jacksons saw. Many flashes were illuminating the night sky and many noises disturbing the peace during the period of their sightings: and it would need a skilled observer in their circumstances to assess with any accuracy what he saw or heard; and he could well make a mistake. The Jacksons were not skilled observers but surprised and anxious householders. The Tribunal finds as a fact that there was no firing from the monastery.

26.40 In the course of his cross-examination Dr Paisley alleged that he had seen a police statement claiming that Ardoyne Church had been used as an arsenal and that the priests were handing out bullets. Dr Paisley said that this statement had been shown to him by Sgt Harry Taylor of the Special Branch. In a statement to the Tribunal Sgt (now Det Inspector) Taylor emphatically denied having given any such information to Dr Paisley. The Tribunal is perfectly satisfied that the church was not used as an arsenal and that the priests did not hand out bullets.

The destruction of the public houses

26.41 During the night of 15/16 August, a number of public houses were set on fire and looted. Earlier on in the month of August (from the 4th) a static guard had been mounted by the USC on Catholic owned licensed premises which

had been threatened*. This arrangement was continued up to and including the night of 14/15 August. On 15 August the USC guard was withdrawn when DI Montgomery decided that the limited manpower at his disposal would be better deployed in protecting Tennent Street RUC station and as a reserve in case trouble broke out elsewhere.

26.42 On the evening of 15 August, therefore, the only protection afforded to licensed premises, the majority of which were owned by Catholics, was a mobile patrol of four land rovers operating in pairs under HC Kyle. Mr Kyle visited a number of public houses which had been set on fire, but he was unable to prevent any of them from being destroyed. From the fact that many of them were burned at about the same time, he assumed that the firing and looting of public houses was in some way planned or organised. All the premises which HC Kyle visited were Catholic owned.

26.43 The Tribunal does not doubt that Protestants were responsible for these attacks. The withdrawal of the police gave groups or gangs of angry or criminal Protestants an opportunity which they took. It was sufficient that a licensee should be a Catholic for his premises to be burned.

The role of Mr McKeague

26.44 According to his own evidence, Mr McKeague appears to have been in the Crumlin Road area on both Thursday, 14 August and Friday, 15 August. Since he seems to have confused events of the two days it is not possible to establish with any precision what his role was. Nevertheless it is clear that he saw himself as one who could rally and organise some, at least, of the Protestant people. His organisation, the Shankill Defence Association, included among its members some from this area—including 3 young men who feature in the events that took place and gave evidence, ie Mr Elwood, Mr Lannigan and Mr Megarry. Mr McKeague's presence on 14 August has already been noted, but at some stage in the evening he left for Percy Street. On the 15th he claimed to have helped with defensive preparations including sandbag emplacements on each side of Disraeli Street, with men armed with shotguns behind them.

26.45 The Tribunal has not found it possible to assess the degree of his participation in Protestant activity on or near the Crumlin Road or the extent to which he really did assume any leadership: but he certainly contributed to Protestant unrest before and during the riots and helped to organise a warlike defensive posture in the Disraeli Street area.

Casualties

26.46 Records of injuries sustained in the Ardoyne/Crumlin Road area on the night of 15/16 August show that 26 civilians suffered gunshot injuries which in one case, that of Mr David Linton, proved fatal. In marked contrast with the previous night only two casualties were injured by bullets, the vast majority

*Prior to this date, in the month of July, DI Montgomery had instituted mobile RUC patrols responsible for protecting public houses.

of the remainder (21) being caused by shotgun pellets. Fifteen of those injured (including the two who sustained bullet wounds) were Catholics and the remaining eleven were Protestants. These figures are based largely on hospital reports submitted to the Tribunal and they are almost certainly not complete.*

26.47 The casualty reports reveal that it is not possible definitely to attribute any *bullet* injury to civilian fire, save the injury to HC Wallace's ear. Light weapons such as shotguns appear to have been the firearms of the crowds. Yet there is evidence of automatic fire from the Ardoyne on the night of the 15th which the Tribunal accepts. The explanation must be that such weapons were few. It should also be borne in mind that, once the foot police were withdrawn, the police were well protected and the streets for the most part deserted save in the immediate area of the riot.

CHAPTER 27—ARDOYNE AND CRUMLIN ROAD: 16 AUGUST

27.1 By the standards set by the three previous days, Saturday, 16 August, was a peaceful day in the Ardoyne: the observant Miss McGrath commented that there was not the same tense atmosphere. But it was the quiet of exhaustion. The basic situation was unchanged, i.e. no effective policing, but anger, bitterness and fear on each side of the Crumlin Road.

27.2 Shortly after midnight on Friday 15, Mr V Simpson MP (NI) had made in his turn an urgent request for troops. In the afternoon of the 16th, he, with Fr O'Donnell, the Rector of Holy Cross Church, Ardoyne, went to the Cabinet Offices and repeated the request. Thus by Saturday the clergy of all denominations, the local MP, and the police had declared to higher authority their belief that only the army could restore order. We have no doubt that, had the Army arrived on the Friday, the rioting would have stopped then and the destruction of the houses in Brookfield Street would never have occurred. Mr Linton might be alive today, and Mr Megarry able to see.

27.3 In the absence of troops on the Saturday, Mr Montgomery again only allowed police to go on duty if they had the protection of armoured vehicles. At 12 30 pm, an armoured car, under Sgt Slevin, went on duty in the Crumlin Road. This vehicle, accompanied by another, gave protection to fire appliances which were attending fires in the area. At about 4 pm what a police constable took to be a sniper's bullet, passed over the roof of the armoured vehicle which was parked in the Crumlin Road near the Hooker Street junction, and struck a window on the south side of the main road.

27.4 During the day rumours were rife about snipers stationed on high buildings in and around Ardoyne. A deputation of local businessmen who were worried about this and about threats to their factories and property called on DI Montgomery.

*Some further material about casualities is set out in the chapter on Social Cost (31.3).

FS1 354

27.5 The atmosphere of the day emerges well from the DI's account of this meeting, which we quote:—

> "About 2 o'clock on Saturday afternoon, that is the following day, I was meeting a deputation of industrialists in my area. . . That particular morning I had armoured vehicles operating in the area. The plastics factory in Havana Street had been burnt down, a fire had been started in the Doagh Spinning Company, it was necessary for police to give protection to the fire service to fight the fires . . . There were a number of rumours and stories that there were snipers on the high buildings in the area, and in the presence of the deputation I called in the Sergeant in charge of one of the vehicles and gave him explicit instructions in the presence of these gentlemen that they were to take up position on the roof of Doagh Flax Spinning Company and ensure that nothing happened to the buildings immediately around that area, that is the industrial buildings. Whilst I was speaking to them the telephone rang: it was the Commissioner to say that I could expect troops on Crumlin Road later that evening.

The DI remembered that throughout the day, until the army arrived, he could hear gunfire, while sitting in his office in Tennent Street.

The arrival of the army

27.6 At around midday the first meeting of the Joint Security Committee was held at Stormont under the chairmanship of Mr Porter, the Minister of Home Affairs. Great concern was expressed for the situation in the Ardoyne and the Committee asked the GOC, General Freeland, to provide military assistance there. Urgent steps had, in fact, already been taken to reinforce the units available to the GOC. The 3 Battalion Light Infantry had arrived overnight. It had an operational strength of 4 companies, one of which had been committed to Cupar Street immediately on arrival (1 30 am, 16 August). At 6 30 pm the remaining 3 companies entered the Crumlin Road under the command of Lt Col Ballenden, who had received his orders at about 3 pm.*

27.7 The Colonel's orders were to establish a force on the Crumlin Road and keep the Protestants and Catholics living on either side of the road apart from each other. It was decided to approach the area from the City centre via the Shankill Road, thus reaching the Crumlin Road through side streets on the south side. This was thought to be more satisfactory militarily than travelling directly up the Crumlin Road, along the border between the two factions.

27.8 The streets which connect Shankill Road to Crumlin Road were crowded with people. Many had barricades which were removed at the request of the army. At each barricade there was a store of petrol bombs. Lt Col Ballenden found the people in these streets on the south side of the Crumlin Road greatly relieved at the arrival of the army. He also noted an air of festivity: "they appeared to be slightly enjoying themselves".

*The order to move to Northern Ireland had been received by the battalion at Plymouth at 2 am on 15 August: by 2 am on the 16th one company was in action in Cupar Street, and the remaining companies were ready for action by 10 30 am—a swift piece of work by all concerned.

27.9 Once on the Crumlin Road the troops took up position from above Kerrera Street to Flax Street, Lt Col Ballenden taking care to ensure that some of his men faced one side of the street while others faced the other. Small groups of people eventually appeared on the streets to the north side of the Crumlin Road. Col Ballenden's impression, and that which he gained from his officers, was that the people on the Hooker Street side were "very, very frightened indeed". Fr O'Donnell described the "enthusiastic welcome" which the soldiers received from the Catholic residents and Fr Delaney said that "they were delighted that the army was there, and there was a general feeling of relief". Col Ballenden, however, does not seem to have found his reception quite so euphoric as the clergymen suggest. He found that at first he was not trusted by the Catholic residents and it took several days before he could convince them that the army was there to help and not to attack them.

27.10 During that evening and the following 2 or 3 days the troops found large quantities of petrol bombs behind the barricades on both sides of the streets; in the first 24 hours about 800 or 900 petrol bombs were destroyed.

27.11 Within a short time of the arrival of the army, Col Ballenden received a number of complaints that snipers were shooting in the area. One of the most persistent rumours was of a sniper on the Doagh Spinning Mill on the east side of Brookfield Street to the north of Brookfield Mill. Soldiers and police searched the Mill but found no unauthorised person on the premises. A permanent army post was set up on the roof of the Mill in order to dampen down the fears of the residents. On this occasion it was Catholic residents who complained of snipers but there were constant complaints that people on both sides of the road were being shot at. No sniper was ever found nor was there any trace of one having been present.

27.12 On Sunday, 17th, a mass meeting of Ardoyne residents was held in a local school. Fr Gillespie gave evidence that, in consequence of the events of the previous few days, there was a demand for guns in case there should be further attacks. Father Gillespie said he "did not agree with guns and that they should not have guns, and they accused me of being a cheek-turning fool". He then walked out of the meeting. "A lot of people walked out after me and the meeting broke up". This witness also testified that some residents "raided the houses of people who were supposed to be IRA men by repute and found nothing, and after the riots they called the IRA the 'I ran away'."

27.13 Two days later, on Tuesday, 19 August, Col Ballenden and Mr Montgomery walked through the Ardoyne area together and shortly afterwards joint RUC/Army patrols were instituted.

T/S 1 . 355

PART IX

CHAPTER 28—BELFAST OUTSIDE THE RIOT AREAS

28.1 The disturbances in Belfast were confined to a relatively small area of the city—Crumlin Road, Lower Shankill and Unity Flats, Falls Road/Divis Street, and the "Orange–Green" line from Hastings Street to the Springfield Road. In general, Belfast, outside police divisions B and C, saw no major disturbances during July and August. The situation in each of these police divisional districts is summarised in this chapter.*

Police District A

28.2 The District consists largely of commercial and industrial property and is the business heart of the City. Included in the District is the predominantly Protestant Sandy Row area and the predominantly Catholic Markets area. Between them are some streets where the religions are mixed, and to the north of the District around Great Georges Street is another predominantly Catholic area.

28.3 Relationships before and during the disturbances were very good between the residents of Sandy Row and the Markets. Up to the end of July there was no marked difference between the state of affairs in 1969 and in previous years in the District. It remained peaceful, though Head Constable Thompson stated that he was conscious of tension in the area. During August the District was the most peaceful part of the City, and was not involved in the riots. There was no gathering of persons in the Sandy Row or Markets areas and there were no clashes between the police and civilians or between rival gangs of civilians.

28.4 Four barricades were put up on the night of 14/15 August in Sandy Row and in September barricades were erected in the Markets area: but they were voluntarily removed by the residents. There was never any attempt to create a "no go" area in the District. About 16 August businessmen in the Markets formed a peace committee and at about the same time one was formed in Sandy Row. The two committees collaborated well and worked together to maintain peace.

28.5 Police relationships with the people of the Markets area were good, and remained so throughout the troubled period. During the period of 13 to 16 August only about a dozen policemen were available for patrolling at any one time since members of the District were in Londonderry and other areas of Belfast. There was no loss of life or personal injury.

28.6 Damage to the property in the area was not severe. In April a Post Office in Cromac Street suffered a petrol bomb attack. During August there were petrol bomb attacks on the BBC, Armagh House (Government building), the Law Courts, four licensed premises, a private house, a Catholic club and the University Catholic Chaplaincy. There were also a few cases of windows being broken and an attempt to burn a car.

*Belfast police districts are set out on map at Appendix VIII (J).

FS 1 .359

Police District E

28.7 DI Shute was in charge of E district, and had been for five years. The district stretched from the River Lagan near the City Centre along the side of the shipyard and Belfast Lough and then southwards to include the suburban Knock/Bloomfield areas. The western part of the district is densely populated and contains the Catholic Short Strand area which is in the middle of a larger predominantly Protestant area. Save for this western area, the district was trouble-free during July and August.

28.8 Petrol bombs were thrown at two Post Offices in the district in April. In July windows of a public house were broken and some inflammable substance thrown into the hedge around a Catholic church. Apart from these minor incidents the district remained quiet up to the month of August.

28.9 In August, however, tension was becoming dangerously high and Catholic vigilantes appeared in the streets. On 13 August the local parish priest called to tell DI Shute of the rumour that the Catholic area was to be invaded by Protestants from the Shankill Road. DI Shute assured him this was not correct. He also told the Catholic vigilantes that the rumour was incorrect. His assurances seemed to have been accepted, but later on while patrolling Mountpottinger Road he found the area in chaos with women and children out in the streets screaming hysterically. Two men whom the DI had particularly noticed earlier talking to a group in the Catholic area, had gone round the houses rapping the doors, breaking some windows and calling "there are 400 or 500 Protestants coming down the Ravenhill Road to attack you and burn you out". There was absolutely no truth in the statement and DI Shute was convinced that the two men did it deliberately to increase tension. There was no hostility or violence shown in the area on 13 August.

28.10 On the next night, 14 August, there were several attempts by Protestants to attack the Catholic area but the police were successful in protecting the Catholic population. The crowds were not organised: they never got into the Catholic area and there were no clashes between civilians. About 9 30 pm 40 to 50 Protestant youths coming from a football match threw stones at Seaforde Street but two or three policemen on duty in the area chased them away. Half an hour later 200 to 300 Protestants attempted to march on Seaforde Street: some bottles were thrown at the police. Two police constables with their batons drawn and the DI with his blackthorn stick were sufficient to force the crowd to retreat. About 50 of the crowd broke away to get to the Catholic area by another way but this and other attempts were foiled by the police.

28.11 On 16 August a crowd marched towards the Catholic area but this was also stopped by the police. At this stage barricades were erected by the Catholics in their streets, and remained until early September: but the police were never kept out. Throughout August, they patrolled Seaforde Street, and were welcome. The local committee which controlled the Catholic vigilantes co-operated with the police, as did the mainly Protestant East Belfast Peace Committee which was composed of churchmen and other leading citizens. The Trade Unions maintained peace in the shipyard.

28.12 Damage to property was not widespread, but some Catholic licensed premises were damaged and looted. While there were rumours of shooting, there were no gunshot casualties. As the police succeeded in keeping the factions apart, there was little or no personal injury suffered: there were two assaults upon individual Protestants, but they were not serious. The police force in the area was at the barest minimum due to the demands for men from Londonderry and other areas of Belfast. The USC was used to protect licensed premises and other property from 14 August onwards but not near Catholic areas. The army entered the district on 15 August.

Police District F

28.13 The District covers the southern part of the city and is mainly residential, with a population of 100,000 to 120,000. The area contains two flash points: one at the bottom of the Protestant working-class Woodstock Road which adjoins the Catholic working-class Short Strand in E district. The other is the Protestant working-class area on the Donegall Road near the entrance to the Motorway, and facing the Catholic Falls Road. DI Hamilton was in charge of this District.

28.14 During the early part of the year there were no disturbances in the area other than a petrol bomb attack on a Post Office in April. Save for a petrol bomb attack on the house of Mr William Craig MP (NI) in July, the district remained outside the area of the civil disturbances which disfigured Belfast in July and August. Crowds did gather, but the police were able to control them. Consequently, there was no loss of life or personal injury. But there was damage to property: no public property was damaged but six Catholic houses and four Protestant houses had their windows broken. Seven business premises and a Catholic school were also damaged. A car with a Southern registration was also burnt.

28.15 Seventeen attacks took place on eleven licensed premises, all owned or staffed by Catholics: three were completely destroyed. The attacks on the licensed premises started just after midnight of the evening of 14 August with the throwing of milk bottles and ended on 17 August (except for one attack on 30 August). During July and August 20 USC members were used in patrols of two or three men to protect property which might be attacked. DI Hamilton considered that all Catholic licensed premises would have been destroyed in the area but for the work of the patrols. These patrols chased mobs, extinguished fires and saved premises.

28.16 This damage which was accompanied by looting was the work of gangs of Protestant youths. In the Woodstock Road area they numbered about 150 but on the Donegall Road the numbers were smaller. The police were very thin on the ground and were insufficient to prevent the damage or suppress the looting.

28.17 During August barricades were erected on the Donegall Road at the Motorway. Broadway and Market Street: barricades were also erected on the Woodstock Road. The barricades interfered with the flow of traffic and were ultimately removed by the police. On the Donegall Road the barricades were manned by both Catholics and Protestants working in harmony. There

were no attacks either way on the Donegall Road. In the Broadway area, clergy of all denominations came together and achieved a measure of success in keeping the peace during August and September.

Police District D

28.18 The District includes Unity Flats and stretches northwards from there along the west side of Belfast Lough to the City boundary to include the Shore Road, Antrim Road and Cavehill Road areas. The area around Crumlin Road Prison is also within the division. The sensitive points in the area were Unity Flats/Peters Hill, North Queen Street/New Lodge Road, north end of Halliday's Road known locally as Tiger Bay, and York Street/North Queen Street.

28.19 During the first half of the year the district was quiet. People did gather sometimes at the prison on the Crumlin Road, for example when Dr Paisley and members of the Peoples Democracy were held there. But there were no outbreaks of violence. When the trouble occurred at Unity Flats on 12 July, there were no repercussions elsewhere in the district. When the trouble occurred at the beginning of August at Unity Flats, there was a heightening of tension in some parts of the district but there were no acts of violence.

28.20 After the disturbances of 13, 14 and 15 August 1969, the situation changed completely in the district and tension ran very high, particularly in the New Lodge Road, Duncairn Gardens and Tiger Bay areas. Barricades were built at each end of New Lodge Road and crowds gathered in the Duncairn Gardens and New Lodge Road area. The Protestants also built barricades. DI McCluney was not aware of any organisation on the Protestant or Catholic side arranging to erect barricades. The rival crowds gathered facing one another and exchanged catcalls, shouts and songs but there was no serious trouble.

28.21 Save for those associated with the disturbances at Unity Flats, there were no casualties reported in the district. Damage to property was slight other than that sustained by licensed premises in North Queen Street, which in August were ransacked and looted.

Conclusion

28.22 This chapter exposes one remarkable fact: that the Belfast riots of August 1969 did not spread from the Falls and the Ardoyne into the rest of the City. In so far as there was any sectarian activity outside the riot areas, the Protestants were those ready to provoke trouble; the Catholics were looking only to their defence. The most notable damage to property was that done to licensed premises—undoubtedly the work of Protestant hooligan gangs.

28.23 Police behaviour and tactics were exemplary. Despite their limited numbers they succeeded in maintaining the peace outside the riot areas of the city. They did their utmost to protect the lives and property of all sections of the community and succeeded except in the case of some licensed premises. They dealt firmly and efficiently with law breakers, who in this case were Protestants.

CJ 1 · 352

PART X—ARMAGH

CHAPTER 29

29.1 Armagh is a cathedral city of great antiquity, and the seat of two Archbishops. The Catholic Cathedral is approached from Cathedral Road, which is where, in the course of a riot on 14 August, a civilian, Mr John Gallagher, was shot dead. The riot and his death have been the subject of a detailed investigation by the Tribunal.

13th August

29.2 On 13 August the local Civil Rights Association organised a special demonstration in support of the Bogside. This meeting was held in the open air. A police tentler was stoned and some violence occurred, but on a small scale. Police did not attempt to stop the meeting, in spite of the Minister's ban, because they had very few men available and it was felt better to keep out of the way.

14th August

The Civil Rights meeting

29.3 At 8 30 pm on the 14th, the local Civil Rights Association held another meeting, which, unlike that of the day before, had been arranged some time earlier, and for which the City Hall had been booked. There was an attendance of some 200 or 300 people, amongst them many teenagers; they discussed the current crisis in the Province and what they could do about it. The meeting was orderly and there was general agreement at its close that all present should go home and keep off the streets. The meeting ended at approximately 10 pm—at about the same time as other people were leaving the public houses.

29.4 Between 10 and 10 30 pm, therefore, a number of people appeared on the streets in the centre of the city. In particular, a small Civil Rights or Catholic crowd gathered at the junction of Abbey Street and English Street, while a small Protestant crowd appeared on the other side of the road, where College Street enters English Street.

Police strength and attitudes

29.5 The police had foreseen the possibility of trouble, but their numbers were not great. They were under the overall command of CI Buchanon, but DI O'Hara was in tactical control on the ground. The police available for duty comprised 2 Head Constables, 7 sergeants and 47 constables. No men in the reserve force were available, as they had been sent to deal with disturbances in Lurgan. At about 10 30 pm DI O'Hara, 2 Head Constables, a sergeant and 8 constables were positioned at the GPO in English Street. One sergeant and 12 constables were at Cathedral Close (near the Church of Ireland cathedral) and 1 sergeant and 5 constables at Lonsdale Street, beside the Courthouse. There were 20 USC constables with the RUC at Cathedral Close and 20 with the RUC at Lonsdale Street. The other 20 were in reserve at the RUC station.

FS 1 - 358

29.6 County Inspector Buchanon, who was well aware of what was happening elsewhere and had been the night before in Lurgan where there had been serious rioting, believed that there was incipient civil war. He also had information that police officers at Armagh might be attacked with firearms. Although in the event there was no firing upon the police, it is necessary to an understanding of police action to remember that the police expected it.

The riot

29.7 The riot began at about 10 30 pm when a young man in Abbey Street threw a bottle at the Protestant crowd in College Street. The Catholic crowd then beat a retreat towards the Shambles, pursued by Protestants.* DI O'Hara had only 4 or 5 men available on the spot. He went to the junction of Cathedral Road and got between the Protestants and Catholics. At this stage, stones and bottles were being thrown, and the Catholic crowd fragmented, some going into Cathedral Road and others to Banbrook Hill. Initially there may have been 60 or 70 people in Cathedral Road. The police were reinforced and made a charge into Cathedral Road. By now there were about 25 RUC and 20 USC in English Street. Behind them, however, there had gathered some 200 Protestants, who faced the police with the difficult task of restraining them from breaking out into an attack upon the Catholics lower down the street.

29.8 The riot grew more threatening. The Catholics, who were concentrated for the most part near the junction of Cathedral Road and English Street, kept up a rain of stones and petrol bombs on the police and the Protestant crowd behind them. The Protestants kept up their pressure to break through the police and attack the Catholics. The USC were detailed to hold back the Protestants, who in fact never did break through or reach the area of the Shambles, which lay near Cathedral Road's junction with English Street. Meanwhile, the Catholics added to the confusion by setting on fire a car in Cathedral Road. The RUC attempted to disperse the Catholic crowds in Cathedral Road by a baton charge, but were unsuccessful.

29.9 This account of the English Street rioting is broadly accepted by Catholic civilian witnesses and the police. The principal controversy relates to the initial movement of police and Protestants down English Street. It was argued that the police showed themselves partisan, and co-operated with the Protestant crowd. However, there is no reason to doubt that a sectarian riot developed suddenly and that the police were too few in numbers to prevent it. They did in fact get between the two groups, using the USC to hold back Protestants. It was inevitable that the appearance of RUC at Cathedral Road should be open to misinterpretation, but it is clear that their intention was to prevent a sectarian clash, and certainly not to participate on the Protestant side.

29.10 By 11 pm DI O'Hara considered that the riot was well under control. However, at 11 5 HC Dickson sent the following message from DI O'Hara's car to the police station: "A lot of people in Cathedral Road are causing the real trouble. Try and get a party to move in from behind". DI O'Hara told the Tribunal that at that time the car was at the Post Office and he was at the Shambles. He was not consulted about the message and indeed would not have considered it wise to put police into the rear of the crowd, so hindering dispersion.

*A map of the Shambles area is at Appendix VIII (F).

29.11 HC Dickson, however, thought that there were adequate escape routes by the Cathedral gates, Edward Street, the Council grounds, and by a back way across to Banbrook Hill. He thought that if the rioters in Cathedral Road could be dispersed, the police could deal with the crowds in English Street and Banbrook Hill. The importance of the message is that it set going the train of events which brought the Tynan platoon of the USC to Cathedral Road. The death of John Gallagher followed.

The death of John Gallagher

29.12 When HC Dickson radioed for a police party to be moved into Cathedral Road behind the rioters, CI Buchanon was in the control room, and heard the message. He decided himself to go to Cathedral Road. As he hurried out of the station, he happened to meet a party of USC from Tynan, a small village about twelve miles from Armagh. He told them to follow him to Cathedral Road.

29.13 The Tynan party comprised 17 men commanded by SDC Murray. They had had no training in riot control: their main USC task had been border road patrols. They had been ordered to Armagh as reinforcements for the RUC, and had just arrived in four private cars. Of the 13 special constables 11 had ·303 rifles and 2 had Sterling sub-machine guns. SDC Murray and the 3 sergeants had revolvers.

29.14 The next stage in the tragedy is that the County Inspector lost the Tynan party. He travelled via Nursery Road to Cathedral Road. The four Tynan cars could not get away so easily: and when they did get away, they took a longer route.* By the time they arrived the County Inspector had left Cathedral Road for Abbey Street. He told the Tribunal it was a "cruel mischance" that this had occurred. Once he had seen the severity of the rioting, he would have been unlikely, he said, to have made use of the USC. But, in the event the Tynan party was deprived of his leadership and left to act on their own in a situation which they were not trained to handle.

29.15 After the County Inspector had gone, the Tynan party arrived in Cathedral Road, driving rapidly towards the City. As they approached the Cathedral grounds, they saw ahead a riot and a blazing car. The main trouble was near English Street, but there was also a crowd at the Parochial Hall. Rubble had been scattered across the roadway to form a rough makeshift barricade, and there was an obstacle (described by one witness as a garden seat) lying in the mouth of Edward Street. The leading car (S/Sgt McAnea's Morris) stopped suddenly at a letter box not far from the Cathedral gates. The second car (SC McWilliams' Peugeot) swerved to the right and went over the makeshift barricade into Edward Street. The third car (S/Sgt McWilliams' Triumph) swerved right to avoid the Morris and then pulled left in front of it. The fourth car (SC Bloomer's Ford) swung right and stopped on the wrong side of the road just forward of the Morris. There were some threatening movements from the crowd. It was a moment of panic. The party believed they were isolated and ambushed. Most of them jumped

*Routes set out on map E, Appendix VIII.

out of their cars and fired. A few moments later those in Edward Street fired towards Cathedral Road. No order to fire was given, and these two ragged bursts were all the USC firing that occurred at that time and place.

29.16 It is not really disputed, and the Tribunal finds, that at a time when the USC were in Cathedral Road Mr Gallagher was shot dead and two men injured. The most direct description of the death of John Gallagher was given by Mr McGleenan. His evidence was that he saw cars arrive at the Cathedral gates. He heard gunfire but did not see it, because between the Cathedral and his position beside Kearney's shop there was a crowd. He ran into the entry beside the shop, along with perhaps a dozen others. He thought 30 or 40 shots were fired. After it had stopped he looked out again and saw a man lying on the other (Shambles) side of Cathedral Road. He went over to the man, recognised him as John Gallagher, and saw that he was wounded but still living. At this stage there were 2 young men beside John Gallagher. There was another burst of what he thought was about 5 automatic shots from the direction of the Cathedral gates, and he went back into the entry. He returned a little later and found Mr Gallagher lying on his back with his head towards English Street and he did not turn him over. He was then helped over the Shambles wall and went to a house he knew in Edward Street which had a telephone. From there a message was sent to the hospital.

29.17 There was also evidence from two men who were wounded. Mr McParland was near the Cathedral gates and told the Tribunal that when the USC arrived the crowd then tried to escape by way of either the Cathedral or the Council grounds. It was not aggressive. The USC formed into a line across the road and moved forward, firing from a crouching position, with their guns on their hips. He was wounded as he ran up into the Cathedral grounds. The other evidence by a wounded man was from Mr Moore. He was in a crowd between the Parochial Hall and the Cathedral and he thought there were very few people in the road countrywards. He described a car going through a crowd into Edward Street and the formation of a USC line in Cathedral Road. Some of the USC stood and fired from their shoulder and some fired from a kneeling position. Perhaps 10/15 people, including himself, scattered into Edward Street. Then he saw that USC were firing from 30 yards up Edward Street and he ran back towards the Parochial Hall on the other side of Cathedral Road.

29.18 If the evidence of Mr McGleenan and the two wounded men be substantially correct, the USC fired from their positions in Cathedral Road and Edward Street into the crowd and must surely be responsible for the death of Mr Gallagher and the other two casualties. Since the USC strenuously deny that they fired into the crowd, it is necessary to examine the evidence.

The evidence against the USC

29.19 A great deal of evidence was adduced before the Tribunal in support of the contention that the casualties were due to USC firing. It fell into three categories:

(i) the evidence of eye-witnesses,

FS 1 · 359

(ii) expert examination of the personal injuries sustained, and of damage done to property,

(iii) evidence of the time of the shooting.

(i) The eye-witnesses

29.20 There is little dispute as to the manner of the arrival of the Tynan party, which was as described above. Conflict arises when one comes to the shooting. Two civilian witnesses were standing countrywards on Cathedral Road and could see the situation near Edward Street with some perspective. Mr Kelly, at Daires Willow, thought the crowd at the Cathedral was not dense because he could see through it towards the English Street riot. He thought the USC fired two bursts, including automatic fire. He could not see the second burst. He thought the USC were firing guns from the shoulder and were pointing towards the playing fields and towards the Cathedral side of the road. Mr Boyle also believed there were two groups of shots and that these included automatic fire. The second was directed, he thought, at men emerging from Edward Street. He thought the USC spread across the road. He did not know about the USC in Edward Street, and he did not see any move by the civilian crowd towards the playing fields entrance, nor any aggressive move by it.

29.21 There is some evidence from a Mr Mackle and a Mr McManus neither of whom however saw the USC firing. Mr Mackle thought there were three groups of shots, while Mr McManus thought there was 20 minutes to half an hour between the initial shots which he thought he heard in English Street and the arrival of the USC. Mr McManus also had a quick impression of a man getting out of the driver's seat of the front USC car in Cathedral Road carrying a rifle whose butt was at his hip and which was pointing slightly upwards.

29.22 There is some evidence from civilians in Edward Street, in particular Mrs Tennyson and Mr Cafolla. At first Mr Cafolla was standing at the junction of Edward Street and Cathedral Road. The crowd then had stones and sticks, and when the USC arrived he heard someone say "Stop them cars". He than ran to a small entry in Edward Street and saw the two back passengers get out of the car. One was stout and red-faced, the other thin. The stout man had a firearm at his hip and told Mr Cafolla to get off the street. The thin man fired a rifle towards the Parochial Hall. Mr Cafolla thought the rifle was held level at his shoulder.

29.23 Mrs Tennyson's evidence was that a man got out of the driver's seat swung round with a rifle at shoulder height and fired towards Cathedral Road. There might have been a second man who got out of the driver's side of the car. She could not say how many shots were fired by the driver. She thought that two men ran from the other side of the car towards an entrance to the Shambles and went into the Shambles yard. She believed that the firing in Edward Street was the first firing she heard that evening.

29.24 Finally there is the evidence of Mrs McKee, who told the Tribunal that she was threatened by the driver of the car, a man who was holding a long gun which he fired three or four times down Edward Street. This gun was held

FS 1. 360

at waist level. She thought two other men went down the offside of the car, one of them going into the yard. However, her written statement was to the effect that she was threatened by a man with a long gun sitting *behind* the driver, and that men from the offside of the car walked down Edward Street, firing as they went. When this was read to the Tribunal she said she had heard shooting and merely assumed from whom it had come. The statement made no reference to the Shambles entrance, and it made no suggestion that either the driver or the man behind him fired their guns.

29.25 While it would be unwise to accept all the detail of this evidence at face value, it constitutes formidable support for the contention that members of the USC did fire deliberately into the crowd.

(ii) The expert evidence

29.26 The evidence of the two experts, Mr Beavis and Mr Price, clearly indicates that there was low level gunfire in Cathedral Road. They found six sites which were consistent with bullet damage, either in Cathedral Road or in shops facing Cathedral Road in Lower English Street. These included two sites at low level, one in a down pipe against the wall of 4A Cathedral Road, which was 33 inches from ground level, and one in a door jamb at 5 Lower English Street, 14 inches from ground level. There was minor damage to the shop at 5 Lower English Street caused by that bullet. The damage to the down pipe was not firmly identified by Mr Beavis as having been caused by a bullet. At one stage he said it was probably bullet damage, but later he said that if pressed and forced he would have to concede that it probably was not. On the other hand, Mr Price, when questioned on the same issue, said that in his considered opinion that it was bullet damage. Higher level bullet damage included a mark at the top right corner inside the porch of the Parochial Hall, a hole in a road sign in Cathedral Road at 8 feet 6 inches above street level and penetration of a roof at No. 1 Lower English Street, leading to bullet and slate particles entering a bedroom at about bed level. The expert witnesses attributed the bullet damage in all identifiable instances to bullets which had been fired from Cathedral Road. They attributed the damage in two instances, including that to the porch of the Parochial Hall, to bullets fired from the vicinity of the mouth of Edward Street.

29.27 The expert witnesses had examined a number of cartridge cases, bullet jackets, spent bullets, etc. These had come from miscellaneous sources. There was no reliable evidence linking all the objects with Cathedral Road. Ballistic examination, however, established that:

(*a*) One cartridge case had been fired in S/Sgt Orr's revolver.

(*b*) Two cartridge cases had been fired in SC Beattie's rifle.

(*c*) Two cartridges had been fired in SC Gray's rifle.

(*d*) One cartridge had been fired in SC Millar's rifle.

(*e*) One cartridge had been fired in SC J G Bloomer's rifle.

(*f*) One cartridge case had been fired in SC D W Murray's rifle.

There was also a fragment of lead removed from Gerald Moore's leg, which was considered to be entirely consistent with having come from a bullet.

29.28 The cause of John Gallagher's death was elucidated for the Tribunal by Mr Beavis and Dr Carson. Mr Gallagher was killed by a bullet which entered his back at a point not higher than 3 feet 8 inches above the ground, and exited through the front of his chest. The entrance wound was of small diameter and the bullet passed through bone and bone cartilage in two places. It caused considerable damage to the heart and did not seem to have been deflected to any extent in its course through the body. It appeared, therefore, that the wound was caused by a high velocity bullet. There were minor injuries to the mouth and chin, which suggested that he fell forwards at the time of the gunshot or soon afterwards.

29.29 On 15 August 1969 there was blood at a place on the Shambles side of Cathedral Road. The spot is marked with an X on the map. This blood was of the same group as John Gallagher's. A blood sample from the body contained 177 milligrams of alcohol and 100 millilitres of blood. A urine sample contained 212 milligrams of alcohol and 100 millilitres of blood. With this alcoholic intake it is likely that Mr Gallagher was considerably under its influence. It is possible but not certain, that he was staggering. Mr Beavis was absolutely certain that he was not killed by a revolver bullet and almost certain that he was not killed by a sub-machine gun bullet. In his opinion it was almost certain that Mr Gallagher was killed by a rifle bullet.

(iii) The time of the shooting

29.30 The time of the shooting is well established by the police log. This reports gunfire from Cathedral Road at 11 21 pm. At 11 35 it also records a query from a Mrs Gallagher about a man who had been reported shot. One minor uncertainty is how Mr Gallagher came to be found lying on his back. The Tribunal has no evidence that his body was turned over, yet the injuries to his face suggest that he must have fallen helplessly on to it. There is no doubt, however, from the evidence of Mr McGleenan and Mr Peilow (the ambulance driver) that there were one or two people near Mr Gallagher. They may have turned him over. Another minor uncertainty is the timing and origin of the call for an ambulance. The ambulance driver had no contemporary record of the time he received the call to collect Mr Gallagher. He knew that he travelled from the hospital by Dawson Street and Edward Street and said that the hospital's day ledger recorded "11 40 to Cathedral Road", a call which was, according to the record, from the RUC. There is no reference to Mr McGleenan's phone call, and it is not possible to make the time entirely precise. The police log reports, opposite an entry at 11 35, that the City Hospital says a man called Gallagher has died. But the margin of uncertainty is relatively small.

29.31 The expert evidence, in the opinion of the Tribunal, puts beyond doubt that there had been low-level gunfire, including rifle fire, in Cathedral Road. It conveys a strong indication, and the Tribunal finds as a fact, that Mr Gallagher was killed by a bullet fired from a rifle in Cathedral Road. Further, the expert evidence is consistent with that of the eye-witnesses who say that the USC party fired down Cathedral Road and across it into the crowd.

FS 1 .361

The evidence of the USC

29.32 Against this evidence has to be set that of the USC party, every member of which gave evidence. We propose only to summarise its main features and state our findings.

29.33 When the four USC cars arrived in Cathedral Road, they were expected; for Mr Vallely, who gave evidence, and possibly some others as well, had heard on the radio the police message asking for the movement into Cathedral Road. Thus, the rumour of their impending arrival had reached the crowd, which now numbered a hundred or so in the neighbourhood of the Cathedral gates and the Parochial Hall. A reception had, therefore, been hurriedly arranged—the loose barricade across the road, the garden seat in Edward Street, and some petrol bombs.

29.34 SDC Murray said his party had been ambushed. His reason for so thinking was the obstructions in the road coupled with the sudden appearance of hostile people from the direction of the Parochial Hall and the playing fields. He said he heard three shots from the Shambles direction before his car stopped and then three later. If he had had an opportunity he would have ordered a couple of men to fire warning shots in the air. The Tribunal heard admissions from individual members of the platoon that they fired 24 shots in the air from near the Cathedral entrance. Only 4 of the 17 denied that they had fired. The inference, even on Mr Murray's assessment of the situation, is that in his view the shooting was undisciplined and excessive. Mr Murray himself did not fire, and no one claimed that any order to fire was given.

29.35 S/Sgt J H McWilliams, the driver of the Triumph (the third of the four cars), said there were crowds of 60 near Edward Street and 40 near the playing fields. Just as he was stopping he heard two or three shots coming from either the Shambles area or Edward Street. When he got out of the car he fired three shots in the air. When asked his reason, he told the Tribunal "It was more instinct; we were being rushed by a crowd and it was to protect the rest of our men; to try to scatter the crowd that was coming towards us". S/Sgt McAnea, who was the driver of the Morris Oxford (the leading car though when it stopped it was overtaken by the others), said five or six shots came from behind the Shambles wall and people poured out round the Triumph and the Ford in front of him. The USC, he said, were always taught that if they were ambushed they should get a few shots off quickly and then get to cover. He therefore fired two shots directly into the air and was probably the first USC man to open fire. Nevertheless he did not think firing for effect would have been justified. He thought the USC shooting was in two bursts each of five or six shots. He felt the heat of someone firing close behind him. During his evidence he said he did not think a group of USC spread themselves across Cathedral Road, facing English Street, but that a group of them did go over to the playing fields. Two of his passengers (SC Davidson and SC Murray) spoke of hearing shots ahead of them as they travelled down Cathedral Road and before the car stopped. The man, the heat of whose firing was felt by S/Sgt McAnea, was SC Gray who said he heard two shots from the Shambles yard and that he fired two shots in the air towards the playing fields entrance.

29.36 The car that entered Edward Street was the Peugeot driven by SC E J McWilliams. As he entered, he said he heard gunfire from the Shambles. Then they were confronted by a crowd with stones and cudgels, coming up the street from the direction of the Cathedral. He told Mr Cafolla to get off the street but did not speak to Mrs McKee or any lady. A shot by S/Sgt Orr, who was near him, dispersed the rioters down Edward Street into the Cathedral grounds. He did not fire, but his Sterling went off accidentally and shot a bullet into the ground. He saw no one go towards the Shambles. Two of his passengers, S/Sgt Orr and SC Irwin, admitted to firing in the air. They also spoke of firing in the Shambles/Cathedral Road area before they opened fire.

29.37 In brief the USC evidence is that twelve of the platoon discharged their weapons into the air and that SC E J McWilliams accidentally discharged his weapon into the ground. No one admitted to firing for effect. All but one of those who fired, discharged either one or two shots. S/Sgt J H McWilliams said he fired three shots. Of the four who did not admit to firing, three were in the Morris Oxford. These were SDC Murray, SC Murray and SC Davidson. The fourth who did not admit to firing was SC Mayne Harris who was in the Peugeot. Each of the USC in the Triumph and the Ford gave evidence that they fired their weapons. Twenty-four shots were admitted to in evidence.

29.38 Very few of the platoon identified anyone else who fired. No conflict of evidence emerged from those who did. For instance, SDC Murray saw S/Sgt McAnea and SC Gray fire and SC W H D Bloomer saw SC Hamilton fire. On the other hand most of the witnesses claim to have seen remarkably little. S/Sgt McWilliams did not see anyone fire. Nor did S/Sgt McAnea. Nor did SC J G. Bloomer. Nor did SC Davidson. Nor did SC W E Murray. Nor did SC Beattie. Nor did SC Gray or SC D W Murray or SC Reid. SC Hamilton and SC Millar were aware of firing but could not identify those who had fired. This summary covers all the USC witnesses in cars on the Cathedral Road.

29.39 The evidence of the four USC witnesses in Edward Street does not raise such serious problems. It is sparse, but unusually specific. SC McWilliams knew that S/Sgt Orr fired and that his own weapon discharged accidentally. S/Sgt Orr heard one shot which did not come from either SC McWilliams or himself. SC Irwin saw S/Sgt Orr fire and heard, but did not see, SC McWilliams' gun firing. SC Mayne Harris in effect confirmed that S/Sgt Orr and SC Irwin fired. He did not see SC McWilliams' gun going off.

29.40 Several of the witnesses who said they fired in the air were asked whether they were trained to do so and said that they were. This was stated, for example, by SDC Murray. S/Sgt McAnea said they were instructed to fire into the air in certain circumstances, although not actually trained to do so. Major Moore, the adjutant of the Arnagh USC, told the Tribunal that the USC was not taught to fire in the air. As a soldier, he said, he was taught to kill, not to fire in the air.

29.41 There is general agreement that the platoon stayed in Cathedral Road for about 15 minutes after the shooting. They saw a body on the road and heard someone say that a man was dying and people asked them to get an ambulance. They saw the ambulance arrive, and then drove away along Cathedral Road.

PS 1 . 362

Evidence of earlier firing

29.42 It will be noted that SDC Murray and others spoke of some firing in the area of the riot before the party opened fire. The importance of the allegation is obvious: if there was other firing, perhaps it was not the USC who killed Mr Gallagher. There was some evidence of firing besides that of the USC, before the USC arrived.

29.43 Mr McManus was in the rioting crowd at the English Street junction of Cathedral Road. He thought he heard two shots from the English Street direction and ran to the Parochial Hall in Cathedral Road. He said that these shots were fired about 20 minutes before the Tynan platoon fired their shots. Mr Kelly, who was standing in Cathedral Road near Daires Willows, testified that he heard shots from the direction of the City Hospital just before the Tynan cars arrived. And there is evidence from CI Buchanon that in Abbey Street he heard two/three shots from the area of Cathedral Road and Lower English Street. In total, this is substantial testimony that shooting took place a few minutes before the Tynan platoon opened fire in Cathedral Road. Its source and location has not been determined, but it must be unlikely that it was heard by the Tynan platoon or that it can have been the firing described by the USC as occurring immediately before they opened fire.

29.44 It is not possible to attribute to the firing described by these witnesses the casualties or property damage assembled in evidence, since neither its apparent location nor its timing fits the facts as known to the Tribunal of the death, the woundings, and the property damage in Cathedral Road.

The Tribunal's findings

29.45 It is not possible to identify who fired the shot that killed Mr Gallagher, or who wounded Mr McParland and Mr Moore. Nevertheless the Tribunal rejects the contention that none of the USC fired into the crowd. The Tribunal is satisfied that some of them did so fire, and that one of them killed Mr Gallagher, while others wounded Mr McParland and Mr Moore. Their leader, Mr Murray, did not seek to justify "firing for effect", and S/Sgt McAnea specifically said it would not have been justified. The evidence of firing from the crowd as the USC approached and jumped out of their cars is vague and uncertain: if, which the Tribunal doubts, it occurred at all, it was not serious enough to enable Mr Murray or S/Sgt McAnea to say that it justified firing by the USC for effect. After making all allowances for the strange, difficult and frightening situation in which they found themselves, there was no justification for firing into the crowd—as the USC themselves impliedly admitted by their strenuous denials that they had done any such thing.

29.46 Grave as was the misconduct of the USC in firing into the crowd, the Tribunal considers that a measure of responsibility rests with the County Inspector, who put an untrained but armed party of USC drawn from a country area into an alarming town riot without briefing or leadership.

Events subsequent to the shooting

The investigation

29.47 The subsequent conduct of the Tynan party is indicative of a state of panic among them and is, certainly, consistent with a sense of guilt.

29.48 SDC Murray said he told the party to go to Armagh RUC station. Near the old railway bridge SC Hamilton, sitting in the front passenger seat of the Ford, said he fired two shots into the air to disperse a crowd which was moving across the road to restrict their passage. In the same car SC W H D Bloomer had his gun pointing out through the back offside passenger window but said he did not fire.

29.49 A civilian witness thought that at least a dozen, and up to thirty, shots were fired at this stage. There were believed to be about thirty bullet marks on the roadway, although he discounted most of them. Another civilian witness was sure there were many more than two shots. He thought the car stopped at the railway bridge. A ballistic examination was carried out on 16 December 1969. About a dozen sites had been circled with white marks but Mr Beavis could not identify them as different from the rest of the road. However there is USC evidence that SC McWilliams' Peugeot stopped at some point on the road while waiting for S/Sgt McWilliams' Triumph, and SC McWilliams says he heard a shot at about this stage.

29.50 SDC Murray gave a direction that the platoon should go to Armagh RUC station. His evidence was that S/Sgt McAnea's car was short of petrol. They had to go to a "safe" petrol station. If the other cars had come with them they could all have gone back to Armagh police station together. He admitted that the chosen petrol station was three and half miles out and it was pointed out to him that there would have been enough petrol in the tank to get to the RUC station. In any event SDC Murray, travelling in S/Sgt McAnea's Morris Oxford, went to Tynan police station.

29.51 SDC Murray did not report the firing in Cathedral Road that night. He agreed that he was scared by the situation. He wanted first to discuss it with others in the platoon and produce a statement which would exonerate them. He discussed what happened only with S/Sgt McWilliams (at some stage) and eventually made a statement to an investigating detective at Tynan on 15 August. In evidence he gave other reasons for delay, including the absence of the Tynan station sergeant when he first returned and his bitterness at being let down by the County Inspector.

29.52 The other three cars returned to Armagh. S/Sgt McWilliams' evidence was that the men were more or less stunned, but decided to clean their weapons. At an RUC arms check they made no report of the shooting. They told the police conducting the check that they had been on duty at English Street: none admitted to having been at Cathedral Road. According to S/Sgt McWilliams they were afraid of being accused of killing John Gallagher and they wanted to see their SDC before making a report.

29.53 Apparently the police had no suspicion that the Tynan platoon had been involved and a Duty Officer's report at 12 40 am referred to shooting from within the Civil Rights group. CI Buchanon arranged for a detective to go to the Shambles early in the morning of 15 August and meantime regarded the police arms check as a "routine precaution". There was no significance in the fact that a police radio message directed that "all USC arms must be examined before allowing these men to proceed home".

FS 1. 363

29.54 However at 9.15 am the next morning CI Buchanon heard a rumour that the USC had been involved, and at 12 noon he received more precise information about cars and shooting from an informant. He then spoke to Sergeant Lindsay, the station sergeant at Tynan, and asked him to institute "discreet inquiries". The inquiries were to be "discreet" because of the danger of reprisals and because precipitate action might have alienated "at least part of the only force in the Province that the Government could call upon in the situation of great gravity and had called upon on the previous day, when they called them out".

29.55 Sergeant Lindsay established that the Tynan platoon had been present and reported this in Armagh to the County Inspector. The Armagh detective, Constable Emery, was sent to Tynan in the late afternoon by the County Inspector. It appears that he first saw SDC Murray, and then the SDC arranged for the four USC drivers to come to the barracks.

29.56 By this time the brothers McWilliams had discussed the situation. They knew that SC McWilliams' car number had been noted by civilians at Cathedral Road. Detective Constable Emery recorded that the group told him that they had been brought in convoy to Cathedral Road by an officer whose car they had lost, and that they had been attacked by rioters when they were trying to turn their cars. They said they heard shots from the playing fields direction. SC Bloomer and S/Sgt McWilliams said they had fired warning revolver shots over the heads of the crowd. At this, Detective Constable Emery telephoned CI Buchanon, told him what had been said and suggested that outside officers should be brought in to investigate. CI Buchanon told him to hold the men at the station and arranged for Head Constable McComish to be sent from Belfast.

29.57 The Head Constable obtained seven statements that night. These now showed a change, because they indicated that nearly all the men had fired. Head Constable McComish arranged to see the rest of the platoon at Tynan RUC station on 22 August, but by then they had taken legal advice, and no more statements were furnished. Head Constable McComish pursued his inquiries for some time, but was handicapped by lack of a bullet which could be shown to have killed John Gallagher. The Tynan platoon's weapons were collected for forensic examination on 25 August and replacement arms were issued. No prosecution was ever brought against any member of the Tynan platoon.

29.58 The Tribunal took some evidence about public statements by the RUC about the shooting. On 15 August, following information from CI Buchanon, it was stated that no police were on duty in Cathedral Road when the shooting occurred there. By the evening of the 15th CI Buchanon realised that the Tynan platoon must have been present, and on 16 August suggested to police headquarters that the statement should be corrected. In the event a second public statement was issued. This did not however refer to the presence or otherwise of police. It said that a Detective Head Constable had been assigned to investigate the shooting, that a definite line of inquiry was being followed and that it was likely a number of people would be charged.

29.59 It was put to the Armagh County Commandant and Adjutant that the Tynan platoon should have been suspended while the Gallagher incident was being investigated. The adjutant, Major Moore, believed, and the Tribunal agrees, that suspension would have been appropriate, but Captain Torrens Spence, the County Commandant, took the view that disclipinary action would have been out of place while a police investigation was proceeding. He added that the matter had been raised in Parliament and no action was taken by anyone superior to him. At a practical level he considered it important to do nothing to damage the effectivness and morale of other USC platoons, given the need for their services at that time. A few days after the incident, the USC was placed under the command of the GOC, Northern Ireland; consequently responsibility for action was formally removed from the Inspector General of the RUC.

The end of the riot

29.60 The shooting in Cathedral Road virtually ended the rioting. The police had the Protestant crowds under control in the Upper English Street area, while the Catholics, no doubt scared by the shooting, dispersed in the direction of Banbrook Hill and Railway Street. Later that night, at about 3 30 am, a severe fire broke out at the Bairnswear factory on the outskirts of the city to the north of Banbrook Hill. The damage was so substantial that over £1·1 m was paid in compensation.

29.61 The evidence given to the Tribunal is not enough to enable a finding to be made as to the responsibility for the fire. It is possible, as the police believe, that it was a planned IRA operation: but this has not been established to the satisfaction of the Tribunal. In the Tribunal's view the burning may equally well have been a reprisal for the death of Mr Gallagher. Whatever be the truth, it is likely that the fire was an act of arson associated with the rioting.

FK1.364

PART XI—CROSSMAGLEN

CHAPTER 30

30.1 Crossmaglen, a small town in the south of County Armagh, stands where six roads meet—four from the border and two from the north. By car it is only ten or fifteen minutes away from the Southern Irish town of Castleblaney to the west and Dundalk to the east. Only one of the four roads leading to the border was in August 1969 an "approved" crossing-point—Carrick Street going south to Cullaville and the border at Art Hamills bridge, near which stood a United Kingdom customs post. But the other roads leading to the border were unobstructed, presenting no difficulty to anyone who chose to use them to cross the border. The police station is situate on Carrick Street, and near it is some modern housing. A more tempting target for terrorists operating from the other side of the border it would be difficult to imagine: and some were tempted on Sunday, 17 August.

30.2 At about 8 30 pm Sgt Clint of the RUC, who was in the station, saw a van coming across the lawn in front of the station. He sounded the alarm bell and fired a revolver shot, hoping to frighten away those who were in the van. At about the same time a member of the USC, who was also in the station, hearing the alarm, fired a burst from a sub-machine gun. The van stopped in front of, and close to, the station: three men leapt out of it and ran off: as they did so, one of them lobbed a hand grenade* towards the van. The grenade exploded and damaged the van: but fortunately the explosives (which were later discovered) in the van did not go up.

30.3 Nobody now doubted that the van contained explosives intended to blow up the police station. Police reinforcements were summoned, and a party of Reserve Force police under HC McMaster arrived. Displaying courage of a high order, this party towed the van away from the station and the houses.

30.4 On the morning of the 18th, Captain Willcox of the Army Bomb Disposal Unit arrived in Crossmaglen and found in the van a demolition charge of about 50 lbs. In his opinion the charge was expertly made and "with a little more determination the initiative would have been successful"—ie, it would have exploded. Had the charge exploded, in all probability the police station and its inmates would have been destroyed; the nearby houses would also have been severely damaged and some of the residents killed or injured.

30.5 The van had been stolen from a local farmer. The explosives, manufactured by ICI Ltd, had been sold in the Republic of Ireland: but the identity of the purchaser has not been established.

30.6 Such evidence as the Tribunal has been able to obtain indicates that the van, accompanied by two cars containing armed men, entered Crossmaglen

*Capt Willcox found that the hand grenade was of the same type as that used in Leeson Street on 13 August.

from the Dundalk direction. After the attack, the r[illegible]from the van were picked up by the two cars, one of which fled in the direction of Castleblaney and the other towards Dundalk.

Conclusion

30.7 The incident bears the hallmark of an IRA attack mounted from the other side of the border. It was foiled by the alertness, energy and courage of the police. Had it succeeded, a number of innocent people would have been murdered, and serious damage done to public and private property.

FS 1 . 365

PART XII—SOCIAL COST

CHAPTER 31

31.1 The true social cost of the disturbances is not precisely measurable. The Tribunal has not attempted to estimate their economic and social effects. But some part of their social cost can be directly assessed. In this chapter we set out in tabular form what is known about deaths and personal injuries, damage to property, and the intimidation and displacement of people.

SECTION 1—DEATHS

TABLE 1

Name	*Age*	*Religion*	*Place of fatal incident*
Francis McCloskey	66	Catholic	Main Street, Dungiven
Patrick Corry	61	,,	Unity Flats, Belfast
Herbert Roy	26	Protestant	Dover Street, Belfast
Samuel McLarnon	47	Catholic	Herbert Street, Belfast
Michael Lynch	28	,,	Area of junction of Butler Street and Elmfield Street, Belfast
Trooper Hugh Anthony McCabe	20	,,	Whitehall Maisonettes, Divis Street, Belfast
Patrick Rooney	9	,,	5 St Brendan's Path, Divis Street, Belfast
John Gallagher	30	,,	Cathedral Road, Armagh
Gerald McAuley	15	,,	Waterville Street, Belfast
David Linton	48	Protestant	Palmer Street, Belfast

31.2 Table 1 shows that directly and indirectly the rioting in July and August 1969 caused the death of ten people. Of these eight died of gunshot wounds, seven in Belfast and one in Armagh. The other two persons died of head injuries, one person in Belfast and one in Dungiven. Eight of the persons who died were Catholics and two were Protestants.

SECTION 2—PERSONAL INJURIES

31.3 Table 2 shows (*a*) the extent of RUC injuries in Londonderry, (*b*) the extent to which gunshot injuries were concentrated on civilians in Belfast, (*c*) that Protestant injuries occurred overwhelmingly in Belfast.

31.4 However, the table understates the extent of injury to Catholic civilians. Large numbers attended first-aid centres operated by the Order of Malta and St Johns Ambulance Brigade. In addition, a number of Catholic civilians (probably not very many) went to hospitals across the border.

FS 1 · 366

TABLE 2

PERSONAL INJURIES

PERSONS INJURED (BUT NOT FATALLY) DURING THE DISTURBANCES OF JULY AND AUGUST 1969 (i)

Area of disturbance	Source of information	Civilians injured				Ulster Special Constabulary		Royal Ulster Constabulary		Fire Service		Totals	
		Catholics (ii)		Protestants (ii)									
		Injured by gunshots	Injured by other causes	Injured by gunshots	Injured by other causes	Injured by gunshots	Injured by other causes	Injured by gunshots	Injured by other causes	Injured by gunshots	Injured by other causes	Injured by gunshots	Injured by other causes
Coalisland ...	Exhibits 3 and 4	2	4	—	1	—	—	8	—	—	—	2	13
Dungannon ...	Exhibits 3 and 4	3	8	—	2	—	—	6	—	6	—	3	22
Newry	Exhibit 5	—	8	—	—	—	2	14	—	—	—	—	24
Dungiven ...	Exhibits 3 and 4	2	5	—	2	—	—	9	—	—	—	2	16
Armagh ...	Transcript Day No 101	2	—	—	—	—	—	—	—	—	—	2	—
Londonderry ...	Exhibits 47A, B, C and D Transcript Day No 3	6	72	—	27	—	—	252	1 (iv)	—	2	7	353
Belfast (iii) ...	Exhibits 4 and 55	72	106	61	138	—	—	71	5 (v)	—	2	138	317
TOTAL		87	203	61	170	—	2	360	6 (v)	—	10	154	745

Footnotes: (i) This table is based on hospital records and claims under the Criminal Injuries Acts (Northern Ireland).
(ii) Community identification of injured was made from evidence available to the Tribunal.
(iii) Statistics for Belfast were not available for July and those included from Mater Hospital, Belfast, are only from 14 August to the end of August.
(iv) A possible pellet or dart injury.
(v) The bullet injury to Courtable Smyth is not included in the gunshot injuries in the table.

31.5 It would be misleading simply to add the figures furnished for the first-aid centres to the table for Catholic civilian injuries in the main table, because there is some overlap with hospital records, particularly in serious cases, and because the criteria for seeking first-aid on the streets are likely to differ from those where hospital treatment is obtained. Also records kept by the first-aid centres are more likely to be imperfect.

31.6 Subject to such reservations we can record that the Derry Unit of the Order of Malta furnished figures of persons treated by them. These are set out in Londonderry Exhibit 68 and may be summarised as follows:—

	Number treated at first-aid posts	Number treated on streets	Number of persons sent hospital
Treated for personal injuries ...	440	122	33
Treated for CS gas	194	179	1

31.7 In Belfast Dr McAlister, who gave evidence about casualties treated at the Order of Malta's Sultan Street centre, stated that the centre had dealt with about 70 gunshot injuries of which 85 per cent had been referred to hospital. In addition 200 to 300 other casualties had been dealt with at the centre but as no records were kept these figures were only an estimate.

31.8 Ten other first-aid centres were opened by the Order of Malta in Catholic areas of the City in August 1969 on or after 15 August but no evidence of the number of casualties they treated was furnished.

31.9 The St Johns Ambulance Brigade has a mixed Catholic and Protestant membership although the membership of its West Belfast division was all Catholic. The Brigade set up twenty-two first-aid/refugee centres in both Catholic and Protestant areas of the City. About a dozen of these centres were in Protestant areas and of those in Catholic areas a number were combined Order of Malta and St Johns Ambulance Brigade centres. The West Belfast division stated that 260 patients went through their hands. Evidence was given that other divisions had given medical attention to casualties but Col Hughes, Deputy Commissioner of the Northern Ireland Brigade, could not give details of the numbers treated.

31.10 Father Gillespie referred to 100 wounded by gunshot wounds, presumably in the Ardoyne area. When pressed for corroborative evidence he stated "I think it was just general conversation at one of the corners. I cannot recollect any specific person". The hospital figure for treated gunshot wounds of Catholics in the area is 27. It is recognised that many did not go to hospital and that there were those treated in first-aid centres but it is felt that this evidence is less reliable than the figures supplied by Dr McDermott, Dr McAlister and Col Hughes.

SECTION 3—DAMAGE TO PROPERTY

31.11 A summary of evidence about property damage based on claims and awards under the Criminal Injuries Acts (Northern Ireland) is set out in Table 3 below. (A map of the main riot areas of Belfast, which gives an indication of property damage, is attached at Appendix VIII (M).)

31.12 The evidence is in many ways imperfect. It does not cover all damage everywhere in Northern Ireland. It excludes local authority and Crown property. For Londonderry and Belfast, where the major damage occurred, it does not provide total figures for court awards. Figures for claims are quoted, but these are often subject to heavy reductions when cases are determined by the courts.

31.13 Damage in the smaller towns is described in the narrative sections of the report. Table 3 shows that there was a substantial number of claims for damage to commercial property in Londonderry and the narrative sections of the report fill out the information about the damage done. However, it may be said that damage in Belfast was largely confined to the area covered by the map and in particular to the three main riot areas.

31.14 It has proved difficult to ensure complete agreement as to the damage done, partly because the Tribunal's concern was only with damage directly caused by the disturbances. However, a list of destroyed and damaged residential and residential/commercial property was discussed and agreed with interested parties by the solicitors to the Tribunal. The agreed list (List A of Exhibit 14A) contained 179 premises requiring demolition, 94 requiring major repair and 323 requiring minor repair. Catholics occupied 83·5 per cent. of the premises damaged or destroyed and Protestants 16·5 per cent. Exhibit 14A also contained a List B of 68 houses upon which agreement was not reached concerning damage. 75 per cent. of these houses were occupied by Catholics and 25 per cent. by Protestants.*

31.15 The extent of the damage to industrial premises is shown on the Map. Ten sets of exclusively commercial premises are included in Exhibit 14 as premises damaged in the disturbances. It is inappropriate to describe industrial or commercial property as Catholic or Protestant, but it is generally accepted that the major financial interests or management in this type of property were Protestant, or at any rate non-Catholic. Commercial and industrial property accounted for by far the largest percentage of the monetary value of property damaged or destroyed. The loss of employment, however, was shared by both sections of the community.

SECTION 4—DAMAGE TO LICENSED PREMISES

31.16 A distinctive aspect of the damage to property was the extensive damage to licensed premises. This has major significance because the licensed trade represents the biggest Catholic business interest in Northern Ireland,

*Licensed premises included in Lists A and B of Exhibit 14A have been deleted from the statistics set out in this paragraph since these premises are included in the figures for damage to licensed premises in the next section.

I. Areas where all compensation had been paid at time of hearings (i) (ii)

Area	Source of information	Private households				Commercial, social and other premises and contents				Industrial premises and contents (v)				Vehicles				Total amount claimed
		Number of awards	Total amount awarded	Number of out-standing claims	Total amount claimed	Number of awards	Total amount awarded	Number of out-standing claims	Total amount claimed	Number of awards	Total amount awarded	Number of out-standing claims	Total amount claimed	Total number of claims	Total number of awards	Total amount awarded	Number of out-standing claims	
Coalisland	Exhibit 5	2	£112	—	£587	6	£587	—	£7,477	1	£7,477	—	£716	3	12	£351	—	£8,892
Dungannon	Exhibit 5	1	£60	—	£7,366	18	£7,366	—	£59,313	4	£59,313	—	£331	5	28	£966	—	£67,090
Newry	Exhibit 6	9	£627	—	£23,434	63	£23,434	—	—	—	—	—	£966	11	83	£444	—	£24,027
Dungiven	Exhibit 5	4	£220	—	£30,573	12	£30,573	—	—	—	—	—	£444	9	25	—	—	£31,237
Armagh	Exhibit 6 Transcript Day No1 101	—	—	—	—	—	—	—	£1,100,000 (iv)	1	£1,100,000 (iv)	—	—	—	1	1	—	£1,100,000
TOTALS		16	£1,019	—	£60,960	99	£60,960	—	£1,166,790 (iv)	6	£1,166,790 (iv)	—	£2,477	28	149	149	—	£1,231,246

II. Areas where there were outstanding claims at the time of hearings (i) (ii)

London-derry	Exhibits 27 and 44	15	£1,612	72	—	352	—	—	14	—	—	62	515	15	500	£1,612	£1,500.62
Belfast	Exhibit 54	607	£275,781	584	326	230	52	£525,880	89	106	£32,515	79	2,073	1,091	982	£1,060,590	Footnote (iii)
TOTALS		622	£277,393	656	326	582	52	£525,880	103	106	£32,515	141	2,588	1,106	1,482	£1,062,202	
TOTALS OF BOTH I AND II ABOVE		638	£278,412	656	425	£287,374	582	£1,692,670 (iv)	103	134	£34,992	141	2,737	1,255	1,482	£2,293,448	

FOOTNOTES: (i) The figures were given in evidence in the course of the Tribunal hearings. In some areas all claims had been settled or determined and awards made: these are included in Part I of the Summary. The rest are included in Part II.

(ii) Cost of damage to local authority and Crown property is not included in the above figures since they do not give rise to Criminal Injuries Claims.

(iii) Total amount claimed in Belfast up to June 1971 amounted to £9,422,977 according to Belfast Corporation records. Details of amounts claimed are not included in Belfast Exhibit 54 or profile.

(iv) The amount of the award for industrial premises and contents in Armagh was stated as "in excess of £1,100,000". This figure is in respect of one factory and includes a figure for loss of production, reinstatement and consequential damage in respect of water supply installations damaged in April 1969 amounting to £40,000 is not included above. The cost of damage to electricity supply installations during March and April 1969 is also not included: evidence of the actual cost was not furnished but it is known to have been heavy.

(v) Cost of repairs, reinstatement and consequential damage in respect of water supply installations damaged in April 1969 amounting to £40,000 is not included above. The cost of damage to electricity supply installations during March and April 1969 is also not included: evidence of the actual cost was not furnished but it is known to have been heavy.

FS 1 · 367

According to the secretary of the Belfast and U[illegible] Licensed Vintners Association 80 per cent. of the 480 publicans in Belfast were Catholic, and only the remaining 20 per cent. Protestant. While most Belfast property damage was in three main riot areas the damage to licensed premises occurred in widely separate areas of the city. In total 24 on-licensed premises were destroyed and 36 damaged while 6 off-licensed premises were destroyed and 10 damaged. The value of the property damaged and destroyed was stated to be between one and one and a quarter million pounds. All these premises were either Catholic owned or Catholic managed. The Tribunal is satisfied that the damage was the work of Protestant gangs

31.18 Intimidation is the most insidious result of community conflict. It is easily committed and hard to detect. Documentary evidence (Exhibit 21, Belfast) was given to the Tribunal of complaints and reports received by the police of threats and intimidation during the months of July and August 1969 in Belfast. The Tribunal did not attempt any investigation of the truth or otherwise of these complaints and reports. Intimidation was not limited to Belfast but in other areas there is no evidence of large numbers of cases of intimidation. The attached summary (Table 4) is based on the information contained in the exhibit.

31.19 The figures for Police District C give some indication of the significance of intimidation in the Ardoyne. The full exhibit shows that in the Ardoyne Catholics were the principal victims. No claim can be made for the accuracy of these figures, which are subject to various limitations, and merely give some indication of the way in which intimidation increased during the summer of 1969.

SECTION 6—DISPLACEMENT OF PERSONS

31.20 In towns other than Belfast a very limited number of families moved house, usually for a temporary period. In Belfast the permanent displacement of families reached major proportions. This section is limited to the Belfast displacement.

31.21 During the hearings evidence of specific families leaving their homes was given and the exhibit on intimidation referred to above confirms that at least 128 families were displaced because of intimidation. Evidence of families leaving homes to go to relief centres was also heard. This evidence, however, does not adequately cover the large displacement of families in Belfast during the

FS 1. 368

TABLE 4

DATION

TIMIDATION IN

MMARY OF COMPLAINTS AND REPORTS TO POLICE OF BELFAST DURING JULY AND AUG

July			1 August to 12 August inclusive			13 August		Totals for July and August	
Number of complaints	Number of premises vacated as a result of intimidation	Number of prosecutions	Number of complaints	Number of premises vacated as a result of intimidation	Number of prosecutions	Number of complaints	Number of premises vacated as a result of intimidation	Number of prosecutions	Number of premises vacated as a result of intimidation	Number of prosecutions
—	—	—	5	—	—	26		2	—
—	—	—	4	3	—	29		13	—
8	3	1	93	56	11	95		89	17
8	—	—	17	3	—	40		13	—
2	—	—	—	—	—	39		4	1
1	1	—	4	—	—	60		7	2
19	4	1	123	62	11	289		128	20(ii)

e areas covered by each police district are shown on the map of Belfast at Appendix VIII (J).

wo prosecutions were unsuccessful.

31.22 This report was furnished in a form requested by the Tribunal and is to be found in Exhibit 49 (Belfast). The following table sets out its main data summary. The numbers of Catholics displaced were obtained from a questionnaire and from enquiries made of Catholic clergy. The report describes the remainder as "Non-Catholics" and is strictly accurate, although for consistency of terminology we use the term "Protestant".

TABLE 5

Details of displacement of households in Belfast during July, August and September 1969

Area as indicated on map at Appendix VIII (J)	*Displaced Catholic households*	*Total Catholic households*	*Displaced Protestant households*	*Total Protestant households*
I	120	5,019	38	12,247
II	554	4,702	99	21,111
III	663	12,842	149	8,182
IV	52	2,439	8	13,952
V	56	1,784	7	14,305
VI	60	1,830	14	18,582
TOTALS	1,505	28,616	315	88,379

31.23 It can be calculated from Table 5 that 1·6 per cent. of the households in Belfast moved to other accommodation during the two main riot months and the month following. Of these households 82·7 per cent. were Catholic and 17·3 per cent. Protestant. The table includes about 145 families who were displaced in September 1969; these were all in the Oldpark locality (Area III).

31.24 The report puts the number of Catholic households in Belfast at almost 29,000, and the remaining households at slightly over 88,000. Hence they calculate 5·3 per cent. of Catholic households were displaced, compared with 0·4 per cent. of Protestant households.

31.25 There are pitfalls in such comparisons. The Tribunal has no means of establishing objectively whether those who moved "needed" to do so. The police records provide evidence of 128 families having moved house because of intimidation but why the remainder of the 1,820 families moved house is not analysed in Dr Poole's evidence. It is likely that the root causes of this exodus were direct violence, intimidation or general fear due to the disturbances, and isolation from co-religionists. There is evidence that some families were forced to move by members of their own community but this evidence is inconclusive and it is considered that the number of households concerned would be small. It was also argued before the Tribunal that some people in riot areas took advantage of the situation to get priority on housing lists. But the Tribunal has no reason to believe that this occurred on a scale to invalidate

FS 1 · 369

the calculations of the report. It should also be appreciated that the report has excluded very substantial estimates for temporary displacement, since these were liable to "Catholic" bias. Accordingly the Tribunal accepts the four main conclusions in Dr Poole and Miss Day's report, which are as follows:—

(1) The percentage of Catholic families in the city who suffered displacement is very much higher than the percentage of non-Catholic families suffering displacement.

(2) The displacement problem was consistently more severe in the west and north-west than elsewhere in the city.

(3) In every single sector of the city the percentage of Catholic families displaced was much higher than the percentage of non-Catholic families displaced.

(4) The highest percentage of Catholic families displaced was in the north-west, with a high percentage also in the west, and, indeed, in no sector was the proportion insignificant. For non-Catholics, on the other hand, the highest percentage displaced was in the west and the proportion elsewhere was insignificant.

PRINTED IN ENGLAND FOR HER MAJESTY'S STATIONERY OFFICE
BY OYEZ PRESS LTD., LONDON

D. 492256 K60 3/72 3337/1

Violence and Civil Disturbances in Northern Ireland in 1969

Report of Tribunal of Inquiry

THE HON. MR. JUSTICE SCARMAN *(Chairman)*
MR. G. K. G. LAVERY
MR. W. MARSHALL

Volume 2 (Appendices)

Presented to Parliament by Command of
His Excellency the Governor of Northern Ireland
April, 1972

BELFAST
HER MAJESTY'S STATIONERY OFFICE
£3 NET – for two parts
[Not sold separately]

Cmd. 566

FS 1. 370

FS1. 371

APPENDICES

		Page
I	TRIBUNAL PROCEDURE	1
II	TRIBUNAL ORGANISATION AND ADMINISTRATION	4
III	DESCRIPTIVE LIST OF TRIBUNAL EXHIBITS	9
IV	TRIBUNAL WITNESSES—(A) Alphabetical Index	27
	(B) General Witness Statistics	33
V	DOCUMENTS FROM TRIBUNAL EXHIBITS—	
	(A) Public statements: (i) Speech by Prime Minster, 14 August 1969	34
	(ii) Statement by Prime Minister, 15 August 1969	37
	(iii) Speech by Prime Minister, 17 August 1969	38
	(iv) Press release by His Eminence Cardinal Conway, 14 August 1969	41
	(v) Press release by His Eminence Cardinal Conway, 17 August 1969	42
	(vi) Statement by His Eminence Cardinal Conway, 23 August 1969	43
	(vii) Statement by the Taoiseach, Mr. J. Lynch, 13 August 1969	43
	(B) Copy of the IRA political and military plan and statement from the Irish Republican Publicity Bureau	45
	(C) Copy report dated 18 August 1969 from RUC to Ministry of Home Affairs	53
VI	CHRONOLOGY OF EVENTS—1 January 1969 to 30 June 1969	55
VII	LEGAL REPRESENTATION BEFORE THE TRIBUNAL	59
VIII	MAPS—(A) Northern Ireland	
	(B) Londonderry	
	(C) Central Londonderry	
	(D) Dungiven	
	(E) Armagh	
	(F) Armagh Shambles Area	
	(G) Coalisland	
	(H) Dungannon	
	(I) Newry	
	(J) Belfast—Police Districts	
	(K) Belfast—Areas in Displacement Map (Exhibit 50)	
	(L) High Velocity Bullet Damage to Divis Flats	
	(M) Main Riot Areas of Belfast	

FS 1. 372

APPENDIX I

TRIBUNAL PROCEDURE

The Act of 1921 does not prescribe the procedure to be followed by Tribunals of Inquiry to which it is applied. In 1966 a Royal Commission under the Chairmanship of Lord Justice Salmon made a number of recommendations as to the law and practice which should govern Tribunals of this kind. Although no legislative action has yet been taken on the Salmon Report[1] we have, in general, followed its recommendations which we regard as an invaluable code of procedural rules and safeguards. Such departures from the Commission's proposals as we have made have been dictated by the special, and in many ways unique, features of an inquiry into highly controversial matters conducted in Northern Ireland over the period September 1969 to June 1971. Aspects of the Tribunals procedure which are of special interest are summarised in the following paragraphs.

1 Immunity of Witnesses

Under Section 1(3) of the 1921 Act a witness before a Tribunal is entitled to the same immunities and privileges as if he were a witness before the High Court. This does not however mean that a witness's answers cannot be used against him in any subsequent civil or criminal proceedings. The Salmon Commission recommended that a witness's immunity should be extended to cover these situations[2] but no amendment to the Act has been made. However, a similar protection for witnesses was achieved through an undertaking given by the Attorney General for Northern Ireland in the following terms:

> "the immunity of a witness should be extended so that neither his evidence before the Tribunal, nor any statement furnished by him for the purposes of the Tribunal, nor any documents he is required to produce to the Tribunal shall be used against him in any subsequent criminal proceedings, except in criminal proceedings in which he may be charged with having given false evidence before the Tribunal or conspired with or procured others to do so."

The undertaking was limited to criminal proceedings, since it was not within the competence of the Attorney General to extend the immunity to a witness in respect of any subsequent civil proceedings.

A further extension of the immunity of witnesses was effected by a ruling of the Tribunal that:

> "it would be contrary to the spirit of the undertaking given by the Attorney General if the Government should invoke its powers of detention without trial under the [Civil Authorities (Special Powers) Act (Northern Ireland) 1922] against any person based upon any answer given by that person to the Tribunal . . . ."

The Minister of Home Affairs, in a letter to the Secretary of the Tribunal, expressed his agreement with this opinion and stated that the Government had no such intention.[3]

---

(1) Cmnd. 3121
(2) Paragraph 63
(3) Page 83 of Transcript No. 23

2 Hearing of Evidence in Private

Section 2(a) of the 1921 Act provides that a Tribunal to which the Act is applied shall not refuse to allow the public or any portion of the public to be present at any of the proceedings of the Tribunal unless in the opinion of the Tribunal it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given.

The Salmon Commission pointed out[1] that these words had only been construed as applying to cases in which hearing the evidence in public would constitute a security risk. We found it necessary to hold a small number of hearings in private for a variety of reasons. In each case we satisfied ourselves that the reason given was sound. The cases were:

(a) Two witnesses gave their evidence in private because there were reasonable fears of violence or intimidation if it were made public. (Five witnesses gave evidence in public, but anonymously, for similar reasons.)

(b) a senior police officer gave evidence of subversive activity in private since publication would have been inadvisable on security grounds.

(c) Two witnesses, Mr. McKeague and Mr. Johnston, gave evidence in private in order to avoid prejudicing them in respect of criminal charges which were at that time pending. This evidence was published later.

(d) Medical witnesses testified privately about the health of a potential witness.

(e) In one case we took the exceptional step of hearing evidence in the absence not only of the public but also of counsel and solicitors for interested parties. With the witnesses' consent their own counsel and solicitors were also excluded. Only counsel for the Tribunal and members of its secretariat were present. The time and place of these hearings were not made public.
The witnesses concerned were four policemen who had formed part of the crews of three Shorland armoured vehicles operating in Belfast on the night of 14 August 1969. The state of affairs in the Province combined with information received from the R.U.C. convinced us that the identity of these men should be kept secret. It was in these wholly exceptional circumstances that we felt it right to depart from normal procedure in order to take evidence which was vital to our inquiry.
The evidence of these witnesses was made public after we had satisfied ourselves that it gave no clue to their identity.

FS 1. 373

3 Commencement of Hearings

The Salmon Commission strongly urged that more time should be allowed than in the past for the preparation of an inquiry before public hearings begin.[2] Our own experience, particularly in the early days, certainly supports this suggestion: as one likely in the end to shorten the inquiry. But, as the Commission realised, there is a competing consideration. It is in the public interest that work on an inquiry into matters of urgent public importance be commenced, and be seen to have been commenced, as quickly as possible. It was for this reason that the Tribunal's first hearing of evidence took place within one months of the Parliamentary resolutions establishing it.

(1) Paragraph 122
(2) Paragraph 49

4 The Tribunal's Legal Advisers

In England the Treasury Solicitor acts as solicitor to tribunals of inquiry. He and his staff have built up over the years a very considerable expertise in the assembling and marshalling of evidence for submission to a tribunal: he also can call into action the many agencies of investigation, including the police, usually available to government. The Salmon Commission believed that the practice of the Treasury Solicitor advising Tribunals of Inquiry was a good one and should usually be adopted.[1] But there is in Northern Ireland no equivalent to the Treasury Solicitor: and, because the police were themselves involved in the disturbances under investigation, it was not fitting that the Tribunal should rely on them to conduct the Tribunal's investigations. We, therefore, had to improvise. Two firms of solicitors were instructed: the principals of one were Protestant, the principal of the other Catholic. When, as soon occurred, they gained the confidence of the public, there was no shortage of evidence: contrary to the expectation of many, the problem became not a search for evidence but a discriminating and difficult choice from what was freely offered.

The Tribunal solicitors acted under the advice of counsel (2 leaders, 2 juniors): and ultimately upon the instructions of the Tribunal, given at conferences attended by the Tribunal members, the secretariat, and the legal advisers.

What may have been lost through the lack of police investigators was more than balanced by the gain in public confidence arising from the knowledge of the Tribunal's independence and the guarantee of confidentiality. The Tribunal did have a measure of assistance generously provided us by the Treasury Solicitor on certain matters.

5 Closing Speeches by Counsel

Instead of allowing counsel for interested parties an opportunity for making closing speeches on behalf of their clients we decided to invite written submissions. This eliminated any necessity for restricting the time available to each counsel as well as any problem over the order of delivery of closing speeches. The Tribunal embarked upon this innovation only after prolonged consideration. The quality of the written submissions received by the Tribunal and their value to us in our deliberations fully justified this departure from the tradition of the spoken word.

(1) Paragraph 84

APPENDIX II

TRIBUNAL ORGANISATION AND ADMINISTRATION

1 Secretariat, Counsel and Solicitors

a. *Tribunal Staff.* The Tribunal was directly assisted by a Secretary and Assistant Secretary, seconded from the Northern Ireland Government, and by a legal assistant seconded from the Law Commission of England and Wales. The Secretary and Assistant Secretary had had similar appointments with the earlier Cameron Commission.

b. *Counsel and Solicitors.* The Tribunal appointed two senior and two junior counsel, and two firms of solicitors, to act for the Tribunal. The appointments were divided equally between Catholics and Protestants. The two junior counsel had had similar appointments with the Cameron Commission. Counsel and solicitors played the major part bringing together all the evidence into a rational coherent form and in presenting it to the Tribunal. Detailed research and investigation had also to be undertaken by them on the gaps and contradictions in the oral and written evidence received. In addition to its own counsel and solicitors the Tribunal felt a need for legal staff permanently based in its own offices and in these circumstances assistance was invited from the Treasury Solicitor, London. The Treasury Solicitor readily agreed, on the basis that successive pairs of legally qualified and executive staff would be loaned for periods of about a fortnight. They carried out such tasks as the preparation of initial summaries of events and the drafting of adverse allegations to be served on potential witnesses. They were also responsible for all contacts with the Army, and with London based Government Departments and potential witnesses. In addition they provided an invaluable source of strength to the Tribunal and its officers. Their function gradually became less essential and it became possible to dispense with their assistance in June 1970, except for any enquiries which had to be made in Great Britain.

c. *Archivists.* Archivists and staff from the Public Record Office were attached to the Tribunal to assist in cataloguing, collating and indexing the vast amount of written evidence submitted.

d. *Shorthand Writers.* A team of London shorthand writers was employed to produce daily a typed copy of the evidence in court. This was then photocopied to provide copy transcripts for the Inquiry before the commencement of the next day's hearing.

e. *Expert Advisers.* Assistance was also received from the Northern Ireland Department of Industrial and Forensic Science and from a Home Office ballistics expert. Other Northern Ireland Government Departments supplied the services of architects, surveyors, mappers, etc., to provide the wide variety of information and material required by the Tribunal.

f. *Office Staff.* Clerical staff and shorthand typists were seconded to the Tribunal from existing Northern Ireland Government Departments.

FS 1. 374

Her Majesty's Stationery Office provided machinists to photocopy the large number of transcripts and documents required.

2 Division of Secretariat Functions

So far as possible the Secretary gave priority to consideration of the written and oral evidence received by the Tribunal. One of his main functions was examination of the vast volume of evidence and preparation of working documents for the Tribunal. In this work he was joined by the Law Commission Legal Assistant. The Assistant Secretary was responsible mainly for office management and document control.

3 Processing of Evidence and Documents

Although the procedure for handling written evidence was settled early on in the Inquiry changes naturally evolved and the procedure set out here is that which was in operation towards the end of the Inquiry.

Initially all evidence went to the Assistant Secretary who, if it was of immediate revelance to evidence being heard in court at that time, brought it to the attention of Counsel. Otherwise it was put on a file created for the person or body submitting the statement and each file was given a consecutive number. An alphabetical index was then created and all material was widely cross referenced. Each reference was indexed separately and inserted on a small ring binder book for ease of handling and to ensure that index pages were not misplaced or lost.

A typed copy of the original statement was made where necessary and both the original and copy were placed on the file. To each of the members of the Tribunal, Tribunal Counsel and Solicitor and Secretary typed copies of the evidence were distributed. This circulation of evidence took place within one day of receipt, although early on in the Inquiry it sometimes took longer due to the volume of material being processed and due to the Tribunal sitting in Londonderry, 80 miles away from its main offices. During the Londonderry sittings a daily courier service operated between Belfast and Londonderry for Tribunal papers.

A copy of each statement was also furnished to the archivist whose staff indexed and collated copies of the statement on special files on certain persons, particular events or special locations decided upon by Counsel. On these files relevant newspaper cutttings were also placed. These files contained all the material available to the Tribunal on particular persons, locations or subjects.

An acknowledgment of evidence was sent in each case accompanied by a copy of the statement. The acknowledgment not only informed the recipient that his evidence had arrived safely with the Tribunal but that it was being considered by it and should the Tribunal decide that it would require further information, either oral or written, it would contact the recipient again. Numerous statements received special drafted acknowledgments where the standard acknowledgment was not applicable.

4 Accommodation and Equipment

Adequate accommodation was always a problem and requirements were initially underestimated, but, understandably so, in so far as the first estimate

of the volume of evidence to be heard and the ultimate length of the Inquiry were only a fraction of the actual evidence received and time taken. But for the consideration and generosity of individuals and departments in making space available to the Tribunal to their own inconvenience the task of the Tribunal would have been much more difficult.

Attention had to be given not only to the provision of headed stationery, desks, equipment, etc., but also to such varied matters as additional telephones for the press and loud speaker systems in courts.

In view of the confidential nature of many of the statements and records and the possibility of disturbances in court, careful consideration was given to security. Court security was placed in the hands of the police and military. Locked steel presses and a safe combined with careful surveillance provided the security required for the Tribunal papers. All confidential papers no longer required were destroyed by burning under supervision.

5 Publicity

In so far as the Tribunal hearings were in public and dealt with matters of public interest publicity did not need to be sought except at the beginning of the Inquiry. Press notices were inserted in local newspapers requesting written evidence and bringing the public notice to the commencement of sittings or changes of venue. Counsel and solicitors were also kept informed of the witnesses to be heard in court and the future sitting timetable by sending notices to the individual solicitors involved or by posting notices in the Bar Library and the offices of the Law Society.

6 Summoning and Swearing of Witnesses

Initially witness summonses were served by registered AR post but this was found to be unsatisfactory and the method eventually adopted was for a member of the Tribunal staff to serve summonses personally.

The summonses were prepared in duplicate and signed by one of the three Tribunal members. The form of summons was:

TRIBUNAL OF INQUIRY (EVIDENCE) ACT 1921

Tribunal of Inquiry constituted to Inquire into certain acts of violence and civil disorders which occurred in the months of March, April, July and August 1969 at various places in Northern Ireland

FS/1/325

To

I HEREBY SUMMON you to attend at the Royal Courts of Justice, Chichester Street, Belfast, at the Sitting of the Tribunal on the day of 19 at the hour of 10.30 o'clock in the forenoon and so on from day to day until you are released from attendance by the Tribunal, to give evidence on any matter material to the Inquiry and also to bring with you and to produce at the time and place aforesaid all relevant documents.

Dated day of 19

.....

Tribunal of Inquiry
Chichester Street
BELFAST
BT1 3JE

Having successfully served the summons it was appropriately endorsed by the server to prove service and then filed.

Loss of earnings, travelling expenses and subsistence were provided where necessary. The normal form of procedure for the swearing of witnesses in a court of law was used.

7 Notices of Allegations

Persons against whom allegations had been made in written statements submitted to the Tribunal were served with a document, drafted by the solicitors to the Tribunal, giving details of the allegations. This document did not, however, identify the maker of the statement. A copy was also sent to the solicitor of the person but if he was not represented his notice stated:

i. when the evidence contained in the allegation would be given,

ii. that he was entitled to attend the hearing, and

iii. that he might consider it advisable to consult a solicitor.

Copies of the allegations were always kept available in court.

8 Court Sitting Files

The Inquiry was divided into phases roughly based on the different locations and events set out in the terms of reference. For each of these phases a list of possible witnesses to be summoned was furnished by the Tribunal's counsel to the secretariat so as to arrange for the service of summons, issue of notices of allegations, notification to solicitors and counsel of lists of witnesses and the preparation of evidence material relevant to the witnesses being called. This evidence material was put together in the form of a sitting file suitably indexed and composed of the statements made by witnesses and any other relevant material available concerning them. Each member of the Tribunal, the Secretary, Tribunal Counsel and solicitors were supplied with a copy of this file.

9 Exhibits

Since documents, photographs and objects handed into court as exhibits were constantly referred to in court and with the transcript formed the evidence on which the Report of the Inquiry was based, careful attention was paid to the custody and indexing of this material.

Each exhibit on being handed into the Tribunal was given a consecutive number and was labelled with an appropriate description. The number and description of the exhibit was also noted in a register. The original exhibits were kept available in court while copies of exhibit documents and photographs were distributed to counsel and solicitors engaged in the Inquiry. An index of exhibits was also provided.

10 Transcripts

A special team of shorthand writers was engaged to prepare a typed copy of each day's evidence which was then photocopied and bound ready for distribution the next morning to the Tribunal, counsel and solicitors. Each transcript contained an index of that day's witnesses and a cumulative index of all the previous witnesses. For ease of reference each page was numbered

consecutively and had down the side of the page the letters of the alphabet at spaces of one inch.

A further index composed of the references to certain persons, places and events was prepared from the transcripts for the Tribunal's own use.

Transcripts were supplied free of charge to counsel and solicitors engaged in the Inquiry. Copies were made available for sale to the public at a price approximating the cost of production.

11 Legal Representation

On the first day's sitting it was announced that "Those persons who have successfully applied to be legally represented will be paid their reasonable costs unless the Tribunal recommends to the contrary. The amount of such costs will be as agreed or as ascertained by taxation on a solicitor and client basis. The Tribunal is now prepared to hear applications for legal representations. Before any application is made let me say that each applicant for legal representation should ensure that the secretary to the Tribunal has in writing the name of the counsel and the name of solicitors who are intended to represent the applicant, and also the address and name of the client." To simplify the furnishing of this, application forms were supplied to persons intending to make application for representation. The complete form was brought to the attention of the Tribunal before the formal application was made in court.

A record of all attendances of counsel, solicitors and witnesses was kept and on the basis of this record the secretariat authorised the payment of fees and witnesses' expenses, including loss of earnings. The fees paid to counsel and solicitors were based on the scales agreed by the Attorney General for Northern Ireland.

12 Staff

A considerable number of staff were involved in the administrative work of the Tribunal. Some only remained for a relatively short period but long service was given by Mr. B. Barr (Court Officer), Mr. A. Millar (Exhibits Officer), Mrs. McGartland and Miss J. McQuade. Mr. B. G. Hutton and Mr. S. C. McMenamin (Archivists from the Public Record Office) also assisted in the work of the Tribunal.

FS 1. 376

APPENDIX III

DESCRIPTIVE LIST OF TRIBUNAL EXHIBITS

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
	Day	Page	
Londonderry 1	4	42	Situation report made at 5.30 a.m. on 13 August by Lt. K. F. Robbin
2	5	43	Special instructions on marshalling issued to Associated Clubs of Apprentice Boys of Derry for 12 August 1969 demonstration
3	8	60	Ordinary instructions (timetable and route of march on Tuesday, 12 August 1969, signed by W. R. Abernethy, Governor, James P. Guy, General Secretary)
4	5	84	Summary of outbreaks of fire during civil disturbances in July in Western Division prepared by Northern Ireland Fire Authority
5	5	8	Summary of outbreaks of fire during civil disturbances in August in Western Division prepared by Northern Ireland Fire Authority
6	6	65	Photograph taken on 12 August 1969 of police and civilians entering Rossville Street at its junction with William Street
7	6	65	Photograph taken on 12 August 1969 of police and civilians in Rossville Street
8	7	47	Photograph taken at five or six minutes to three on the afternoon of 12 August 1969 from direction of Waterloo Place looking up Waterloo Street
9	7	47	Photograph taken at three minutes to three on the afternoon of 12 August 1969 from the direction of Waterloo Place looking up Waterloo Street
10	7	48	Photograph taken about three o'clock on the afternoon of 12 August 1969 showing the position at the foot of William Street

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
	Day	Page	
Londonderry— *cont.* 11	7	48	Photograph taken about three o'clock on the afternoon of 12 August 1969 showing the position at the foot of William Street
12	9	17	Police log of incidents in Londonderry City from 12 to 16 July 1969 inclusive
13	10	27	Police document setting out RUC manpower on duty in Londonderry City on 12, 13 and 14 August 1969
14	10	28	Diary kept at control in Victoria RUC barracks of incidents in Londonderry City from 12 to 16 August 1969 inclusive
15	10	30	Key to exhibit 14 (Subject: incidents arising out of civil disturbances—12 to 14 August 1969—Londonderry City)
16	11	21	Report of 2 August 1969 of County Inspector G. S. Mahon to the Inspector General, RUC (Subject: Apprentice Boys of Derry—280th Anniversary of the Relief of Derry—12 August 1969)
17	11	54	Extract from *Hansard* of 4 July 1968 on statement of Mr. Callaghan on CS gas
18	12	23	Photograph taken on 13 August 1969 of police and civilians facing each other in St. Columbcille Court and which appeared in *Sunday Times* of 17 August 1969 (photographer, Mr. K. Moore attached to *Daily Telegraph* and *Morning Post*)
18A	15	3	Copy of exhibit 18 made from original negative
18B	15	3	Original negative from which exhibit 18A was produced
19	12	23	Photograph similar to exhibit 18 but taken a very short time before exhibit 18 by same photographer
19A	15	3	Copy of exhibit 19 made from original negative.
19B	15	3	Original negative from which exhibit 19A was produced

FS 1. 327

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
	Day	Page	
Londonderry— *cont.* 20	15	3	A photographic enlargement of part of exhibit 18
21	15	3	A photographic enlargement of part of exhibit 18
22	13	56	Report dated 19 August 1969 by Head Constable Fleming to District Inspector Hood from No. 5 Platoon RUC on disturbances in Londonderry on 12, 13 and 14 August 1969
23	14 (*Provisional*) 22 (*Final*)	72 | 8	Photograph of police, civilians and two armoured cars in Rossville Street
24	14 (*Provisional*) 22 (*Final*)	72 | 8	Photograph of police, civilians and Land Rover in Rossville Street
25	15	5	Photograph taken on 13 August 1969 of police and civilians facing each other in St. Columbcille taken before exhibits 18 and 19 by the same photographer
26	15	38	List of persons against whom proceedings have been or are likely to be instituted in respect of events during 12 July 1969 period and 12 August 1969 period
27	15	65	Police report in respect of Londonderry for July and August of: (i) damage to private buildings (ii) damage to public buildings (iii) damage to private property (iv) damage to public property (v) property stolen by looters (vi) injury sustained by members of RUC and USC (vii) injury sustained by civilians
28	16	36	Magazine *Nusight*
29	17	17	Statement of John Anthony Campbell
30	17	17	Statement of Denis Patrick Harley

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Londonderry— *cont.*	**Day**	**Page**	
31	17	22	Statement of Patrick Joseph Harkin
32	17	52	Set of 57 photographs taken by Constable Robert Simpson in Londonderry on 12 August 1969
33	21	62	Set of 13 photographs taken by John Gibson O'Boyle in Londonderry on 12 August 1969
34	22	9	Report by Special Sergeant Moore on action taken on 14 December 1969 against car failing to stop at check point
35	22	9	.38 inch solid lead bullet labelled John Brolly
36	22	10	9 mm bullet labelled John A. Campbell
37	22	10	.38 inch solid lead revolver type bullet
38	22	11	.38 inch revolver bullet marked "14 7 69"
39	22	12	9 mm bullet labelled Denis P. Harley
40	22	13	.38 inch solid lead revolver bullet
41	23	32	Copy of *The Derry Journal* dated 15 July 1969 containing two statements issued by Citizens Action Committee
42	24	81	Official Steward identification card issued by the Citizens Action Committee
43	25	15	Set of nine photographs taken by Mr. Bernard McMonagle from the fourth floor on the high flats in Rossville Street on 12 August 1969
44	25	43	Estimated damage to Londonderry Development Commission property since 12 July 1969–24 September 1969
45	25	43	Summary of malicious injury claims and awards in respect of period between 5 October 1969 and 10 October 1969
46	25	43	Londonderry Development Commission quarterly summary of dwelling houses becoming available

FS-1 . 378

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Londonderry— *cont.*	**Day**	**Page**	
47A-E	25	44 — 47	(A) Details of civilians treated at Altnagelvin Hospital as a result of civil disturbances during July 1969 (B) Details of RUC personnel treated at Altnagelvin Hospital as a result of civil disturbances during July 1969 (C) Details of civilians treated at Altnagelvin Hospital as a result of civil disturbances during August 1969 (D) Details of RUC personnel treated at Altnagelvin Hospital as a result of civil disturbances during August 1969 (E) Details of civilians treated at Roe Valley Hospital as a result of disturbances in and around Dungiven during July and August 1969
48	28	2	Negative of a photograph taken by Mr. Dermott O'Shea from Longtower Street looking into Fountain Street on 15 August 1969
48A	28	2	Print made from Exhibit 48
49	32	15	Letter dated 27 August 1969 from Dr. Raymond McClean to Mr. J. Callaghan MP concerning the use of CS gas Letter dated 13 November 1969 from P. Leyshon of the Home Office to Dr. Raymond McClean
50	32	89	Copy of RUC Code regulations regarding the use of firearms
51	33	8/9	Two photographs of police during riots at the extreme right of centre pages of *La Actualidad Espanola*
52	33	56	Tape of RUC messages on 12 August taken by Mr. William Golden
52A	33	56	Transcript of Exhibit 52

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Londonderry— *cont.*	Day	Page	
53A & B	33	59	Tapes of RUC messages on 12 August taken by Mr. Hugh McDaid (*Transcript attached*)
54	33	88	Statement by Mr. Edmund Thomas Watson (senior administrative officer of Altnagelvin Hospital) concerning Exhibit 35
55	33	88	Statement by Mr. John L. Hogg (joint secretary to Londonderry Hospital Management Committee) concerning Exhibits 35, 36, 37 and 39
56	33	8	Statement by Miss Teresa Tosh (student nurse) concerning Exhibit 35
57	33	8	Statement by Miss Rosemary McGee (student nurse) concerning Exhibit 35
58	33	88	Statement by Mr. Samuel H. Allen (hall porter) concerning Exhibit 35
59	33	88	Statement by Mr. Victor L. Beavis of the Department of Industrial and Forensic Science concerning Exhibit 36
60	33	88	Statement by Mr. David St. Clair Baird FRCS concerning Exhibits 36 and 37
61	33	88	Statement by Mr. Rommelle (Surgeon) concerning Exhibit 35 and a bullet extracted from Patrick Harkin
62	33	88	Statement by Mr. Neil Taylor (joint secretary of Londonderry Hospital Management Committee) concerning bullet extracted from Patrick Harkin
63	33	88	Statement by Dr. J. Martin of the Department of Industrial and Forensic Science concerning Exhibits 35, 37, 39 and a bullet extracted from Patrick Harkin
64	33	89	Statement by Mr. Henry M. Bennett (Surgeon) concerning Exhibit 39
65	33	89	Statement by Mr. Pearse Breslin concerning Exhibit 40

FS1 . 379

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Londonderry— *cont.*	Day	Page	
66	33	89	Statement by Mr. John Hume MP concerning Exhibit 40
67	33	89	Statement by Mr. F. D. McFerran concerning Exhibit 40
68	33	89	Statement of injuries treated at first-aid posts on streets by the Order of Malta, Derry Unit
69	33	—	Map of Londonderry
70	165	8	Forensic reports on cartridge cases picked up by Mr. Keith Hatfield in Londonderry on 13 August 1969 and other associated papers concerning possession of revolver
71	166	32	Expenditure of CS gas cartridges and grenades at Londonderry on 12/13 August 1969
Belfast	Day	Page	
1	34	9	Chronology of Events 1 January 1969 to 30 June 1969
2A	34	51	Schedule of Official Reports (*Hansard*) House of Commons and Senate and Government and other public statements
2B	34	51	Schedule of RUC announcements
2C	34	51	Schedule of statements made by His Eminence Cardinal Conway and joint statement made by Cardinal Conway and Bishops
2D	34	51	Schedule of Grand Lodge of Ireland announcements
2E	34	51	Schedule of public statements of the Government of Republic of Ireland
3	34 166	51 1	Schedule of persons killed in Belfast during disturbances in July and August 1969
3A	34 166	52 2	Forensic documents relating to the death of Trooper Hugh Anthony McCabe

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Belfast—*cont.*	Day	Page	
3B	34 166	52 2	Forensic documents relating to the death of Patrick Rooney
3C	34 166	52 2	Forensic documents relating to the death of Herbert Roy
3D	34 166	52 2	Forensic documents relating to the death of Gerald McAuley
3E	34 166	52 2	Forensic documents relating to the death of Samuel McLarnon
3F	34 166	52 2	Forensic documents relating to the death of Michael Lynch
3G	34 166	52 2	Forensic documents relating to the death of David Linton
3H	34 166	52 2	Forensic documents relating to the death of Patrick Corry
4	34 166	52 8	Record of civilian and RUC casualties treated in hospitals as a result of disturbances in Belfast during the month of August 1969
5	34	54	Analysis of injuries to members of the Royal Ulster Constabulary and mobilised Ulster Special Constabulary during the disturbances in July and August 1969
6	34 6	54 12	Schedule of forensic evidence relating to injuries to persons occasioned by discharge of firearms in Belfast during July and August 1969
7A	34	54	Schedule of forensic evidence relating to damage to property in area 1 (Unity Flats/Shankill Road) and area 2 (Crumlin Road/Ardoyne) of Belfast during July and August 1969
7B	34 166	54 13	Schedule of forensic evidence relating to damage to property in area 3 (Divis Street/Lower Falls) of Belfast during July and August 1969
7C	34 166	54 14	Schedule of forensic evidence relating to damage to property in area 4 (Clonard) of Belfast during July and August 1969

FS1. 380

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Belfast—*cont.*	Day	Page	
8	34 166	55 14	Report dated 15 January 1970 by Mr. G. Price, Senior Experimental Officer and Head of Ballistics Department, Home Office Forensic Science Laboratory, Nottingham
9	34 166	55 15	Schedule of forensic reports relating to firearms, ammunition, explosives and petrol bombs (Belfast—July and August 1969)
10	34	56	Schedule of forensic reports relating to vehicles (Belfast—July and August 1969)
11	35	1	Schedule of miscellaneous forensic reports
12	35 166	1 16	Schedule of discharge of firearms by Royal Ulster Constabulary in Belfast during the months of July and August 1969
13	35	1	Schedule of discharge of firearms by Ulster Special Constabulary in Belfast during the months of July and August 1969
14	35 166	2 17	Lists of premises damaged in Belfast prepared by Dr. Boal of the Geography Department of Queen's University and Mrs. Field of the Belfast Corporation Planning Department
14A	166	17	Schedule of riot damage to residential and commercial/residential property in Belfast
15	35	3	Analysis of damage to property and analysis of damage and religious affiliations in damaged streets
16	35	5	Lists of licensed premises damaged prepared by Licensed Vintners Association
17	35 166	7 17	Schedule of damage to police equipment, transport and stations in Belfast during the months of July and August 1969
18	35	7	Schedule of known outbreaks of fire during civil disturbances in Belfast—July and August 1969

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Belfast—*cont.* 19	Day 35	Page 7	Schedule of numbers of cases reported to Royal Ulster Constabulary of (i) vehicles taken and (ii) looting in Belfast during disturbances in July and August 1969
20	35 166	7 17	Schedule of persons prosecuted for offences arising out of disturbances in Belfast during July and August 1969
21	35 166 170	8 19 62	Schedule of alleged intimidation cases reported in Belfast in July and August 1969
22A	35	8	Map of Shankill Road and Falls Road area
22B	35	8	Map of Crumlin Road and Ardoyne area
22C	35	8	Map of Divis Street area
22D	35	8	Photographs of Unity Flats and a map of area showing locations of photographs
22E	35	8	Map showing Belfast Police Districts
23	35	9	Photographs of riot damage in Crumlin Road area and in "B" police district
24	35	9	List of incidents of a political or sectarian nature in Belfast between 1 April 1969 and 30 June 1969 reported to the police
25 (A)–(F)	35	9	Copies of *Belfast Newsletter* for period 11 to 16 August 1969
26 (A)–(F)	35	9	Copies of *Irish News* for period 11 to 16 August 1969
27 (A)–(F)	35	9	Copies of *Belfast Telegraph* for period 11 to 16 August 1969
28	35	52	Photographs of Unity Flats/Shankill Road area taken on 2 and 3 August 1969
29	39	4	Photograph in early edition of *Belfast Telegraph* of 2 August 1969 captioned "Members of the Junior Orangemen pass through crowds of onlookers beside the Unity Place flats at Peter's Hill"

FS 1 . 381

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Belfast—*cont.* 30(A)	Day 40	Page 13	The early sixth edition of the *Belfast Telegraph* of 2 August 1969
30(B)	40	13	The sixth edition of the *Belfast Telegraph* of 2 August 1969
30(C)	40	13	The eighth edition of the *Belfast Telegraph* of 2 August 1969
30(D)	40	13	Article in *Belfast Telegraph* of 7 August 1969 headed "No attack on parade—Orange leader"
30(E)	40 166	14 20	Statement of times of publication of editions of *Belfast Telegraph* on 2 August 1969
31	40	24	Photograph of police and civilians at Unity Flats on 2 August 1969
32(A)	44	23	Extracts of broadcasts from radio and television by BBC on 2 and 3 August 1969
32(B)	44	23	News report received in current affairs office of BBC and timed 1.28: 2 8 69
32(C)	44	23	News report received in current affairs office of BBC and timed 1.45: 2 8 69
33	45	1	Map and photographs of Ardoyne
34	51	50	Photograph of barricade in Hooker Street taken on 3 August 1969
35	53	38	An overhead photograph of Brookfield Street and Hooker Street
36	62	29	Typescript copy of statement made by Mr. J. B. Sands to Detective Constable McMahon on 30 August 1969
37A	65	59	Constable Cusack's notebook containing entries from 9 April 1969 up to and including 16 August 1969
37B	65	59	Report by Constable Cusack dated 17 August 1969
37C	65	59	Constable Cusack's statement and photostat of that statement dated 8 August 1969

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Belfast—*cont.*	Day	Page	
37D	65	59	Constable Cusack's statement dated 16 August 1969
38	66	60	Sketch by Mr. E. G. Mills, senior architect in the Ministry of Finance, of Brookfield Mill from Antigua Street
39	69	32	Photographs of police vehicles
40	69 170	34 60	Map and photographs of Divis Street area
1	69	35	Map and photographs of Lower Falls Road area
42	69	35	Aerial photograph of Divis Street area
43	79 166	1 20	Selected messages received at RUC control room in the Commissioner's Headquarters
44	88	30	Report of the service given by headquarters transport A/N division of St. John Ambulance Brigade during civil disturbances in Belfast
45	100	36	Aerial photograph of Lower Falls and Clonard area
46	129	1	Map and photographs of Clonard area
47	146	58	Wall map of Belfast showing damage to residential, commercial and industrial property prior to 18 August 1969
48	146	58	Wall map of Belfast showing damage to residential and residential/commercial property and the religious affiliations of the inhabitants of the property prior to 18 August 1969
49	158	1	Analysis of residential displacement in Belfast in the summer of 1969 by Dr. M. Poole and Miss M. C. Day of Department of Geography in Queen's University, Belfast
50	158	1	Map of Belfast and District showing the zones used in the analysis of residential displacement (exhibit 49)
51	166	21	Press photograph of police armoured vehicles in Divis Street and Dover Street

FS 1 . 382

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Belfast—*cont.*	Day	Page	
52	166	21	Police photographs of: (i) damage at 180 Grosvenor Road, (ii) D.I. Cushley's crash helmet and bullet and grenade fragments, (iii) marks on armoured truck, (iv) Constable Smyth's shield
53	166	22	Schedule of police strengths during the period 13–16 August 1969 (inclusive)
54	166	24	Claims and awards under the Criminal Injuries Acts (NI) arising out of the disturbances in Belfast in July and August 1969
55	166	25	Schedule of civilian casualties injured by shooting in Belfast during July and August 1969
56	170	60	Police photographs of damage to Head Constable Wallace's vehicle
General	Day	Page	
1	142	45	Request dated 14 August 1969 from Mr. J. A. Peacocke, Inspector General of the RUC, to the General Officer Commanding Northern Ireland in respect of the Army in Londonderry
2	142	45	Request dated 15 August 1969 from Mr. J. A. Peacocke, Inspector General of the RUC, to the General Officer Commanding Northern Ireland in respect of the Army in Belfast
3	145	8	Documents containing— (A) A list of names of members of the Wolfe Tone Society (B) The record of the Inaugural General Meeting of 29 January 1968 and first Annual General Meeting of 25 February 1968 of CRA (C) Extract from secretary's report to Third Annual General Meeting of NICRA
4	161 166	62 32	Copy of the IRA political and military plan
5	161	64	Copy report dated 18 August 1969 from RUC to the Ministry of Home Affairs

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
	Day	Page	
General—*cont.* 6	167	22	*Protestant Telegraph* of 16 August 1969
7	167	22	Copy of the rules of the Ulster Constitutional Defence Committee
8	167	23	A photograph and transcript of a report headed "QUB Group marching to Londonderry" in *Newsletter* of 21 December 1968
	Day	Page	
Dungiven 1	147	19	Map of Dungiven and surrounding area
2	147	2	(i) An album of photographs of Dungiven (ii) An album of photographs marked "Attack on Dungiven RUC station"
3	147	19	Schedule of civilians treated at hospitals
4	147	19	Schedule of personal injury claims under the Criminal Injuries Acts (Northern Ireland) arising out of the riots of July and August 1969 in Dungiven
5	147	20	Schedule of claims under the Criminal Injuries Acts (Northern Ireland) in respect of damage to property arising out of the riots of July and August 1969 in Dungiven
6	147	21	Schedule of calls received by Dungiven section of the Northern Ireland Fire Authority during July and August 1969
7	147	21	Forensic science reports
8	147	21	Schedule of prosecutions arising out of the riots of July and August 1969 in Dungiven
9	147	21	Schedule of police strengths in Dungiven during riots in July and August 1969
10	147	22	Inquest depositions and inquest verdict upon the death of Mr. McCloskey
	Day	Page	
Armagh 1	101	1	(i) Route map prepared by police (ii) Large scale map of Shambles area (iii) Map of Armagh and surrounding area

FS 1 - 383

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
	Day	Page	
Armagh—*cont.* 2	101	1	Photographs of Armagh
3	101	2	Log of messages received over the radio at Armagh police station
4	101	5	Folder of official documents and relevant extracts from official documents relating to the organisation, training and discipline of the USC
5	101	6	Forensic science reports
6	101	8	Fire report and forensic science report concerning fire at Bairnswear
7	112	60	Ulster Special Constabulary form SC11
8	112	60	Ulster Special Constabulary store accounting regulations
9	114	7	List of weapons of the Tynan platoon
10	120	91	Additional forensic reports and associated documents
	Day	Page	
Newry 1	107	4	(i) Map of the South East corner of Northern Ireland (ii) Map of Newry
2	107	4	(i) A list of points at which barricades were erected (ii) A map of position of barricades
3	107	4	Extracts from police RT message log book
4	107	4	Forensic science reports
5	107	5	Schedule of personal injury claims under the Criminal Injuries Acts (Northern Ireland) arising out of the riots of August 1969 in Newry
6	107	6	Schedule of claims under the Criminal Injuries Acts (Northern Ireland) in respect of damage to property arising out of the riots of August 1969 in Newry

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Newry—*cont.* 7	Day 107	Page 33	Schedule of police strengths in Newry during 12, 13, 14, 15 and 16 August 1969
8	110	3	Sketch map of the quay area of Newry showing position of barricades and lorry
Crossmaglen 1	Day 107	Page 6	Map of Crossmaglen
2	107	7	Album of photographs of Crossmaglen police station and the vehicle used for attack on it
3	107	8	Forensic science reports
Dungannon 1	Day 115	Page 3	(i) Map of Dungannon and surrounding area (ii) Sketch map showing positions of barricades
2	115	3	Album of photographs of Dungannon
3	115	7	Return of casualties made by Northern Ireland Hospitals Authority and the South Tyrone Hospital Management Committee—disturbances in Dungannon and Coalisland, August 1969
4	115	9	Schedule of personal injury claims under the Criminal Injuries Acts (Northern Ireland) arising out of the riots of August 1969 in Dungannon
5	115	10	Schedule of claims under the Criminal Injuries Acts (Northern Ireland) in respect of damage to property arising out of the riots of August 1969 in Dungannon
6	115	22	Schedule of prosecutions arising out of the riots of August 1969 in Dungannon
7	115 166	22 32	Forensic science reports
8	121	75	Schedule of police strengths in Dungannon and Coalisland during riots in August 1969
9	121	75	Headquarters Instructions regarding the Ulster Special Constabulary and message sent to BBC and UTV for news flash

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Dungannon—*cont.* 10	Day 125	Page 62	Rough sketch of scene of alleged shooting on 13/14 August 1969
11	157	66	Nominal roll of RUC and USC on duty in Dungannon on the night of 13/14 August 1969 setting out the name, rank, number, type of weapon carried and also the sub-district and registered number of weapon of USC
Coalisland 1	Day 115	Page 7	(i) Map of Coalisland and surrounding area (ii) Sketch map showing position of barricades
2	115	7	Albums of photographs of Coalisland and the damage to the police station
3	115	7	Return of casualties made by Northern Ireland Hospitals Authority and the South Tyrone Hospital Management Committee—disturbances in Dungannon and Coalisland, August 1969
4	115	10	Schedule of personal injury claims under the Criminal Injuries Acts (Northern Ireland) arising out of the riots of August 1969 in Coalisland
5	115	11	Schedule of claims under the Criminal Injuries Acts (Northern Ireland) in respect of damage to property arising out of the riots of August 1969 in Coalisland
6	115	22	Schedule of prosecutions arising out of the riots of August 1969 in Coalisland
7	115	22	Forensic science reports
Explosions 1	Day 138	Page 26	Photographs of the explosion damage to Sub-Station at Castlereagh
2	138	26	Photographs of explosion damage to pylon at Kilmore (Loughgall)
3	138	26	Photographs of explosion damage to water main at Clady/Templepatrick (Dunadry)

FS 1.384

Area and exhibit number	*Transcript reference to presentation and amendment*		*Description*
Explosions—*cont.* 4	138	26	Photographs of explosion damage to the reservoir at the Silent Valley
5	138	26	Photographs of explosion damage to water main at Annalong.
6	138	27	Photographs of damage to four Post Offices
7	138	43	Photographs of damage to six Post Offices
8	138	36	Letter dated 9 May 1969 and report dated 2 May 1969 by Captain R. D. Wilcox relating to the Annalong explosion
9	138	37	Report dated 28 April 1969 by Captain R. D. Wilcox relating to the Templepatrick explosion
10	138	37	Report dated 11 November 1969 by Mr. V. L. Beavis of the Department of Industrial and Forensic Science relating to the Silent Valley explosion
11	166	33	Certified photocopy extract from Crown Book for Belfast City Commission, December 1969
12	166	33	Certified photocopy extract from Crown Book for Belfast City Commission, March 1970
13	166	33	Certified copies of entries in the County Down Crown Book at the Northern Ireland Winter Assizes held at Belfast on 29 January 1970
14	166	35	Certified copies of entries in the County Down Spring Assizes Crown Book, 7 May 1970

FS 1. 385

APPENDIX IV

TRIBUNAL WITNESSES

(A)

ALPHABETICAL INDEX

Area Code: 1=Londonderry; 2=Belfast (Unity Flats/Shankill Rd.); 3=Belfast (Ardoyne); 4=Belfast (Divis/Lower Falls); 5=Belfast (Clonard); 6=Belfast (General); 7=Armagh; 8=Newry and Crossmaglen; 9=Explosions and Post Offices; 10=Dungannon and Coalisland; 11=Dungiven; 12=General

Name	*Area (Coded as above)*	*Day No.*
Witness "A"	4	72
Abbott, Det. H/Const. G.	12	166
Adams, Sec. Lt. J. Q.	5	130
Allen, J.	2 & 4	42, 75 & 76
Anderson, A. W. (MP) (NI)	1	6
Armstrong, D/Inspector F. I.	1	11 & 12
Armstrong, D/Comt. M. H.	7	103 & 104
Arthurs, J.	10	131
Austin, Mrs. C.	2	37
Awkinson, W/Const. A.	7	120
Witness "B"	4	80
Baillie, Mrs. M.	3	49
Bain, R. E. D.	9	138
Ballenden, Lt. Col. J.P.	3	51
Bates, R. W.	2	39
Beacom, Const. R.	10	133
Beattie, Rev. A. J.	5	129, 130
Beattie, S/Const. C. D.	7	119
Beattie, Miss E.	10	126 & 131
Beavis, V. L.	7 & 9	138, 101
Black, S.D.C. D.	1	16
Bloomer, S/Const. J. G.	7	113
Bloomer, S/Const. W. H. D.	7	113
Boal, Dr. F.	6	146
Bowman, Sgt. D.	1	30
Boyd, W. J.	4	81
Boyle, J.	7	103
Boyle, K.	11	150
Bradley, Mrs. M.	2	146
Bradley, D/Commissioner S. J.	6	44, 90, 91, 92, 97
Briggs, F.	2	36
Bryan, A.	4	81 & 82
Bryan, G. J.	1	25
Buchanon, C/Insp. T. H.	7	111
Burke, Miss J.	11	155
Burns, J. (MP) (NI)	11	152
Burns, P.	2	36
Witness "C"	4	86
Cafolla, V.	7	102
Cameron, Const. N.	1	30
Campbell, H/Const. E.	1	29
Campbell, J. A.	1	28
Canavan, M.	1	19 & 21
Carberry, P.	4	71
Cardwell, Sgt. R. D.	1	14
Carlisle, H/Const. T. J.	4	81
Carson, Dr. D. J. L.	7	101
Catterson, Sgt. R. J.	3	66
Clarke Sgt./Instr. S. J.	10	156, 122/3
Clint, Sgt. A.	8	108
Coburn, Sgt. J. R.	3	65 & 66
Coghlan, D.	1	6
Cole, S/Sgt. M.	1	33
Comac, K.	10	133
Connor, T.	2	36
Convery, H/Instr. J.	4	80
Cooper, I. (MP) (NI)	11	150 & 151

Name	Area (Coded as above)	Day No.
Corbett, County Insp. D.	1	9 & 10
Cordner, D/Insp. K.	1 & 10	122
		16
Cormican, B.	4	88
Corrigan, A.	10	118
Corrigan, T.	10	157
Coulter, Miss R. J.	2	41
Coyle, M.	1	25
Coyle, V.	1	22
Craig, Mr. J.	2	41 & 42
Crawford, Miss M.	1	28
Curran, F.	1	7
Currie, A. (MP) (NI)	12	139
Cusack, Const. S.	3	65
Cushley, D/Insp. D.	4	79, 95
		96
Witness D	4	86
Davidson, S/Const. J.	7	114
Dawson, Sgt. J. B.	12	170
Dean, Fr. W.	1	27
Deeds, E.	3	58
Deery, H.	1	32
Delaney, Fr. A.	3	53, 54
		& 55
Desmond, C. C.	1	25
Devine, Sgt. J. B.	4	71
Devlin, B. (MP) (UK)	1	20 & 21
Devlin, P. J. (MP) (NI)	4	98 & 99
Dickinson, Rev. R.	1	5
Dickson, Const. F. A.	7	139
Dickson, H/Const. W. J.	7	102 &
		103
Dineen, J.	3	50
Doctor 1	6	136
Doctor 2	6	136
Doctor 3	6	136
Doctor 4	6	136
Dodds, Sgt. R. J.	10	116
Doherty, Rev. G.	11	148 &
		149
Doherty, Jack	1	27
Doherty, James	1	7 & 9
Doherty, S/Sgt. J. B.	1	16
Doherty, P. L.	1	30 & 31
Doherty, Mrs. V.	11	155
Donaghy, Mrs. T.	10	126
Donald, S/Sgt. W. D.	1	16
Donnelly, D.	4	97
Douglas, W. A.	11	152 &
		153

Name	Area (Coded as above)	Day No.
Dowling, S.	8	109 &
		110
Duddy, Const. N.	1	15
Duffy, P. A.	10	131
Dunbar, R.	4	86 & 87
Dunham, A.	3	50
Dunville, Miss A.	3	50
Witness "E"	4	88
Edgar, D/Insp. W.	8	107
Egan, Fr. P.	5	134 &
		135
Elliott, Const. J.	4	164
Elwood, W. J.	3	57
Emery, D/Const. J. S.	7	113, 114
		& 120
Entwistle, C.	3	45
Farlow, H/Const. K.	2	37
Finn, D/Insp. M. J.	1	17
Fitt, G. (MP) (NI & UK)	12	142 &
		143
Fleming, S/Const. H.	10	155/6
Fleming, H/Const. T. H.	1	13
Fletcher, Lt. Col. J.	4	82
Flynn, Sgt. F.	1	16
Forbes, Const. I.	1	15
Foster, F. M.	3	64
Foster, Const. J.	10	117 &
		118
Foye, P. J.	10	133
Gallagher, Mrs. J.	7	103
Gibson, G. K.	3	51
Gilchrist, D/Insp. J.	2 & 3	36 & 37
		67 & 68
Gillespie, Fr. M.	3	59 & 60
Gillies, Rev. D.	3	53
Givans, J.	10	125
Glass, T. F.	9	138
Gogerty, F.	12	143, 144
		145
Golden, W.	1	33
Gourley, A.	4	79
Grace, P.	1	24
Gracey, Sgt. T. J.	3	45 & 46
Gray, S/Const. J. M.	7	114 &
		119
Gray, H/Const. W. J.	4	77, 82
		83
Green, L.	1	24

Name	Area (Coded as above)	Day No.
Hagen, S.D.C. W. A. C.	3	55
Hamilton, S/Const. R.	1	16
Hamilton, S/Const. W. J.	7	113
Hamilton, D/Insp. W. J.	6	164
Hanna, P.	2	42
Hanson, Major D. W.	1	4
Harkin, Miss P.	1	30
Harkin, P. J.	1	17
Harley, D. P.	1	32
Harpur, Sgt. T. A. H.	4	75
Harris, Sgt. A. W.	1	17 & 18
Harris, R. R.	2	40 & 44
Harrison, D/Insp. W. G.	11	147 &
		148
Hassard, J.	10	115 &
		116
Hasson, R.	11	155
Hastings, M.	4	85
Hatfield, B. K.	1	29
Haughey, D.	10	126
Hazelton, S/Const. W.	10	157
Hemsworth, C.	5	146
Hill, F. C.	3	66
Hippesley, W. L.	1	28
Hodson, R.	1	4
Hood, H/Const. T.	1	14 & 15
Hood, D/Insp. W. J.	1	13
Hudson, Brig. P.	12	140
Hughes, Col. J.	4	88
Hughes, S.	10	116
Hume, J. (MP) (NI)	1	26
Hunter, S.D.C. J.	11	153
Hutton, S.	4	73
Hyndman, H/Const. R.	10	115
Irvine, A. E.	3	62
Irvine, N.	3	64
Irwin, S/Const. S.	7	113
Irwin, H/Const. W. I.	11	151, 152
		& 154
Jackson, Mrs. E.	3	50
Jackson, H.	1	4
Jackson, Const. H. R.	2	42 & 43
Jackson, J.	3	50
Johnston, H.	4	169
Johnston, J.	10	123
Johnston, H/Const. J. A.	4	89
Johnston, Sgt. S. I.	2 & 3	43 & 44
		66
Johnston, Const. T.	3	65

Name	Area (Coded as above)	Day No.
Johnston, S.D.C. V. J.	10	122
Jones, T.	1	5
Joyce, W.	1	28
Keenan, S.	1	18
Kelleher, D/Sgt. J. P.	4	71
Kelly, M.	7	112
Kennedy, P. (MP) (NI)	4	128
Keogh, M. (MP) (NI)	8	107
Keown, J.	4	127
Knowles, Const. S.	4	77 & 78
Kyle, H/Const. C. W.	2 & 3	55 & 56
		35
Lagan, D/Insp. F.	5	134
Laird, D/H.Const. R.	9	138
Landale, C/Insp. G. L.	10	121
Lannigan, R.	3	52 & 53
Largy, W. J.	2	39
Lecky, J. J. H.	10	123 &
		124
Lester, Sgt/Instr. J.	7	112
Lindsey, Sgt. S.	7	112
Linton, J. H.	4	76 & 77
Lockhart, S. K.	9	138
Logan, W. J.	2	37 & 38
Loney, Const. M.	3	48 & 49
McAdam, Sgt. W. J. J.	1	28 &
		165
McAleer, Mrs. B.	10	156
McAlister, Dr. D.	4	88
McAnally, H.	4	165
McAnea, S/Sgt. J.	7	105 &
		106
McAtamney, D/Insp. M.	1	32
McAteer, E.	1	7
McAteer, R.	4	96
McCabe, H/Const. A.	1	14
McCafferty, D.	1	27
McCann, E.	1	22
McCann, E. J.	4	78
McCargo, R.	3	61 & 62
McCloskey, B. M.	12	166 &
		170
McCluney, H/Const. T.	6	165
McComish, H/Const. T.	7	145
McCool, Mrs. E.	10	126
McCormick, D.	4	99 & 100
McCorry, F. A.	3	64
McCoubrey, J.	4	93

Name	Area (Coded as above)	Day No.
McCourt, A.	10	125
McCracken, J.	11	157
McGullagh, F.	2	38
McCusker, M.	4	100
McDaid, G.	1	27
McDaid, H.	1	33
McDermott, Dr. D.	1	23
McDonough, J. G.	1	27
McDowell, Mrs. D.	4	93
McFarlane, H/Const. S.	1	15
McFarlane, D/Comdt. W. J.	11	149
McFaul, N.	11	153
McGarrigan, A.	4	97 & 98
McGarry, D/Const. J. K.	1	33
McGaughey, H/Instr. J. J.	7	111
McGimpsey, D/Insp. R. R.	2	39 & 40
McGleenan, C.	7	120
McGorrian, D/Sgt. T.	1	17
McGrath, Miss D. V.	3	58
McIlroy, Const. J.	1	24
McKeague, J.	12	162
		163A
		159
McKee, Mrs. P.	7	103
McKinney, A.	1	33
McKittrick, Const. J.	4	137
McKnight, Mrs. E.	4	93
McLaron, Sgt. P.	2	37
McLaughlin, Fr.	5	129
McLaughlin, M.	10	124 & 125
McLaughlin, Sgt. R.	11	153 & 154
McLaughlin, Const. T. W.	1	15
McLean, Sgt. K. M.	2	38 & 39
McLean, Dr. R.	1	32
McLoughlin, M.	1	29
McLoughlin, Mrs. S.	2	35
McManus, P.	7	113
McMaster, H/Const. W.	8	109
McMillan, T.	5	136
McMonagle, B.	1	25
McMullan, N.	10	117
McMullan, T.	3	56 & 57
McNamara, K. (MP) (UK)	1	4 & 5
McNeill, D/Sgt. H.	1	17
McParland, G. E.	7	102
McPhillips, Sgt. T. B.	4	79
McQuade, J. (MP) (NI)	4	94
McRitchie, J. M.	3	50
McSherry, J.	2	40 & 41

Name	Area (Coded as above)	Day No.
McWilliams S/Const. E. J.	7	112
McWilliams, S/Sgt. J. H.	7	105
Macauley, Sgt. R. J. B.	10	124
Mackle, K.	7	112
Mahon, County Insp. G. S.	1	10 & 11
Mahood, Const. F. A.	4	80 & 81
Mallon, H.	8	110
Mallon, V. A.	10	132
Managh, R.	4	86
Martin, Dr. J.	4 & 10	157
		92
Mason, K. A.	1	15
Mayne-Harris, S/Const. R.	7	114
Megarry, H. A.	3	63
Melaugh, E.	1	23 & 24
Millar, S/Const. A.	7	119
Mills, E. G.	3	66
Mills, W. S. (MP) (UK)	1	6
Mitchell, J.	4	96
Mitchell, R. L.	8	108
Montgomery, D/Insp. S.	3	67 & 68
Montgomery, S/Const. T.	1	17
Moore, S/Sgt. G.	3	60
Moore, G.	7	102
Moore, S/Sgt. J.	1	17
Moore, Adjutant J.	7	119 & 120
Moore, S.	1	5
Moore, S/Const. W. J.	10	156
Morgan, G.	4	127
Morris, L.	3	56
Mulvey, Fr. V. A.	1	6 & 7
Murphy, M.	10	133
Murphy, Fr. P.	4	158
Murray, S/Const. D. W.	7	113
Murray, J.	3	48
Murray, S/Const. W. E.	7	119
Murray, S.D.C. W. M.	7	104 & 105
Napier, Lt. Col. L.	5	130
Neill, Const. A. E.	1	15
Nicholl, Sgt. N.	1 & 9	138
		24
Nixon, K.	1	25
O'Boyle, J. G.	1	13
		21 & 22
O'Brien, H/Const. D.	1	14
O'Connor, A.	4	85

Name	Area (Coded as above)	Day No.
O'Doherty, G. F.	1	22 & 23
O'Donnell, Fr. C.	3	47 & 48
O'Hanlon, P. M. (MP) (NI)	8	108 & 109
O'Hara, D/Insp. J.	7	101 & 102
O'Hare, Sgt. J.	11	154
O'Kane, Mrs. S.	11	155
O'Neill, Adjutant E. H.	1	16 & 17
O'Reilly, J.	3	52
O'Rourke, Miss C.	2	42
O'Shea, D.	1	28
Officer, Const. W. A.	4	83
Orr, S/Sgt. W. J.	7	106
Owens, Sgt. A.	3	48
Owens, H/Const. J. A.	4	89 & 90
Paisley, Rev. Dr. I. R. K. (MP) (NI & UK)	12	167, 168, 170
Paisley, S/Sgt. J.	10	155
Palmer, Sgt. J.	4	163B
Passmore, T.	3	49
Patterson, H/Const. K.	3	55
Patton, Sgt. J.	10	157
Peacocke, J. A. Insp. Gen.	12	141 & 142
Pellow, S.	7	120
Pendleton, Sgt. H. D.	1	14
Penny, Sgt. S. R.	9	138
Pinder, B. F.	4	77
Poole, Dr. M. A.	6	158
Porter, J. V.	1	28
Porter, R.	12	160
		161
Price, G.	7	92
	1 & 4	22
		101
Rainey, Const. W. T.	2	37
Ramsey, H/Const. C.	4	70
Reid, S/Const. C. I.	7	119
Rice, J.	3	58 & 59
Robbin, Lt. K. F.	1	3 & 4
Robinson, Sgt. D.	1	29
Robinson, Const. J.	3	51
Robinson, T. H.	1	28 & 29
Rooks, J.	2	40
Rooney, H/Const. P. J.	4	87
Rooney, Sgt. R. A.	10	123
Sampson, Const. K. J.	2	43

Name	Area (Coded as above)	Day No.
Sands, J. B.	3	62
Sansom, Rev. C. N.	3	46 & 47
Scott, Mrs. E.	5	158
Scott, Mrs. L. J.	11	153
Scott, Const. W. J.	10	133
Seay, H/Const. J. H.	3	60 & 61
Shannon, T.	4	93
Sheehan, H.	6	137
Shillington, Dep. Insp/Gen. R. E. G.	1	11
Shute, D. I. Insp. H. H.	6	164
Silvestri, G.	4	73 & 74
Simpson, Const. R.	1	17
Simpson, D/Const. T. M. A.	10	125/6
Simpson, V. F. (MP) (NI)	3	46
Simpson, W. J.	1	32
Sinnamond, Const. K. H.	4	71
Slevin, D/Inspector M.	1	12 & 13
Sloan, J.	4	71 & 72
Smith, W.	1	25
Smith-Palmer, P. S.	7	102
Smyth, Const. D.	4	165
Smyth, H./Const. R.	9	138
Smyth, Rev. W. M.	2	41
Spiers, Const. A. McL.	10	131 & 132
Stanford, Sgt. R. K.	4	83 & 84
Stewart, J.	4	71
Stewart, Const. J.	10	133
Stewart, H/Const. R. A.	10	117
Stinson, H/Const. J.	4	69 & 70
St. John, Sgt. S. B.	3	64
Sweeny, M.	10	133
Taggart, D/Sgt. S. A.	8	108
Tarleton, P.	1	27
Taylor, Sgt. A. J.	1	15 & 33
Taylor, C. N.	2	40 & 44
Tennyson, Mrs. R.	7	103
Thompson, I.	1	5
Thompson, S.D.C. K. I.	4	74
Thompson, H/Const. W. J.	6	164
Toal, Mrs. E.	2	42
Toal, P. M.	3	50 & 51
Todd, Lt./Col. W. A. E.	1	3
Tohill, Mrs. M.	2	44
Torrens-Spence, County/ Comdt. F. M. A.	7	145
Trainor, W. E.	3	49
Traynor, W.	5	159
Trotter, Const. S. A. K.	1	15

Name	Area (Coded as above)	Day No.
Witness "U"	4	172
Witness "V"	4	172
Vallely, N.	7	120
Waggitt, R.	1	25
Walker, Sgt. R.	11	154
Walker, Const. T. D.	1	33
Wallace, H/Const. D. B.	3	62 & 63
Wallace, Mr. M. W.	2	38
Wallace, H/Const. R. J.	1	28
Wallace, S.	5	137
Walsh, D.	3	59
Watson, E. T.	1	25
Watson, S.D.C. J.	1	16
Wilcox, Capt. R.	9	109
	4 & 8	138
Willoughby, G.	10	70
Wolseley, Commissioner A. H.	6	117
Wylie, R.	1	136
Wylie, R. J.	4	25
		100 & 127
Witness "X"	4	172
Witness in Camera	1	25
		26
Witness in Camera	1	33
Witness "Y"	4	172

APPENDIX IV—*cont.*

(B)

GENERAL WITNESS STATISTICS

Area	Number of Court Days	Total Number of Witnesses	Lay Witnesses		Police	USC	Army	Journalists	Clergymen		Expert, Specialist and Formal
			Prot.	Cath.					Prot.	Cath.	
1. Londonderry	30	113	11	36	37	9	3	10	1	2	4
2. Belfast { Unity Flats	10½	33	6	12	10	—	—	4	1	—	—
2. Belfast { Shankill Road	24½	56	13	14	16	2	1	3	2	3	2
3. Belfast—Ardoyne	35	74	14	23	25	3	2	3	—	2	2
4. Belfast { Divis/ Lower Falls	6	11	4	1	1	—	2	—	1	2	—
5. Belfast—Clonard	6	13	—	1	6	—	—	—	—	—	6
6. Belfast—General	(82)	(187)	(37)	(51)	(58)	(5)	(5)	(10)	(4)	(7)	(10)
TOTAL FOR WHOLE OF BELFAST	13	47	2	12	8	22	—	—	—	—	3
7. Armagh	4	10	1	4	4	—	1	—	—	—	—
8. Newry and Crossmaglen	1	9	—	—	4	—	1	—	—	—	4
9. Explosions/Post Offices	15	44	5	17	14	6	—	1	—	—	1
10. Dungannon and Coalisland	9	19	4	7	5	2	—	—	—	1	—
11. Dungiven	14	11	2	3	3	—	1	—	1	—	1
12. General	168(1)	440(2)	62(3)	130(3)	133	44	11	21	6	10	23
TOTAL											

Notes: (1) The witness figures are calculated area by area. Some witnesses gave evidence more than once, since their evidence covered more than one area. Such witnesses are counted as separate witnesses for each area so as to give the total number of witnesses for each area. It therefore follows that the totals are greater than the actual number of witnesses called: e.g. the figure 440 represents accurately the number of witnesses called area by area and includes witnesses who gave evidence more than once but for different areas. The actual number of individual witnesses called was 428.

(2) Daily transcripts numbered 172 but there was no hearing on day number 8 and days numbered 1, 2 and 171 were formal and no witnesses examined. The Shorland hearing has been numbered day 172 and counted as one court day.

(3) These figures are given as a guide to the representativeness of the witnesses. The terms Protestant and Catholic are used sociologically and are indications of the communities to which from the evidence available to the Tribunal the witnesses appear to belong.

APPENDIX V

DOCUMENTS FROM TRIBUNAL EXHIBITS

(A) Public Statements

(i)

PRESS RELEASE

SPEECH BY THE PRIME MINISTER, MAJOR THE RT. HON. J. D. CHICHESTER-CLARK, D.L., M.P., IN THE HOUSE OF COMMONS ON THURSDAY, 14TH AUGUST 1969.

This debate will test to the full our ability to rise to the level of events. Are we, in this House, prepared to lead the community back to peace? Or are we simply going to re-echo, for the benefit of a watching and critical world, all the fears, hatreds and animosities which have been running riot in our streets? The people of Ulster, weary of strife, yearning for peace, fearful for their future, await our answer. For myself I will seek to be factual. I must apportion blame where I believe it to lie. But I will not seek to inflame feeling or to inflict any needless wounds. I would ask all hon. Members who follow me to be moderate, tolerant and positive.

Since this House last met for regular debate, we have had three separate series of incidents of grave civil disorder. First of all, in Londonderry and Dungiven on 12th/13th July, there was widespread and unforgivable vandalism. These incidents followed the Annual Orange demonstrations on 12th July, but there is no evidence whatever that they arose out of those demonstrations. There is not a shred of evidence that these demonstrations, conducted on the same basis as for many years past, were in any way offensive either in intent or in practice. They were made an occasion for mindless and reckless hooliganism, destructive, irresponsible and anti-social by those of an opposite point of view.

Then on 2nd August, the situation deteriorated with very serious rioting, looting and vandalism in Belfast. It appears to have originated in a widely-circulated rumour that a Junior Orange parade had been attacked at Unity Walk. By whom that rumour was originated, how it was circulated and to what end I do not know. But it served to inflame feeling in the Protestant Shankill Road district of Belfast very rapidly. The police had to intervene to avert a direct sectarian conflict. I may say, in view of the usual reckless allegations of police partiality, that the first baton charge of the day was made against a Protestant crowd. Further trouble broke out in the Roman Catholic Hooker Street area, and the resources of the police were very fully stretched to contain it. When, on 5th August, the disturbances finally died down, the City was left in an uneasy and disturbed state. The significance of these events was that for the immediate future, considerable numbers of police would obviously have to be reserved in the capital, thereby making it difficult to supplement forces in other towns if trouble arose there.

This is the background against which we had to consider the Apprentice Boys' parade in Londonderry on 12th August. We had suggestions from various quarters that we should restrict it in some way. But what were the facts we had to consider? The demonstration had been held annually for

many, many years and been generally accepted on that basis even by those of opposing views. There was no evidence whatever that those in the parade intended to act in any way irresponsibly. Nor was there any evidence of an organised plan to interfere with them. Indeed, the indications were that every responsible organisation in the City was directing its efforts to keeping the peace. The hon. Member for Foyle very consistently defended the right of peaceful demonstration within the law. We also had to take into account that if a disciplined and orderly parade was banned, a right to parade on that day exercised over countless years might be asserted by other and less well-disciplined elements. These grave decisions seem so easy to outsiders. But in practice they are always a weighing up of various factors. On balance we decided it was right to give those who had talked so much of peace, a chance to live up to it.

We all know what occurred when the parade took place. Its members were peaceful, orderly and disciplined. They were abused; they were pelted with missiles. And when the police moved in—as they had to do—to cope with these hooligans, many of them only juveniles, they encountered the force of a carefully-prepared and calculated resistance. What sinister forces had been at work in Londonderry, and for how long, to have this arsenal of petrol bombs and other weapons prepared? This was no onrush of sudden indignation. It was a direct and calculated affront to the forces of law and responsible government in this country.

Since then, disorder in Londonderry has continued almost without interruption. There has been very widespread damage to property, both public and private, and a mounting toll of injuries. In order to contain the situation, the police, with the specific approval of the Minister of Home Affairs, have been using in suitable circumstances CS tear smoke. This was not a step taken lightly. Indeer my rt. hon. and learned Friend, before it was ever used, considered it his duty to arrange for a demonstration at which he subjected himself to a concentration. That, if I may say so, is typical of the conscientious way in which he has tackled his onerous duties over these difficult days. CS is the most modern form of tear smoke. It is unpleasant—indeed it would be ineffective if it was not unpleasant—but it is both a more efficient and a more humane method of riot control than (say) repeated baton charges.

Let me make it very clear, because of outrageous comments— which I will come to in a moment—that the police are "attacking" the Bogside, that what in fact they have been doing is to prevent a spread of violence and vandalism to the very heart of the city. At the same time, every attempt has been made both by the Government and the police, through every channel open to us, to make the residents understand that these police activities will cease at once if the conditions of riot are brought to an end. Unfortunately, many of those concerned seem to be either leaderless or subject to extremely malign influences.

Of course all this is a tragedy for the City of Londonderry. What the rioters are tearing down is not merely the existing bricks and mortar of their own city, but its hopes of progress and development in time to come. How is the Londonderry Commission expected to bring in the jobs the area so badly needs when this is the image of the city flashed to every television screen in the world?

The unsettled conditions produced throughout Northern Ireland by these continuing clashes have been reflected in widely-scattered incidents at other

places throughout the country, and a menacing aspect has been a growing use of firearms.

I am convinced that in these circumstances it was the right decision to ban all parades and meetings for the rest of this month, and this prohibition may very well have to be extended. I am sorry indeed that we have had to interfere with plans of responsible and well-conducted organisations such as the Royal Black Preceptories and the Ancient Order of Hibernians; but it is surely now crystal clear to everyone that demonstrations can be made the **occasion** for riot and bloodshed, however inoffensive in themselves.

We are also bound to strengthen the hands of the hard-pressed police. As usual it is they who have been bearing the main brunt. Let any hon. Member who continues to talk about "peaceful protest" contemplate the burns of a policeman who has been deliberately set on fire. Police casualties have been very heavy. Their courage has been beyond all praise.

The Government would have been failing in its clear duty if it had not acted to strengthen the hand of the R.U.C. County Inspectors now have a discretion to call out the Special Constabulary to support the police as appears necessary. I would add that any criticism of this deployment in the present grave circumstances is the sheerest irresponsibility. Let no one imagine that this Government will allow a collapse of law and order without calling in every available force—I repeat every available force—which is needed to prevent such a situation from arising.

But the people in Britain and elsewhere who are watching these events should waken up to the reality of what is happening here. This is not the agitation of a minority seeking by lawful means the assertion of political rights. It is the conspiracy of forces seeking to overthrow a Government democratically elected by a large majority. What the teenage hooligans seek beyond cheap "kicks" I do not know. But of this I am quite certain—they are being manipulated and encouraged by those who seek to discredit and overthrow this Government. Those who cry so loudly for "British intervention" see it as a half-way house to the long-sought goal of an Irish Republic.

Last week my rt. hon. Friend the Minister of Home Affairs and I sought an interview with the Home Secretary. We were given his complete and unqualified assurance that the position of Northern Ireland as an integral part of the United Kingdom is not now in question, nor will it be brought into question. And I want to make it very clear that no considerations of any sort or kind will deter us from taking such steps as are necessary to restore law and order. Already we have had to authorise extensive use of tear smoke to cope with these riotous crowds. We will not shrink from any other measure the situation may require.

We are all travelling together in this vessel called Northern Ireland. Some people seem to be trying to scuttle because they don't like those who are on the bridge. If we all drown together, what satisfaction is there in that? We are all Ulstermen, whether Protestant or Catholic, **rich** or **poor**, Unionist or Nationalist. No one outside Ulster is going to find for us solutions we cannot find for ourselves.

In this context, a very serious new dimension was imported into these events—most unnecessarily and most irresponsibly—by the remarks of Mr. Lynch. History will record in how responsible and neighbourly a way we have tried to conduct our relationships with the Irish Republic. All that has been brought to an end by this intervention. We must and we will treat the

FS 1 · 390

Government which seeks to wound us in our darkest hour as an unfriendly and implacable Government, dedicated to overthrow by any means the status which enjoys the support of a majority of our electorate. I am sure many hon. Members who heard Mr. Lynch's remarks will have shared my intense anger and resentment at their tone and content. This talk of the police "attacking" the people of Londonderry, and of injured, reluctant to use Northern Ireland hospitals, is not statesmanship but the effusions of a hostile propaganda. As for the graver part of his remarks, let me reiterate that there will be no change in the position of Northern Ireland as an integral part of the United Kingdom. The Government in London re-affirm that no such change could be contemplated without our consent, and we do not consent, nor will we consent in the future. As for United Nations intervention, this absurd suggestion entirely ignores the fact that this is not an international situation, but an internal one.

This is the situation as I see it today.

Let me assure hon. Members that this Government is determined to leave no stone unturned to protect the security of Northern Ireland. We will not shrink from taking whatever action is needed to achieve that end.

However, I promise to listen to positive suggestions from any quarter of this House. Let us all think of the people we represent, who look to us for a new start—for a way out of this morass into which we are sinking. Let us, Mr. Speaker, act like **honourable** Members.

(A)(ii)

PRESS RELEASE

STATEMENT BY THE PRIME MINISTER OF NORTHERN IRELAND (MAJOR THE RT. HON. J. D. CHICHESTER-CLARK, D.L., M.P.) FROM STORMONT CASTLE TODAY.

My colleagues on the Security Committee—that is to say the Ministers of Home Affairs, Education and Development—have been in almost constant session with me over the past days.

Today we of course have been considering the tragic situation in Belfast. Evidence available to us makes it very clear that subversive Republican elements were to the fore in the events of last evening. Well-disciplined and ruthless men, working to an evident plan, attacked the police at a number of points in the city. The police were of course obliged to return that fire, and in the subsequent exchanges a large number of injuries—some of them fatal—occurred.

I repeat what I said yesterday in Parliament. Quite clearly we confront here a deliberate conspiracy to subvert a democratically-elected Government. The disorder which is being created in our capital city cannot and will not be tolerated. The police forces, dealing as they are with armed conspiracy, evidently require reinforcement. The Inspector General has therefore requested the deployment of troops in the city, and the G.O.C. has assented to this, with of course the knowledge and agreement of both Governments.

A considerable number of persons suspected of subversive activities are being held by the police for interrogation.

We have gratefully accepted an offer from the Home Secretary to make available to the R.U.C. the services of two very senior and experienced police officers from Great Britain, who will be available for liaison and consultation as required. They are expected to arrive this evening.

The Cabinet have decided to set up a Public Information Centre under the direction of the Minister of Finance, to keep the public informed and counter malicious rumour. Bulletins will be issued at regular intervals through the Press and broadcasting media. Further details of this will be given shortly.

We ask all sensible people to keep off the streets. It is intolerable that the work of the forces of law and order should be impeded, as it was at times last night, by irresponsible sight-seers. Parents should make sure that their children, out of natural curiosity, do not expose themselves to needless risks.

I am in no doubt that Ulster faces today the most serious and malevolent threat in its history. We will resist it by every means in our power. If every responsible person keeps off the streets and lets us isolate and deal with the real trouble-makers, the job will be greatly simplified. But let me make this clear. The United Kingdom and Northern Ireland Governments stand together in their complete determination that we will not be forced out of the United Kingdom against our will. In the last resort our enemies face not only the determination of Ulster but the might of Britain. All they can hope to achieve is a tragic and unnecessary loss of life, and the gravest damage to all our people, Protestant and Roman Catholic alike.

15th August 1969.

(A)(iii)

PRESS RELEASE

SPEECH BY THE PRIME MINISTER, MAJOR THE RT. HON. J. D. CHICHESTER-CLARK, D.L., M.P., AT A PRESS CONFERENCE IN STORMONT CASTLE TODAY, SUNDAY, 17TH AUGUST, 1969.

We have, of course, been doing what we can to provide you all with a regular and accurate supply of information on the public order situation in Belfast and elsewhere in Northern Ireland. I have, however, invited you to come here today so that my colleagues and I may put before you, and through you to the public, our views on some of the wider issues involved. This is vitally necessary in view of a great deal of speculation, much of it wide of the mark.

I want to deal first of all with the *nature and origins* of the disturbances which began in Londonderry and subsequently spread to Belfast and other centres. It has been widely suggested that these stemmed from two courses. First of all, in Londonderry, it has been said that the disorders arose from the decision of the Northern Ireland Government to allow the Apprentice Boys' March to proceed there on 12th August. It has been suggested, with the benefit of hind-sight, that this was an irresponsible decision, taken in the face of pressures to which we ought not to have yielded.

The fact of the matter, however, is that although various people expressed some anxiety about the proposed march, absolutely no evidence came to hand of plans either to behave violently on the march or to mount violent opposition to it. Over the days leading up to it, we discussed the situation with a considerable number of representative bodies. None of them suggested a ban; indeed their concern was to find ways in which they could contribute to a peaceful outcome. In a striking demonstration of the community's desire for peace, representatives of the Bogside area met representatives of the Apprentice Boys. The clear message coming to us out of Londonderry was

PRONI 391

that every responsible element in the City wanted to achieve a day free from any sort of disorder.

It is so easy to be wise after the event. Had we known that, behind this peaceful facade, extreme militant elements were secretly making careful preparations for trouble, we might have arrived at a different decision. But those who were so violent in their words and actions over the days following 12th August were very careful to conceal these preparation before the event. And what you have got to remember is that the law permits a parade to proceed unless serious public disorder is anticipated. The cancellation of an annual demonstration which had always been orderly and well-conducted could only have been justified by positive evidence of serious trouble brewing. I repeat, *we did not have such evidence.*

So much for the *alleged* specific cause of trouble in Londonderry. But we have also seen it argued that a more general cause of the disorders, both there and in Belfast, has been the slowing-down or reversal of reforms to which my predecessor's Government was committed.

That is absolutely and monstrously untrue. On 21st May with my colleagues I went to see Harold Wilson, and I outlined to him in precise detail our intentions in relation to reform, giving the precise time-table we intended to follow, including the enactment of various major pieces of legislation in the present Session of Parliament. The Prime Minister and the Home Secretary accepted the content and the pace of this programme as completely satisfactory. Here is what Mr. Wilson said at Westminster on 22nd May, 1969 (Hansard, column 669):–

> "What we are appealing for . . . . is an attempt to stop the feeling that reforms are more likely to be achieved by rioting in the streets or blowing up installations than by getting decisions in the Stormont Parliament, which is the legitimate place for them."

What a tragedy that his appeal went unheeded! And he continued:–

> "We shall of course . . . . press the Stormont Government to get on with these Measures. After yesterday's report, *I am satisfied that they are determined to do so.*"

Since then we have not withdrawn or postponed a single proposal. Indeed, the only departure from our time-table has been to bring out in July proposals for local government reform which were originally not due until the Autumn. At my last meeting with the Home Secretary I again said that I trusted the content and pace of our reform programme remained satisfactory to the United Kingdom Government. He confirmed that this was so.

I ask myself why, in these circumstances, it should be put about that we are seeing here an uprising against an unjust and intransigent Government. I repudiate this utterly. It is said solely as part of a deliberate campaign to discredit and subvert this Government, whose basis, I would remaind you, is a parliamentary majority elected on "one man, one vote," just as at Westminster. The real cause of the disorder is to be found in the activities of extreme Republican elements and others determined to overthrow our State. That is why we have found it necessary to detain a considerable number of known and dangerous agitators.

The Chief of Staff of the I.R.A. has admitted that his organisation has been "giving leadership, helping with stones, petrol bombs and 'mark the words' other traditional methods of defence." I must say that attempting to set people and property on fire hardly strikes me as a defensive technique, and I would

remind you again that the trouble in Belfast began with firing upon the police at widely-scattered locations within a short period of time. We have too open attempts to recruit Republican forces in the South for intervention here.

In this grave situation, the behaviour of the Dublin Government has been deplorable, and tailor-made to inflame opinion on both sides. The moving of Army units, the calling-up of reserves, the absurd approaches for United Nations intervention have all been moves of almost incredible clumsiness and ineptitude. I am glad to say that Dr. Hillery returned to his Department in Dublin from his visit to the Foreign Office after what he himself described as a polite but very firm brush-off. These manoeuvres in ordinary circumstances would be merely comic, but in the present inflamed atmosphere they represent a gamble with people's lives. I think that this is a very squalid business, and all that the Dublin Government has done is to convince us for all time that we must look elsewhere for our friends. We held out our hand to them as good neighbours. They have behaved much like those hooligans who have used the present troubles as an excuse to burn their neighbours out.

So much for the causes of disorders. I now turn to the *methods* by which we are coping with the situation, and the political and other implications of these methods. On 14th August, as you all know, we asked all available Special Constables to report to police stations. I have seen much criticism of our use of these police reserves. I ask you to put yourselves for a moment into the shoes of this Government. Disorder was mounting riots had taken place in ten different towns the night before; great damage was being done, lives were clearly at risk; the regular police forces were at the point of exhaustion. How could we have faced our consciences had we allowed such a situation to persist without calling in rapidly such reserves as were available to us?

There remained, of course, the Army. But the civil power has a clear duty to try to cope with a situation itself by all possible means before summoning military aid. To ask for military help is an extreme step, and it involves troops in the most disagreeable of tasks. Nevertheless, once the situation clearly deteriorated to the point where the civil power required assistance, we did not hesitate to seek it, and the response of the United Kingdom Government was swift and decisive. They have demonstrated, as we knew they would, that citizens in this part of the United Kingdom are entitled to no whit less protection than their fellow-citizens in Great Britain.

I would now like to say something about the deployment and management of troops in this situation. At least one newspaper today spoke of "muddle" in this context. There is no such muddle. Let me outline the arrangements operating. Starting yesterday morning representatives of the Army are meeting daily with representatives of the police and of the civil power. On the basis of intelligence reports the situation prevailing and anticipated is very fully assessed. Any evidence of likely disorder in any particular area is fed into the assessment. It is on this basis that the deployment of troops for the following 24 hours is decided. Their actual management within that role is of course a matter for their own commanders. If at any time the position revealed is one beyond the joint capacity of police and the Army at existing strength, machinery exists for the very rapid consideration of possible reinforcement. Let me make this very clear. The Army is here to assist the civil authority. The civil authority is not concealing anything from the Army nor is it taking any unilateral decisions about their deployment. The best joint use of troops and police is decided in full and regular consultation, on the best information

FCO 1. 392

about the overall situation available to both civil and military authorities. One saw this position operating yesterday in relation to the Ardoyne area of Belfast. Information about the situation in that area was fully considered within the joint machinery, and troops deployed yesterday evening.

Finally, let me deal with some of the *consequences and implications* of the of the situation. Here, too, there has been much comment and speculation. I have seen fairly widespread reports that we might be asked to consider a broadly-based coalition government here. First of all, no such suggestion has come to us from the United Kingdom Authorities, nor indeed could it come with any propriety. But let me deal with the suggestion at all events. In grave emergencies such as a state of war communities often draw together in a political coalition because the community of interest transcends ordinary divisions. There is, however, one absolutely essential prerequisite if a coalition is to succeed. However divided on means, its members must agree about vital ends. Otherwise it is likely to be a mere forum for wrangling and the reverse of firm or effective government. Here in Northern Ireland the position is that most of the political Opposition are opposed to the Government party on the most fundamental of all issues—the very existence of the State itself. How can one coalesce with people who one week demand a recall of Parliament and the next week, when it is recalled, stage an apparently carefully-prepared walkout? Government cannot ally itself with disruption.

I would emphasize that in ruling out a political coalition I am not rejecting other means of achieving a broadly-based support for a return to peace and a resumption of progress. Indeed we clearly must find means to bridge the divisions between moderate and responsible people of different outlook, if we are to cope effectively with extremists and irresponsibles of all kinds.

Secondly, I have seen speculation about serious constitutional consequences stemming from the deployment of troops in Northern Ireland. Now of course the committal here of forces which are responsible to the United Kingdom Government means that the normal consultation between the two Governments must become even more constant and intimate. This is already being done. We fully appreciate that the United Kingdom Government and the Westminster Parliament must be satisfied that troops are involved only in a setting about which they can be confident and that the situation had arisen through no failure or error of this Government. But some of the speculation goes further than this. It suggests that the United Kingdom Government should seek to involve itself deeply and directly in the affairs which are at the moment our primary concern. No one here would dispute the sovereign authority of Westminster to secure its will, but my colleagues and I believe that the existence of a responsible Government in this part of the United Kingdom is, not only, the course which most commends itself to a majority of Ulster people, but also the course which prevents Westminster becoming involved in a situation of which it was glad to be relieved almost 50 years ago.

(A)(iv)

Press release, 14 August 1969

Cardinal Conway returned to Armagh from holiday last night and immediately issued the following statement:

"In the present serious situation I appeal to every Catholic to do everything he can to avoid a further escalation of violence.

An extension of the present trouble would play straight into the hands of those—and of course they are a minority—who resent the very presence of Catholics in the community.

I appeal to Catholics not to allow themselves to be swept away by emotion—however natural and understandable such emotion may be—but to keep cool heads and realize that a general eruption of violence would seriously weaken the civil rights movement.

I appeal to those civil rights leaders who have striven long and hard to prevent an eruption of violence not to weary in their efforts. There is still an enormous amount of good will for the cause of non-violence among their supporters.

This is not the time to apportion precise responsibility for what has happened but certainly a heavy burden rests on those who remained silent for over forty years in the face of manifest injustice.

I feel bound to say also that I cannot understand why a parade—lasting five or six hours and accompanied by dancing women singing party songs and firing off miniature cannon—was allowed to take place last Tuesday in a city which was tinder-dry for an explosion.

Neither can I understand why the police authorities found it necessary to ask their men to force their way into the Bogside area where innocent people had been terrorized by some members of the police force on a number of earlier occasions. It is quite obvious that the memory of those earlier nights of terror is still very much alive and due cognisance should be taken of that fact.

There are many other things which I would like to say but for the present I refrain.

In the name of God who loves all men, Catholic and Protestant, Jew and Gentile, let no more wood be piled on this destructive fire."

(A)(v)

Press release, 17 August 1969

Speaking in St. Patrick's Cathedral, Armagh, Cardinal Conway asked the prayers of the congregation for John Gallagher and for his wife, children and parents.

"Terrible things were done in Armagh and Belfast on last Thursday night," said the Cardinal, "and we cannot rest satisfied until the full facts of that 'Black Thursday' are brought into the full light of day.

Nevertheless it is our Christian duty to resist all thoughts of enmity. In the old catechism long ago, after being told that we must love our neighbour, the question was asked 'and who is my neighbour?' and the answer was 'Mankind of every description even those who injure us or differ from us in religion.' It is worth remembering that answer these days.

Moreover we must remember that the great majority of Protestants in Northern Ireland are God-fearing people and a great deal of the tension on their part at the present time comes not from hatred but from fear. The fact that we regard these fears as groundless does not make them any less real for them. Moreover a great many of them are, I believe, basically unaware of what is happening in their midst, unaware of how heartless some of the discrimination can be, unaware of the terror inflicted on innocent people. They read something of this in the newspapers but it is obscured by conflicting

reports and unsubstantiated innuendoes. Only when one speaks to people who have direct experience of these things does one realize that it is all true.

At all events it is the clear duty of everyone to do everything possible at the present time to lessen tension, to banish all thoughts of revenge as Our Lord commanded us, to give all possible assistance to the homeless, to pray for the dead and those who mourn, and to pray also that a dawn of peace with justice may come."

(A)(vi)

Embargo: 12 midnight, Saturday 23 August 1969

The following statement has been issued after a meeting at Ara Coeli, Armagh:

The Cardinal Archbishop of Armagh and the Bishops of Derry, Clogher, Dromore, Kilmore and Down and Connor desire to give expression to their horror at the events which took place in Belfast and in Derry and other places in Northern Ireland last week.

They deeply regret that the true picture of these events has been greatly obscured by official statements and by the character of the coverage given in certain influential news media.

The fact is that on Thursday and Friday of last week the Catholic districts of Falls and Ardoyne were invaded by mobs equipped with machine-guns and other firearms. A community which was virtually defenceless was swept by gunfire and streets of Catholic homes were systematically set on fire.

We entirely reject the hypothesis that the origin of last week's tragedy was an armed insurrection.

We believe that a necessary pre-condition to any restoration of confidence on the part of the Catholic community must be an open recognition of these facts.

In this context we regret that the full evidence available regarding the actions of some members of the police, in the early hours of the morning, in the Bogside area of Derry last January, has never been made public. We are convinced that in the terror evoked in the people of Bogside on that night lies the basic explanation of recent events in Derry.

In this period of crisis we call upon all our people to remain calm and to avoid all words or actions which could in any way increase tension. We ask them not to allow bitterness or hatred to enter into their hearts, to remember that Protestants in general are good Christian people and to commence the re-building of the community relations with Christian faith and hope.

We ask all concerned to realize that among Catholics belief in the impartiality of the Ulster Special Constabulary is virtually non-existent. The future can hold out no hope whatever unless the whole community is able to trust the forces of law and order.

The tragedy of last week will take a long time to efface but it is the Christian duty of all of us to strive to efface it. Above all, we ask our people to pray and to have confidence in God, who is the God of love and peace.

(A)(vii)

Statement by the Taoiseach, Mr. J. Lynch, Wednesday the 13th August, 1969.

It is with deep sadness that you, Irishmen and women of goodwill and I have learned of the tragic events which have been taking place in Derry and

elsewhere in the North in recent days. Irishmen in every part of this island have made known their concern at these events. This concern is heightened by the realisation that the spirit of reform and intercommunal co-operation has given way to the forces of sectarianism and prejudice. All people of goodwill must feel saddened and disappointed at this backward turn in events and must be apprehensive for the future.

The Government fully share these feelings and I wish to repeat that we deplore sectarianism and intolerance in all their forms wherever they occur. The Government have been very patient and have acted with great restraint over several months past. While we made our views known to the British Government on a number of occasions both by direct contact and through our diplomatic representative in London, we were careful to do nothing that would exacerbate the situation. But it is clear now that the present situation cannot be allowed to continue.

It is evident, also, that the Stormont Government is no longer in control of the situation. Indeed the present situation is the inevitable outcome of the policies pursued for decades by successive Stormont Governments. It is clear, also, that the Irish Government can no longer stand by and see innocent people injured and perhaps worse.

It is obvious that the R.U.C. is no longer accepted as an impartial police force. Neither would the employment of British troops be acceptable nor would they be likely to restore peaceful conditions—certainly not in the long term. The Irish Government have, therefore, requested the British Government to apply immediately to the United Nations for the urgent despatch of a Peace-keeping Force to the 6 Counties of Northern Ireland and have instructed the Irish Permanent Representative to the United Nations to inform the Secretary-General of this request. We have also asked the British Government to see to it that police attacks on the people of Derry should cease immediately.

Very many people have been injured and some of them seriously. We know that many of these do not wish to be treated in 6 County hospitals. We have, therefore, directed the Irish Army authorities to have field hospitals established in County Donegal adjacent to Derry and at other points along the border where they may be necessary.

Recognising, however, that the re-unification of the national territory can provide the only permanent solution for the problem, it is our intention to request the British Government to enter into early negotiations with the Irish Government to review the present constitutional position of the 6 Counties of Northern Ireland.

These measures which I have outlined to you seem to the Government to be those most immediaetly and urgently necessary.

All men and women of goodwill will hope and pray that the present deplorable and distressing situation will not further deteriorate but that it will soon be ended firstly by the granting of full equality of citizenship to every man and woman in the 6-County area regardless of class, creed or political persuasion and, eventually, by the restoration of the historic unity of our country.

FS 1. 394

(B)

Copy of the I.R.A. political and military plan

Received by R.U.C. Mid-1968 from A.1 source

1. It is of fundamental importance that the movement assume an organisational form that will attract back people of National outlook in the Trade Union Movement so that their efforts can be co-ordinated.

The Movement needs:

(a) A radical Social and Economic programme.

(b) An organisation of representatives in the Trade Union movement whose function it would be to examine Trade Union Law and structure with a view to making the Trade Unions more revolutionary, and, to draw up directives for Volunteers on the subject of Trade Unionism. This organisation should be in the form of a "staff", not necessarily a branch of G.H.Q., but under the control and direction of the Chief of Staff.

(c) To make the fullest use of experts to lecture to Republicans on Trade Union, Economic and other subjects.

.....

2. Due to the failure of our own organisational structure to cope with the changed environment and strategy, the organisational form whereby agitational work has been carried out has been the 'ad-hoc Committee'. This form of organisation suffers from defects; lack of discipline and lack of co-ordination of effort being the principal ones.

Formal committees should be set up to cover various fields and to work for short term limited objectives. These committees will have terms of reference and will be under the direction of the Army Department.

There should be formal committees dealing with housing questions, Free Trade, co-operativism, etc. These committees will work with other radical-minded groups such as the labour Party people, Trade Union people, etc. These committees to have such an organisational structure to enable them to mobilise the mass of the membership of the Movement in any agitation.

.....

3. SINN FEIN has failed to develop an active local organisational structure and only marginal success has been achieved in attempting to integrate the efforts of S.F. and the Army and Sinn Fein in educational work. The bulk of educational work is now being carried on within the Army framework and is not effectively reaching S.F. people who are non-Army people. The committees mentioned in Paragraph 2 will have as their task the education of Sinn Fein people and Sinn Fein people will be involved on the Committees. It is hoped that the Committees in educating the S.F. people at local level will bring about the desired rejuvenation in Sinn Fein. The Army will backbone this effort and will see that the "push" comes in Sinn Fein from the bottom or from local area level. Sinn Fein as a body will confine itself to Publicity and Election Work.

.....

4. If the minds of the Irish people are to be influenced in any significant numbers towards national objectives, it is going to be necessary to reform the structure of the Movement in order to reach them. This alteration will be effected through the Committees which have been mentioned in previous paragraphs.

5. The present form of recruit training will be changed. This change will replace the emphasis now placed on arms and battle tactics to a secondary position and be replaced by an emphasis on Social and Economic objectives. It is felt that a recruit graduating from recruits class finds that there is a lot of unromantic and possibly boring work to be done before he gets a chance to use his military training. This accounts for the high turnover in membership at present; the recruit having seen emphasis laid on military activity is not prepared for the political activity which must come before it.

The Director of Education will be instructed to re-draft recruits lectures so that the content thereof will reflect more the present goals of the Army. The training will be on the basis of the main task being to back up and consolidate revolutionary action initiated legally, rather than to initiate actions illegally relying on the political organisations to 'explain it away', as has been the case heretofore. Therefore the Army shall develop political activity as much as possible and this will be extended legally as far as possible. Extra-legal should follow only on political activity.

It will be necessary to train some specialist groups in techniques for the harrassment of the military, preferably from areas of likely action so as to make use of local knowledge, the classic guerilla trump card.

.....

ORGANISATIONAL PRINCIPLES

A. The basic movement will be a political national and social-revolutionary organisation with an open membership and legal existence. Recruitment to be to this alone, on the basis of the appeal of the Social and Economic programme and the practical local work to these sections of the people who are most damaged by 'the connection'.

B. The basic Unit of the Movement to be the local Cumann and where possible in industrial areas the factory Cumann. This to meet monthly and to set up within its membership specialist groups of activists devoted to giving leadership to the local people or to the factory workers on issues affecting their interests.

C. Thus, a local Cumann might have a Tenants' Association Group, a youth group, a credit union group, a co-op group, etc. A factory Cumann would have groups oriented towards the shop floor, the administrative staff, the technical staff, etc. These groups would be dynamos generating local and specialised Republican leadership in all areas of the peoples needs. They would equally act as a training ground for revolutionary government. The transition from the gun to politics in the past has omitted this training procedure and has therefore resulted in the Fianna Fail and Clann na Poblachtq processes setting in.

D. These specialised groups would report back to their monthly Cumann meeting, which would be used for co-ordination of local events and educational work in the relationship between the local work and the overall national strategy, so that each Cumann would feel part of a general picture.

E. The groups would have the right to involve non-members in their specialist activity. This would be the basic channel for recruitment.

FS-1 . 395

F. Quarterly regional conferences would enable activity on a national basis to be co-ordinated. Regions with similar problems would be defined, such as the Six Counties and Dublin.

G. An annual National Conference would be the policy deciding body. Quarterly executive meetings would hear reports from the quarterly regional conferences and would formulate short-term policy. A National Standing Committee would meet weekly to give rapid decisions in the light of general policy.

H. The Army to retain its own organisational structure and to function within the revolutionary organisation as a back-bone. Army recruits to be chosen from the best and most conscious members of the organisation. Under no circumstance should the Army recruit from outside on the basis of the emotional appeal of arms. The Army to give leadership within the organisation by the fact of its being composed of the most advanced elements within it, rather than by weight of numbers.

I. The Army Convention to continue as a policy-making body, but this role to be played down in proportion as the basic policy decisions are seen to be made correctly, openly and unity by the National Conference. The current position that the Ard Fheis is a rubber-stamp for the Convention is an imposition on the many sound people in S.F. The role of the Army Convention should evolve towards that of a specialist conference of certain people in the Movement for examining technical problems connected with the military aspect of the revolution. The ARMY COUNCIL will continually review this position.

J. The Constitution to be drafted in such a way as to allow for affiliation of friendly organisations, giving the possibility of having a vast and diversified movement under the Republican umbrella. Affiliations to be accepted from Trade Unions, Felons Clubs, co-operatives, Wolfe Tone Societies and all such bodies with objectives that do not conflict with the objectives of the Movement. Affiliations to be possible both regionally, locally and nationally. Consult with heads of such groups to make their objectives part of national objective.

K. Election contests should be avoided until our people are equipped to give a good account of themselves. This applies to ALL elections. It will be necessary to wait until a basis has been laid on local work to give SUBSTANTIAL support in the first attempt. The timing of this decision to be a policy matter and not one of principle. Selection of areas to be contested and candidates for local elections should be decided on above basis.

L. When our strength is sufficient Dail elections will be contested. Stormont elections should be likewise, the question of the Oath to be considered when necessary.

M. The elected representatives of the people, North and South, will meet and set up a National Parliament.

N. M.Ps. and T.Ds. to meet nationally at a central place during Parliamentary recess and proceed to legislate for the whole country, starting with Laws capable of enforcement by social pressure, recognising that an actual State power was not yet in existence. By degrees a dual government situation would

state power. Eventually a law would be passed, [illegible]ly relating to the sequestration of foreign property, which would bring [illegible]wo State structures into head-on conflict. This would be the signal for the completion of the job by military action (e.g., occupying the factory concerned in the name of the Republic).

MILITARY PLAN

Stages:

1. Anti-agent campaign (start immediately).
2. Large stunt-type operations.
3. Escalation.
4. Final phase (Agricultural and Industrial sabotage to take place at this stage).
5. Opportunity to kidnap prominent British Government members should be availed of when it arises. (Publicity).

1. (a) This type of operation not to be done publicly but quietly.
   (b) Commence immediately but to be phased in such a way as not to excite maximum retaliation from the enemy.

The idea is to prepare the way for a compaign, to clear away some of the existing obstacles and to harden our people and organisation to police pressure. To get our people psychologically prepared for future killing.

The victims of this campaign do not have to be Special Branch but may be the ordinary policeman who is active as an agent against us.

THIS STAGE IS ESSENTIAL.

- - - - - - - - - - -

2. This type of operation should not commence until the men we have now are fully trained and evaluated according to their individual abilities.

This type of operation should and must be of a purely 'killing nature' designed to inflict as many fatal casualties on the British as possible. It should be confined completely to British Army personnel.

SETTING UP OF SPECIAL UNIT FOR STUNT . . TYPE OPERATIONS . .

A.

Unit to be composed of specialised sections from different parts of the country, i.e., Thompson Section from Dublin, Rifle Section from Limerick, Bren Section from Dundalk, Engineers from Cork, etc.

B.

Reasons for this regionalisation:

(1) Avoiding the concentration of an elite in one area will circumvent to a great extent the danger of a split.

(2) Also, by spreading the activities of these special sections over the entire country, the danger of police observation will obviate to a great degree.

G-S 1 . 369

drawal [illegible]se men from their areas for the purpose of an operation will not [illegible]y down the attention of the police as would the absence of sixty men from (say) Dublin city.

.....

TRAINING AND ORGANISATION OF SPECIAL UNIT

(1) Selection: Selection for membership of Special Unit will be made after an intensive three week course in basic military skills and requirements. Such a course would consist of (a) Footdrill, (b) Fitness, (c) Weapons and, using a points system, 5 points will be apportioned for fitness, 2½ each for Footdrill and Weapons.

Footdrill: is essential for the development of team-spirit and co-ordination and for the instillation of obedience to orders. Time allotted to this: 48 hours.

Fitness is so much stressed, because it gives a man tremendous self-confidence together with a reliance on himself alone. Time allotted to this – 48 hours.

Weapon training will consist of:

Rifle	–	5 hours
Bren	–	7 hours
Thompson	–	6 hours
Shortarms	–	4 hours
Grenade	–	4 hours

It is recommended that a detailed training schedule on the lines laid down be drawn up and given to carefully selected units in the 26 County area. So that the Special Unit may be assembled at the earliest possible moment, it is recommended that the programme be distributed on a staggered system. On completion of two weeks of the programme, Unit 'a' will be joined by the pre-selected staff of the Special Unit who will take part in the final week of training, during which they will select the men deemed most suitable for further specialist training. By the end of the three week period with Unit 'A', Unit 'B' will have reached the third week of its training and will be joined by the Staff. And so on until the selection process is finished.

- - - - - - - - - - -

ADVANCED TRAINING FOR SELECTED MEN

D.

(1) Weapon training and physical training will be performed in the men's home areas.

(2) H.Q. will be responsible for arranging camps, etc. at which the various sections may be co-ordinated to produce an efficient Unit.

It would be best to divide the 60 man Unit into two Platoons, one for cover, the other assault. This would make for smaller camps with less difficulty in organisation.

An increase in scale and frequency of activities o[illegible]ed in 1 and 2.

(A small outlay of effort in the carrying out of point 1 will show us at relatively little cost in men, what is the real strength of our Northern organisation in terms of determination, and, especially, security.)

Should it happen that the organisation does not stand under pressure, then we will have ascertained this fact without gambling the total organisation. If burned, we can draw back.

ORGANISATION IN SIX COUNTIES

Recognising the fact that our campaign will be fought in the Six-County area, we believe that the structure, organisation and control of the Army in that area is unsound for campaign conditions the nature of which is envisaged.

Due to the limited area of operation, the density and hostility of population, the vast array of police and other parliamentary and military forces under the control of the enemy, we believe that classic guerrilla type operations cannot be successful. Here we must learn from the Cypriots and engage in terror tactics only.

Assuming that terror is to be our weapon, we must create an organisation capable of seeing such a campaign through. Hence, the following recommendations:

SECURITY

If we use terror tactics it seems reasonable to assume that the enemy will not flinch against using torture against a captured Republican or suspected terrorist. To believe that police would maintain ordinary interrogation techniques is unrealistic. The use of torture in interrogation will doubtless result in the police gaining information. It is our business that the greatest number of people have protection in the case of a breakdown. The only way to ensure this is by limiting the circle of knowledge of any Volunteer to the absolute minimum.

As it is envisaged that the type of operation to be carried out will be of an anti-personnel and sabotage nature, it is apparent that the basic unit will consist of not more than four men. This would mean that anyone breaking down under interrogation can only squeal on three men at the worst. The situation which should be aimed at is one in which an area can have a number of such Units. In this way it would be possible to have one in action and the others held in reserve.

CONTROL to be vested in one man, e.g., in Belfast.

Say 32 Units of 4 men in each.

Say 4 such Units based in each postal district in Belfast.

One man to be in charge of each such district.

Each such district leader to be responsible to G.H.Q. Agent in Belfast.

A courier system to be used by Commander for co-ordination of activity in various areas.

It should be ensured that leaders should only be in control of districts within easy reach of where they live and where they are in complete touch and masters of the situation and can move without arousing suspicion (i.e., in their own areas). Units should be organised in factories, jobs, clubs, etc.,

P.R.O. 393

operation is p[illegible]ed men do not have to go about [illegible]
holding meeti[illegible]etc.

Because of the nature of operations, weapons necessary would be small arms, Grenades and in certain cases Thompsons. The size of the unit will mean that only a small quantity of such equipment will be needed. Thus the following advantages will apply: easy to store, police can only capture small quantity and cannot make great publicity of it. If, for example, an operation necessitates the use of a grenade: a man can carry it easily to the scene, he can throw it and then walk away. The same would apply to sabotage equipment, gelignite, molotovs, etc. The weapon is carried to the scene and left there.

ORGANISATION OF UNITS

(1) At the initial stage it will be necessary to use known men who can be seen to be capable of being discreet. The present Recruiting Officers to be detailed to hand over lists of recruits to man appointed to organise secret Units. Latter to examine lists and to use Recruits found suitable for secret Units. In this way Recruiting Officer will consider people taken from list to have been found unsuitable. Therefore secrecy will be maintained from the very beginning.

NOTE: Pure border areas, i.e., in Counties in Free State, to be organised in secret Units similar to those in the Six Counties.

Organisation would therefore take the following form:

Six Counties: Secret small Units.

Twenty-six Counties: Provision of Shock Unit for special operations of a purely military character as outlined in Section 2.

.....

REPLIES TO QUESTIONS RAISED

COUP D'ETAT. Not possible because:

1. Loyalty of Officer-class soldiers, who are drawn principally from the lower-middle and middle classes, to the State.
2. The strength of the F.S. Army and Police will always increase in ratio to the strength of the I.R.A.
3. There is no tradition of 'coups d'etat' in this country. Some of the British respect for constitutional institutions has rubbed off.
4. The Church.

COUP D'ETAT. Conditions for:

A. Proper Infiltration of Police and Military.
B. Propaganda aimed at undermining loyalty to state.
C. The developing political situation as outlined in Plan may mean that Coup d'Etat in one of its forms may become necessary.

- - - - - - - - - - -

Role of Political Wing: Dealt with in Plan.

Economic Resistance. Dealt with in Plan.

Liaison of Connection S.I. and Army (Intelligence w...
Security in the case of agitation needing extra-lega... vity to be taken care of by holding a number of men in reserve in each area for such activity.

Assassination

Open assassinations to be performed in situations such as Divis Street riots. Informers also to be assassinated openly. Quiet assassinations for police: silencers, poison darts, etc., can be used with effect here.

Spectacular Kidnaps:

To be used especially to secure hostages in the event of executions of Republicans.

Selective Internment: This cannot be guarded against.

Easter: If North creates another Divis Street.

Retaliatory action to be taken against selected (agent type) R.U.C. men. Military action against the British Army should also be considered.

Full-time men: Unknown men to be maintained in fighting areas to carry out squad type jobs.

Equipment: 10 Ton Plastic Explosive. Timing devices, 5,000 Grenades, 1,000 Shortarms (9 mm. or ·45 automatic). 1,000,000 rounds of revolver ammo. 200 Automatic Rifles (F.N.). 100,000 rounds of Rifle ammo. 300 Bazookas and 3,000 shells.

oOoOoOoOoOoOo

Statement from the Irish Republican Publicity Bureau

* * * We have been requested to issue the following statement on
* * * behalf of the Leadership of the Republican Movement.

23/5/1971.

SCARMAN TRIBUNAL DOCUMENT

"The document presented to the Scarman Tribunal in Belfast on May 21, which was alleged to be an "I.R.A. military plan" was never in fact more than a draft for discussion purposes.

"It was claimed at the Tribunal that it came into the possession of the Stormont regime from an "A.1. source" in mid-1968. The facts are that this document together with a political draft were captured by 26-County police in May 1966, before either document could be discussed, much less adopted as policy.

"The political part was published in the Dublin daily papers by the 26-County government one week subsequent to its seizure. The military part was withheld from publication for "security reasons." Both documents remained drafts; they never became policy.

"The factual position then, is that the document produced at the Scarman Tribunal was never I.R.A. policy. From May 1966 it was in the hands of the 26-County government. It is apparent that Stormont's "A.1. source" is the Dublin Government and that the document was handed over in mid-1966 and not 1968 as claimed."

P. O Neill
Rúnaí, I.R.P.B.

FS 1 · 398

(C)

Copy report dated 18th August from R.U.C. to Ministry of Home Affairs

18th August, 1969.

Dear

You request for the Minister this evening an appreciation of I.R.A. and Republican involvement at this moment of time in our present disorders.

It is impossible to do this properly due to shortage of time and operational interruptions so I am compelled to attach a number of Xerox-copy appendices which I am afraid the Minister will have to peruse himself. Most of it is already in the Ministry. I regret having to put it this way.

It would be absurd to say the present situation has been brought about solely by the machinations of the Movement, but a quick look at some of the appendices will show that the tactics employed over the past year are laid down or find a place in their official documents.

What has happened in fact is that the I.R.A./Republican Movement have infiltrated and been manipulating the Civil Rights organisation with great energy the speed of success of the latter in producing the present conditions in the streets has caught the I.R.A. largely unprepared in the military sense. At this moment of time their Units are on 'active service' and they have been responsible for numerous recent 'actions'. In Belfast and Derry those we failed to collect for internment are inaccessible but armed behind the barricades or otherwise 'on the run'.

A brief historical note is relevant.

In the Autumn of 1965 Johnston's Connollyite/Communist planning policies commenced, culminating in the present "Ireland To-day" which is approaching the finalising stages. Unlike previous I.R.A. campaigns of military action first, political action to follow, Johnston's plans are—political agitation first and when the people are indoctrinated and ready—then military action.

Johnston attended the first Annual General Meeting of Civil Rights in Belfast in February, 1968, when some 30 of an attendance of 70 were known Republicans or I.R.A.

A Republican confidential document of September, 1968 laid down some guide-lines for their participation in Civil Rights. These included Civil Disobedience and the now familiar demonstration tactics. In this, as in "Ireland To-day," we find not only participation from within but an alliance of convenience with all things radical without and contributing to the downfall of the Establishment—but the final solution, politically and militarily, a purely Republican one resulting in a 32-County Socialist Republic in the Connolly tradition.

Portions of the Movement's political plan were actually read out in the Dail but details of the military plan were suppressed. You will, however, find these in the appendices.

At the end of May of this year it was reported to Sinn Fein Headquarters (A.1 source) that members of Republican Clubs now controlled two-thirds of the executives of all local Civil Rights Associations in Northern Ireland. The present executive of the N.I.C.R.A. has a membership of fourteen of whom six are members of the Republican Movement.

The I.R.A. and Sinn Fein openly admit that their role at Civil Rights Demonstrations has been that of stewards and marshals, being particularly

suitable for that duty because of their discipline. They have in fact been observed in scores performing those duties.

A more sinister function, Republican inspired and dominated from inception, was the appearance in recent months of Civil Rights vigilante committees and Citizens' Defence committees in Belfast, Londonderry, Newry, Lurgan, etc. These local bodies, as stated, were all Republican and I.R.A. dominated. Their outward and publicly announced policies were "peaceful" and for the "protection" of local communities. We now know, to our cost, vide Derry, that under this cloak of peace they were in fact preparing for war.

We now come to the shootings in Belfast a few nights ago. This commenced in a number of places when police patrols were fired on with machine guns and rifles from Nationalist areas. A number of police were injured and civilians killed. We know this was I.R.A. action, but identification of the Units responsible has not yet been established.

I referred earlier to the I.R.A's unpreparedness for the current situation. Reliable sources report a shortage of arms. Their command system behind the barricades in the City is weak and lacks cohesion due to our swoop and detention of a number of their top men.

I conclude with a paragraph just placed before me from a top reliable source: That 12 I.R.A. (3 from each of the four Northern Commands) attended a training course two weeks ago in Eire on Thompson Machine Guns, short arms, grenades and manufacturing Molotov Cocktails. It is not clear if a similar course for last week-end took place in view of the situation. The same source reports in the past week I.R.A. Units in Belfast, Londonderry and Newry were making hundreds of petrol bombs and a number of home-made grenades. They were also instructing local people in the use of petrol bombs through the Citizens' Defence Committees.

Yours sincerely,

FS1 . 396

APPENDIX VI

CHRONOLOGY OF EVENTS

(A)

1st January 1969 to 30th June 1969

1st to 4th January 1969	'People's Democracy' march from Belfast to Londonderry
4th January	March reaches Londonderry after harassment and violence, particularly at Burntollet and Irish Street
	Riot in Londonderry
	Allegations of police violence and partiality. Police are excluded from Bogside of Londonderry for the following few days
7th January	Announcement of march in Newry on 11th January
8th January	Threat of counter demonstration in Newry from 'Loyal Citizens of Ulster' (Major Bunting)
10th January	March in Newry rerouted by police to avoid 'Protestant' areas
11th January	'People's Democracy march' in Newry. Counter march had been called off. Police tenders wrecked and Post Office damaged
15th January	Government announcement that Commission of Enquiry into the disturbances would be established
27th January	Conviction of Rev. Paisley and Major Bunting at Armagh Petty Sessions Court
3rd February	NI General Election announced for 24th February
5th March	Introduction of Public Order Amendment Bill
11th March	Burning of Public Order Bill at 'People's Democracy' meeting at Armagh
11th March	Introduction of Parliamentary Commissioner Bill
20th March	Opposition Members of Parliament suspended after House of Commons 'sit down' during debate on Public Order Amendment Bill
21st March	RC Church at Lower Ballygowan, Co. Antrim, wrecked by explosion
22nd March	'People's Democracy' demonstration outside Belfast City Hall
	Sit down demonstration in Londonderry and windows of police barracks broken
	Sit down in Armagh and counter demonstration
	Demonstration in Newry and march by group over route banned in January
	Demonstration at Toomebridge

	Attempted demonstration outside [illegible]ist prison by supporters of Rev. Paisley and Major [illegible]nting
	Limavady Civil Rights meeting broken up by opponents
29th March	Civil Rights march in Londonderry
30th March	Castlereagh EBNI Transformer Station damaged by explosion
4th April	'People's Democracy' meeting outside Belfast City Hall and counter demonstration
5th April	21 arrested in Lurgan at 'People's Democracy' sit-down
	Protestant extremists demonstrate in Belfast against imprisonment of Rev. Paisley
6th April	Republican parade to Milltown Cemetery
	Ulster Protestant Volunteers and UCDC parade to Ulster Hall
	Tricolour carried at Londonderry Republican parade despite ban under Public Order Act
	Armagh Ulster Protestant Volunteers parade
	Tricolour carried at Carrickmore Republican parade
7th April	Demonstrators remonstrate with police after Armagh Republican parade
9th April	Mr. N. Blaney makes speech at Londonderry about 'Border'
10th April	Londonderry demonstration with tricolour after court case
	Dungannon squatters occupy RDC houses
	Capt O'Neill (PM) replies to Mr. Blaney's speech
12th April	CRA march at Omagh
	Fire at Aughatara AOH Hall (Nr. Armagh)
	Newry CRA block Belfast-Dublin Road
15th April	Plymouth Brethren Hall near Aughatara AOH Hall destroyed by fire
	Trouble between CRA supporters and Protestant crowd at Enniskillen
17th April	Polling day in Mid-Ulster by-election
18th April	Miss B. Devlin elected as MP for Mid-Ulster
	Burntollet march banned because of fears of violent counter demonstration
	Protestant meeting at Londonderry and CRA meeting at Dungiven concerning proposed march
19th April	Rioting in Londonderry following ban on march from Burntollet to City. Ban imposed
	Lurgan CRA march
	Scuffles and stone throwing at parade led by Mrs. Paisley at Cookstown
20th April	Violence in Londonderry and police leave Bogside area
	March from Casement Park, Belfast
	Windows of Hastings Street Police Station broken

FS 1 400

	[illegible]mage to 9 Belfast Post Offices and 2 vehicles in Falls [illegible]oad 'bus depot
	Explosion at Silent Valley Reservoir
	Explosion at Electricity Pylon at Kilmore, Co. Armagh
	Newry Police Station besieged by CRA members
	Dungannon CRA members put up barricade
21st April	Finaghy Post Office damaged
	Troops used to guard key installations
	Attacks on two Belfast Police Stations after CR and PD protest march
22nd April	Clash with police after CR meeting in Belfast
23rd April	Petrol bomb fires at customs post at Molenan, Co. Londonderry
	Major Chichester-Clark resigns from Government as Minister of Agriculture
	Universal adult franchise in local government elections supported by 28 votes to 22 at Unionist Party meeting
24th April	CRA and PD announce calling off of street demonstrations for time being
	Explosion at water pipeline at Templepatrick, Co. Antrim
25th April	Explosion at Silent Valley water main near Annalong, Co. Down
	Bus stolen from Omagh and set on fire
26th April	Attempt to burn Kilkeel Orange Hall and AOH Hall
	Demonstration by Protestant extremists in Armagh leads to trouble with CRA supporters
27th April	Reported threats to Catholics in Manor Street, Belfast
28th April	Resignation of Capt. O'Neill as NI Prime Minister
30th April	Windows of Monkstown Baptist Church smashed
1st May	Major Chichester-Clark elected as PM
6th May	Amnesty announced for all offences connected with demonstrations since 5th October 1968
8th May	CRA announce temporary suspension of civil disobedience campaign in view of amnesty
16th May	Disturbance outside Hooker Street public house precedes violence on succeeding nights
21st May	Major Chichester-Clark, Mr. Porter, Mr. Faulkner and Mr. Andrews met Mr. Wilson, Lord Stonham and Mr. Callaghan in London
27th May	Mr. Faulkner visits Bogside
28th May	USC hut burnt at Trillick
29th May	Ardoyne Citizens Defence Committee meet police to discuss Hooker Street
	Mr. Porter asks for more RCs to join police

8th June	Disturbances during and after O[illegible] parade at Dungiven
9th June	CR and Protestant scuffles after [illegible]ed Dungannon Council meeting
11th June	Motorcade from Newtownbutler protesting about housing policy in Fermanagh
12th June	Newry CRA picket EBNI offices
13th June	Proposed housing points system published by Government Statement by City Commissioner in relation to rerouting of parades on 15th June
14th June	Two RC public houses near Hooker Street daubed with UVF signs
15th June	Connolly Association parade called off Shankill Defence Association march also called off
18th June	House of Lords uphold ban on Republican Clubs
19th June	Opposition MPs meet on reforms timetable March on Falls Road by supporters of Connolly Association
28th June	CRA march at Strabane Dungiven Orange parade
30th June	Major Chichester-Clark visits Bogside

FS 1. 401

APPENDIX VII

LEGAL REPRESENTATION BEFORE THE TRIBUNAL

	Counsel	*Solicitors*
For the Tribunal	Mr. C. B. Shaw, QC Mr. J. P. Higgins, QC Mr. C. M. Lavery Mr. W. A. Campbell	Messrs. B. McCloskey & Co. Messrs. S. & R. Crymble
The Ulster Special Constabulary	Mr. R. T. Rowland, QC Mr. R. Appleton, QC Mr. J. K. Pringle	Messrs. J. C. Taylor & Co.
The Royal Ulster Constabulary	Mr. R. R. Chambers, QC Mr. H. Bowman, QC Mr. J. A. Creaney	Messrs. J. G. Edwards & Co.
Electricity Board for Northern Ireland	Mr. R. D. Carswell	Messrs. H. J. Catchpole
Certain Catholic residents of West Belfast	Mr. H. G. McGrath, QC Mr. J. D. McSparran, QC Mr. J. M. A. Nicholson Mr. R. C. Hill	Messrs. J. O'Hara & Son Messrs. J. F. Fitzpatrick & Co. Messrs. F. S. McCartan
Certain Catholic residents of Dungannon and Coalisland	Mr. T. O'Donnell, QC Mr. J. D. McSparran, QC Mr. T. V. Cahill	Messrs. P. A. Duffy & Co.
Certain Catholic residents of Armagh	Mr. T. O'Donnell, QC Mr. H. G. McGrath, QC Mr. T. V. Cahill	Messrs. J. G. Lennon Messrs. F. G. O'Neill
Derry Citizens Defence Association	Mr. W. P. McCollum Mr. P. Mooney	Messrs. C. Wilton
Certain Catholic residents of the Ardoyne area of Belfast	Mr. T. O'Donnell, QC Mr. W. P. Doyle, QC Mr. J. J. Curran	Messrs. J. T. Johnston & Co. Messrs. D. A. Breen
Certain Protestant residents of Newry	Mr. D. B. Murray QC Mr. C. Dickson	Messrs. Fisher & Fisher
Northern Ireland Civil Rights Association	Mr. W. P. McCollum Mr. P. Mooney	Messrs. K. M. Agnew
Belfast and Ulster Licensed Vintners Association Belfast and Ulster Off-Licensed Holders Association	Mr. H. G. McGrath, QC Mr. P. Markey	Messrs. J. I. Donaghy & Co.

	Counsel	*Solicitors*
Miss Devlin, MP (UK)	Mr. M. Solomon	Messrs. Somers &
Certain Protestant residents of Belfast	Mr. D. B. Murray, QC Mr. J. F. B. Russell, QC Mr. R. L. McCartney	Messrs. Peden & I
Mr. John McQuade MP (NI)	Mr. D. N. O. Boal	Messrs. T. Smyth
Apprentice Boys of Derry, Orange Order (Dungiven and Londonderry), certain Protestant residents of Londonderry, Commander A. W. Anderson, MP (NI)	Mr. D. N. O. Boal	Messrs. Babingtor
Rev. Dr. I. K. Paisley, MP (UK & NI)	Mr. D. N. O. Boal	Messrs. Patterson
Shankill Defence Association	Mr. D. N. O. Boal Mr. R. Ferguson	Messrs. Patterson
Widow of Herbert Roy, deceased	Mr. G. P. H. Gibson	Messrs. M
Issac Andrews & Sons Ltd.	Mr. G. P. H. Gibson	Messrs. L. Macl
Certain owners of licensed premises in Belfast	Mr. T. O'Donnell, QC Mr. W. P. Doyle, QC Mr. J. J. Curran	Messrs. Donnell
Mr. H. A. Megarry	Mr. H. P. Kennedy	Messrs. T. Smyt
Certain Catholic residents of Dungiven	Mr. H. G. McGrath, QC Mr. W. P. McCollum	Messrs. B. W. M
Mr. S. Dowling Mr. J. Campbell Mr. H. Mallan Mr. P. M. O'Hanlon, MP (NI)	Mr. K. R. M. McMahon	Messrs. B. McM

Printed in Northern Ireland for Her Majesty's Stationery Office
Dd.492256. K60. 2/72. Gp.149

FS-1 · 402

Appendix 2

Fs 1. 403

HMSO/27



GOVERNMENT OF NORTHERN IRELAND

REPORT

of

The Advisory Committee on Police in Northern Ireland

Presented to Parliament by Command of
His Excellency the Governor of Northern Ireland
October 1969

BELFAST
HER MAJESTY'S STATIONERY OFFICE
PRICE 5s 0d [25p] NET

Cmd. 535

FS 1 · 404

MINUTE OF APPOINTMENT

I hereby appoint:

BARON HUNT, C.B.E., D.S.O., Chairman.

SIR JAMES ROBERTSON, C.B.E.

ROBERT MARK, Esq., Q.P.M.

to be an Advisory Committee to examine the recruitment, organisation, structure and composition of the Royal Ulster Constabulary and the Ulster Special Constabulary and their respective functions and to recommend as necessary what changes are required to provide for the efficient enforcement of law and order in Northern Ireland.

And I further appoint Mr. A. S. Baker, O.B.E., D.F.C., of the Home Office and Mr. J. V. Morrison of the Ministry of Home Affairs to be assessors to the Committee and Mr. A. P. D. Westhead to be Secretary to the Committee.

R. W. Porter

Minister of Home Affairs
for Northern Ireland

Stormont
Belfast.

26th August 1969.

CS 1/405

To THE RIGHT HONOURABLE ROBERT WILSON PORTER, Q.C., M.P.,
Minister of Home Affairs,
The Government of Northern Ireland.

DEAR MINISTER,

In accordance with your minute of appointment dated 26th August, 1969, we submit our Report on the Royal Ulster Constabulary and the Ulster Special Constabulary. We have completed our mission in the shortest possible time compatible with giving adequate consideration to the principal problems, being conscious of the urgency of clarifying the future pattern for the enforcement of law and order and the responsibility for the protection of the Province, which we regard as an essential step towards resolving the present situation.

Within the limited time available it has not been possible to make as detailed an examination as we would have wished. Indeed, in less serious circumstances we would have preferred to have several months at our disposal. We have, therefore, suggested procedures by which a number of matters which came to our notice and upon which we formed preliminary views may be resolved after further examination.

That the task was possible at all is due in no small measure to the splendid co-operation we have received from your Ministry, from the Inspector-General and all ranks in the Royal Ulster Constabulary and the Ulster Special Constabulary, and the readiness of many others outside the police force to give us the benefit of their views.

We wish to record our deep appreciation of the services to our Committee of our Assessors, Mr. Victor Morrison and Mr. Alec Baker, and our Secretary, Mr. Patrick Westhead. Our two typists, Miss Madeline Thompson and Miss Edna Caldwell, did a magnificent job in typing the many drafts leading to this final Report.

We would emphasize that this Report represents our unanimous opinions. Furthermore it is our conviction that nothing less than the full implementation of the proposals it contains, within the shortest time possible, can suffice to lay a sound foundation for the good order and security of the Province.

It has been a privilege to render this service to Northern Ireland.

Yours sincerely,

John Hunt.

Ballygally
Co. Antrim.
3rd October 1969.

CONTENTS

CHAPTER	1	General Considerations about our Mission	para. 1– 20
CHAPTER	2	The Problems of Order and Internal Security	para. 21– 28
CHAPTER	3	Description of the Royal Ulster Constabulary	para. 29– 79
CHAPTER	4	Proposed Changes in the Role and Organisation of the Royal Ulster Constabulary	para. 80–118
CHAPTER	5	Proposed Changes in Recruitment, Training and Promotion Procedures	para. 119–131
CHAPTER	6	Relations with the Public and the Law	para. 132–147
CHAPTER	7	Association of the Royal Ulster Constabulary with other Police Forces in the United Kingdom	para. 148–150
CHAPTER	8	Description of the Ulster Special Constabulary	para. 151–165
CHAPTER	9	The Future of the Ulster Special Constabulary	para. 166–174
CHAPTER	10	Conclusions and Recommendations	para. 175–184

APPENDICES	A	Deployment of the Royal Ulster Constabulary
	B	Offences known to Police, Proceedings taken and Results of Proceedings
	C	Strength of the Ulster Special Constabulary
	D	Ulster Special Constabulary—Remuneration of Permanent and Full-time Members
	E	Ulster Special Constabulary—Pay and Conditions of Part-time Members

FS 1 · 406

CS 1 · 407

CHAPTER 1

General Considerations about our Mission

Our Mission

1. On Tuesday, 26th August 1969, we were appointed by the Minister of Home Affairs of the Government of Northern Ireland to 'examine the recruitment, organisation, structure and composition of the Royal Ulster Constabulary and the Ulster Special Constabulary and their respective functions and to recommend as necessary what changes are required to provide for the efficient enforcement of law and order in Northern Ireland.'

2. The importance and urgency of this task was impressed upon us in view of the situation following the disorders earlier in the month. After a visit by the Home Secretary of the Government of the United Kingdom on 7th September the hope was expressed that our report might be available in time for it to be discussed with him early in October, when he is to make a second visit to the Province.

3. Both on account of the speed with which so wide-ranging an enquiry had to be completed and of the nature of the task itself, we decided that our enquiries should be informal and confidential, that we should confine ourselves mainly to contacts and visits within the ambit of the Royal Ulster Constabulary and the Ulster Special Constabulary and that we should seek written evidence and opinion outside the police forces privately, rather than invite submissions from all sources. To have done otherwise would certainly have prolonged our mission far beyond the time-table which we have been set, without adding to the technical information upon which we would have to base many of our recommendations.

4. In the course of our examination we paid visits to the Headquarters of the Police Force at Brooklyn, to those at Belfast and Londonderry and in all the Counties. We visited a number of District Headquarters, sub-districts and police stations, including several stations on the border with the Republic of Ireland. We spent a day at the Training Depot in Enniskillen. During these tours we met and held informal discussions with many members of all ranks in the Royal Ulster Constabulary and the Ulster Special Constabulary. We received a memorandum from the Central Representative Body and met representatives of its County Consultative Committees. We had meetings with representatives of the District Commandants of the Ulster Special Constabulary and the Retired Police Officers' Association, with two former Inspectors-General and two former Deputy Inspectors-General. We take this opportunity to record our appreciation of the co-operation which we received from the Inspector-General and all ranks in the police.

5. Among our contacts outside the police force were the G.O.C., Northern Ireland, leaders of the Churches, the Lord Chief Justice and the Attorney General, representatives of the Bar Council and the Incorporated Law Society

of Northern Ireland, chairmen and secretaries of the local authority associations, Chairmen of County Councils, Resident Magistrates, the Chairman and General Manager of the Londonderry Development Commission, representatives of the Northern Ireland Committee of the Irish Congress of Trade Unions, proprietors and editors of newspapers, representatives of the B.B.C. and Ulster Television, the Vice-Chancellors of both Universities and a number of other private citizens. We were privileged to be received by His Excellency the Governor and to visit the former Governor, Lord Erskine. Had time permitted, we would have wished to consult many others.

6. The magnitude and complexity of the undertaking, necessarily compressed into so short a period, intensive and concentrated though it has been, has compelled us to limit our studies to certain main questions which seemed to call for immediate decisions; but we have noted many other matters relating to the police forces which merit further consideration and which we believe to require changes and improvements. We have been able only to point to these matters, indicate the nature or direction of change and propose the procedure for further enquiry or action.

7. We have been able to bring to bear on the matters falling within our terms of reference a varied background of experience gained in other police forces in the United Kingdom and India, and during military operations elsewhere in aid of the civil power. But we are well aware that, for historical and other reasons, the particular problems in the enforcement of law and order in Northern Ireland have resulted in differences in the functions, organisation and control of the forces here. These differences have enjoined caution upon us in applying our own experience to the problems in the Province, and we were aware of the danger of drawing conclusions based on 'sand-table' exercises; but we have borne firmly in mind the fact that it is the future which we were invited to consider.

General Considerations

8. It is a truism that the police forces in any country operate within the context and in the climate of the political conditions and stability of that country. Their task of enforcing law and order is inevitably affected by social, economic and other circumstances arising out of these general conditions; it must perforce be more onerous in an unstable situation. We feel it desirable to make this obvious point, in view of the special difficulties under which the police have operated in the past, which may persist in the Province in the future, which are not the making of the police themselves, and which make their task at times both difficult and distasteful.

9. In particular, we would point to the growing cult of violence in society, the increasing tendency of a minority to flout the law, undermine authority and create anarchy. This trend is not peculiar to Northern Ireland, for its instigators latch on to any pretext wherever they can find one to exploit; to some extent it is a symptom of a general malaise among youth. We have taken carefully into account the need to ensure that changes in the police force are made with a view to enabling it the better to perform its duties, in the light not only of those troubles which have been a particular feature in the history of Northern Ireland, but also of the more recent agitations which are more widespread.

PS 1. 408

10. However, we are convinced that the police force can and should play a leading part, not only in enforcing law and order, but in helping to create a new climate of respect for the law, a new attitude of friendship between its members and the public, and a sense of obligation among all men of goodwill to co-operate with the police in fulfilling their civic duties in the Province, notwithstanding any wider political aspirations which they may have. Our principal recommendations are framed with a view to enabling both the police and the citizens of Ulster to move towards a better relationship with one another in order to achieve this common need and purpose.

11. Our proposals offer a new image of the Royal Ulster Constabulary as a civil police force, which will be in principle and in normal practice an unarmed force, having the advantage of closer relationships with other police forces in Great Britain. Our recommendations further advocate some measures to make the Royal Ulster Constabulary more accountable to the public, and others which should enable it to develop closer relationships with the community. As regards those tasks of a para-military nature which the Royal Ulster Constabulary has shouldered since its inception, we make proposals which would relieve it of this responsibility.

12. In the light of these changes we hope that there will be, in future, many more people in the community, whether they be Catholics, Protestants or of any other faith and denomination, as well as those who hold no religious beliefs, who will now be willing to join in active support of the police in their necessary and difficult job.

13. We have been most concerned by the harm which, during the disturbances in the past twelve months, has been done to the image of the Royal Ulster Constabulary, not only in the Province but in the eyes of the world, resulting in some lowering of morale among members of the force, and loss of public esteem. Allegations against some police officers, albeit mainly in circumstances of severe stress and provocation, at times under attack from that appalling weapon, the petrol bomb, against which they had no defence, are not a matter for comment by ourselves. But we cannot stress too strongly the catastrophe which must befall any society which ceases to respect the rule of law or takes the law into its own hands.

14. We feel bound to deplore the extent to which some press and television coverage of these events has resulted in magnifying, in the minds of readers and viewers, the actual extent of the disorders, in generalising the impression of misconduct by the police and of bad relations between police and public, while sometimes failing correspondingly to illustrate the calm which has prevailed in most parts of Ulster, or the degree of deliberate provocation, the danger and the strain under which the police, frequently and for long periods, tried to do their duty, as well as the fact that the great majority acted not only with courage but with restraint. Such impressions may, as in this instance, do harm to the future maintenance of law and order and the restoration of confidence upon which this so largely rests. We wish to take this opportunity to correct the perspective.

15. We make these observations, not to criticise, but to draw attention to a general matter and its effect on the problem of Northern Ireland. This is the power and the weakness of mass media and modern communications, which

rightly focus attention on grave problems, but outside the ambit of those problems, also tend to enlarge and confuse rather than clarify these complex issues in the minds of people the world over, often in an attempt to simplify them. This in turn, has brought pressures to bear on those involved in the problems themselves which may make a solution more difficult. It has happened here.

16. None the less, it is undeniable that important changes are necessary in the police force of the Province and that it is essential to make these quickly. We emphasise the need to make these changes with firm resolve and courage. Some of them will cause breaks to be made with hallowed traditions; others will mean some personal sacrifice and an end to devoted and distinguished service. All the changes will call for a determination to look forward rather than backwards, and to have faith in the future. We believe that nothing less will suffice to make the police acceptable to all but wrongdoers; to help create a better relationship between all sections; to provide a more appropriate system of defending the Province from subversion, as well as for maintaining law and order.

17. We hope and believe that all ranks in the police force will set the example which is inherent in their calling, by co-operating in this difficult task. We feel encouraged by the fact that so many of those whom we met suggested or supported a number of the changes which we now advocate; we think that most of our proposals reflect widely-held views within the force.

18. We also believe that these reforms, while some of them are bound to cause misgivings in some people, will be widely accepted by reasonable men and women in Northern Ireland and we hope that the Government will endorse them accordingly.

19. There is one final point; it is perhaps the most important of all those which we have to make. We believe that the recommendations in this report will call for outstanding qualities of leadership to carry them out. There must be a conviction of the need for the changes and a due sense of urgency. There must also be an ability to appreciate the problems of Northern Ireland and the sensitivities of its people combined with a determination to chart a course towards the future, undeflected by the events of the past.

20. This is a great opportunity in the distinguished history of the Royal Ulster Constabulary to take a big step forward and meet the challenge of these difficult and changing times. We hope and believe that all ranks will seize this opportunity and that the Government of Northern Ireland will provide the essential means to do so.

FS 1 409

CHAPTER 2

The Problems of Order and Internal Security

21. The problems of keeping the peace in Northern Ireland are peculiarly difficult because of the deep sectarian divisions of society, the part played over the years by the Irish Republican Army and its various splinter groups, and the militant character of the extreme Protestants. Recently two factors which are the causes of street disorder in other countries have made things yet more difficult: one is the anarchist and other groups of the extreme left, who seek to destroy the existing fabric of society; the other is a resurgence of violent hooliganism in the form of groups or gangs, mostly of youths, who intimidate innocent persons, and fight one another and the police.

22. Historical factors are important. Soon after Northern Ireland came into being it had to deal with rioting, arson and brutal killing on a large scale. For example, in three weeks in February, 1922, 138 casualties were reported—96 among Catholics, 42 among Protestants. The border was also under attack by the I.R.A. For most of 1922 the I.R.A. was fighting also against the Provisional Government in Dublin, in a civil war which lasted until May, 1923; but, for a short period in the Spring of 1922, because of the trouble in Northern Ireland, the I.R.A. was in alliance with the Provisional Government. Set against the I.R.A. were not only the British troops in Northern Ireland, but also the newly-formed Royal Ulster Constabulary and the Ulster Special Constabulary. In the circumstances it was natural that the R.U.C., on its formation from the Royal Irish Constabulary, should continue to be armed, and that the Ulster Special Constabulary should also be a military force.

23. The I.R.A. waged a further campaign of terrorism from 1956 to 1962. But it gained no public support and was defeated. Since then there has been little active terrorism, and the I.R.A. has concentrated on fomenting unrest. A move to the left in its leadership has brought it closer to the anarchist and other groups of the extreme left, working in concert with them in promoting trouble on the streets. These tendencies, allies and activities make the I.R.A. to-day an embarrassment to moderate Roman Catholics both North and South of the border. It is a pity that although the strength and methods of the I.R.A. and conditions North and South of the border have changed greatly since 1922 the memory of the early years is still fresh in many minds.

24. Public meetings and processions, which have a political as well as a religious significance, often provide the occasions when extremists or hooligans are able to provoke disorder and revive old feuds. For example, the serious rioting in Belfast in 1935, in which eleven people died and troops were used, started from a procession of the Orange Order. The more recent occasions are fresh in everyone's mind.

25. To-day the threat to public order arises from sectarian tension, which is fed and used by, on the one side, the Sinn Fein and I.R.A. organisations

together with the revolutionary socialists; and, on the other, by t[illegible]rotestant extremists.

26. As to the future, the I.R.A. and the revolutionary socialists, using their position in the Civil Rights Association, seem likely to maintain civil rights pressure; and this will no doubt generate Protestant reaction. If the conflict between these forces, working upon the tensions in society, were again to re-create the explosive atmosphere of last August, and the I.R.A. terrorists were ready to take advantage of it, it is possible that they might resume attacks on police stations and customs posts, R.U.C. and British Army personnel, and key points where it is essential to protect buildings and other installations that are important for general welfare in heavily populated areas. It was noticeable that the I.R.A. were unprepared for such action last August.

27. It should not be inferred, from this assessment of the possible threat from terrorism, that terrorist attacks are likely. Indeed everyone hopes that the reforms already in hand and those still being planned will, by removing the causes of discontent, make it less likely that in the future extremists will be able to provoke disorder and so bring about the conditions in which terrorism can be effective. Moreover a realistic assessment of the capacity of the I.R.A. to mount serious terrorist attacks would probably not rate it very high, particularly as the Government of the Irish Republic has stated publicly that it is opposed to the use of force on the border. Even so, it is necessary to consider the worst that might happen, so that proper precautions can be taken; and although the threat of terrorist attacks may not be great, the fear of them is very real, and public anxiety will not be allayed unless precautions are taken and are seen to be taken.

28. To sum up: precautions against possible terrorist attacks, for the reasons given in this Chapter, must be taken; but the greatest threat to order in Northern Ireland is much more likely to be sectarian strife, stirred up by extremists on both sides.

PS 1 410

CHAPTER 3

Description of the Royal Ulster Constabulary

BRIEF HISTORY

29. In the interests of efficiency it was decided in the year 1836 to bring together all the constabulary forces then existing in Ireland and to place them under the control of a single officer with the title of Inspector-General. From that time onwards the country acquired a national force controlled by a single police authority. Local authorities were required to meet one half of the cost of police services but later they were relieved of that responsibility save in special circumstances. The force was called 'The Constabulary of Ireland' but later its title was changed to 'The Royal Irish Constabulary' when Her Majesty, Queen Victoria, honoured it in recognition of good services.

30. Following the passing of the Government of Ireland Act 1920 and the setting up of a separate Parliament for Northern Ireland, a Departmental Committee of Inquiry was set up by the then Minister of Home Affairs, Sir Dawson Bates, to inquire into the existing police organisation and to report on various matters. The Committee recommended that a new police force be established called the Ulster Constabulary, that the approval of His Majesty the King be sought to the use of the prefix 'Royal' in its title and that no attempt be made to organise the force on a local basis but as one force under a single command for the whole of Northern Ireland. It further recommended a strength not exceeding 3,000, one-third of which was to be recruited from the Roman Catholic faith, preference to be given to Roman Catholic members of the Royal Irish Constabulary and the then Special Constabulary Force.

31. Under the Constabulary Act (Northern Ireland) 1922, the Royal Ulster Constabulary was established. Section 1 (3) of that Act provides that existing enactments relating to the Royal Irish Constabulary, as modified by the Act of 1922, are applicable to the R.U.C. Control of the force is vested in the Inspector-General (the original title was retained) who is responsible to the Minister of Home Affairs for the maintenance of law and order in Northern Ireland.

32. The 1922 Act placed a statutory limit of 3,000 on the size of the R.U.C. which was later removed in the Constabulary Act (Northern Ireland) 1963. The size of the force is now determined by the Minister of Home Affairs with the approval of the Minister of Finance.

PRESENT ROLES

33. Like its predecessor the Royal Irish Constabulary, the R.U.C. has had to perform what is in fact a dual role. In addition to carrying out all those duties normally associated in the public mind with police forces elsewhere in the United Kingdom, it is responsible for security duties of a military nature.

RANKS—STRENGTH AND ESTABLISHMENT

34. The ranks in the force are—

Inspector-General
Deputy Inspector-General
Commissioner
County Inspector
District Inspector (of which there are three grades based on seniority)
Head Constable
Sergeant
Constable

35. The authorised establishment of the R.U.C. including women police was recently increased from 3,200 to 3,500. The recruited strength as at the 31st July 1969, was

	I.G.	*D.I.G.*	*Comm.*	*C.I.*	*D.I.*	*H.C.*	*Sgt.*	*Con.*	*Total*
Men . .	1	1	1	12	49	102	520	2,305	2,991
Women .	.	.	.	.	1	1	6	53	61
TOTAL .	1	1	1	12	50	103	526	2,358	3,052

These figures take no account of members of the Ulster Special Constabulary who have been mobilised for full-time duty with the R.U.C. These number some 425 men, 125 of whom were embodied during or prior to the period of I.R.A. activity which began in 1956 and have performed ordinary police duties alongside the R.U.C. for ten years or more. The remaining 300 have been mobilised since November 1968 to free members of the R.U.C. for crowd and riot control duties. They are on engagements of varied length up to two years. The distribution of the force is given in Appendix A.

ORGANISATION

36. For policing purposes Northern Ireland is divided into seven areas, the boundaries of which follow, with a few exceptions, the geographical boundaries of each of the six Counties and the County Borough of Belfast. In each County the police are under the command of a County Inspector; in Belfast, a City Commissioner. They are responsible to the Inspector General for the general administration and control of police work in their areas.

37. The areas are divided into Police Districts, each in charge of a District Inspector who, depending upon the size and policing complexities of the area, may have one or more Head Constables to assist him. In addition to being responsible to the County Inspector for the investigation of crime within his District, he also prosecutes on behalf of the Crown in the lower courts.

38. Districts in their turn are divided into Sub-Districts which, in the less populated rural areas, come under the command of a Sergeant but in the cities and surrounding areas and in the larger towns may have a Head Constable in

charge. In normal times the complement of Constables in a rural station is three or four but a few two-man stations exist in what are regarded as quiet areas. Under present conditions stations which are considered liable to attack have had their strengths increased in case of such an eventuality.

39. The R.U.C. is controlled and administered from the Inspector General's Headquarters in Belfast at which are located administrative branches each with an overall responsibility on a functional basis.*

Crime Ordinary Branch

40. This Branch is concerned mainly with law enforcement and the investigation of crime.

41. In common with most areas of the United Kingdom, the crime rate in Northern Ireland continues to increase. In 1968 reported indictable crimes rose by 1,890 to 16,294 cases. The detection rate was 58.3 per cent.

42. About 70 per cent of all indictable crimes occur within a radius of twenty miles from the centre of Belfast with the result that police detectives, of whom there are some 150, are concentrated largely in Belfast and the adjacent Police Districts. The remainder are stationed in the city of Londonderry and at each County Headquarters. As far as lies within their power, the local police of the area in which a crime is committed are encouraged to solve it for themselves. If, however, detective or other assistance is needed, it is obtained from the County or Police Headquarters. Serious crimes must be reported at once to Police Headquarters which allocates photographers, fingerprint and forensic science experts to the area concerned.

Crime Special Branch

43. The duties of this Branch include the collection and evaluation of information which will assist in the identification of organisations and persons who may, by acts of sabotage or subversion, threaten the security of Northern Ireland. Until recently the Irish Republican Army and its various splinter groups provided the main threat to peace but since 1966 other elements, including Protestant extremists, have required and been given ever increasing attention.

44. It is the duty of Crime Special Branch to record its information in a form which will assist investigations and the preparation of a plan to counter the threat to security. The Branch is under the charge of a County Inspector and works in liaison with other intelligence agencies, including the Special Branch at New Scotland Yard.

Traffic Branch

45. This Branch consists of a County Inspector, a District Inspector, five Head Constables, twelve Sergeants and one hundred and forty-eight Constables.

46. In Belfast and in each County there is a traffic team under the control of a Head Constable or Sergeant (See Appendix 'A'). They are responsible for all traffic and safety matters in their areas to the City Commissioner or the County Inspector, as the case may be.

*Criminal statistics taken from the Report on the Administration of Home Office Services 1967 (Command 531) are reproduced for convenience in Appendix B.

Head Constable or District Inspector. The Inspector-General does, on occasions, waive the examination requirements when the interests of the Force demand it. A few vacancies in the ranks of Sergeant and Head Constable are filled by men with long service who have shown special proficiency.

63. Eligible members appear before a board for selection for higher rank. Promotions above District Inspector are made by the Inspector-General.

64. We understand that proposals have been made by the Inspector-General to the Minister of Home Affairs for the introduction of a scheme of accelerated promotion in the case of members who graduate whilst serving in the police force, and were told that seven members are currently attending Queen's University as full-time students and a number of others are taking external courses at London University. This year a Sergeant obtained an Honours Degree in Law, another sergeant obtained a degree in Social Science and a Constable was awarded a Diploma in Social Studies.

COMPLAINTS AND DISCIPLINE

65. Complaints against members are investigated if, after preliminary examination, it is considered that they may be well founded. The investigation is carried out by an officer of at least District Inspector rank, the object being to determine whether a breach of discipline has occurred. If it is felt that a statement by the accused member would be likely to throw light on the matter he may be asked to make one under caution.

66. If the complaint or report has been received from or involves a member of the public and preliminary investigations suggest that it is of a serious nature, it is referred to the Inspector-General who may appoint an officer from a different county to look into it.

67. On completion of the investigation the report is submitted, if the accused member holds the rank of District Inspector or above and if there appears to be a charge to answer, to the Deputy Inspector-General whose responsibility it is to set up a Court of Inquiry to hear the charge. If the complaint is against a Head Constable or lower rank the District Inspector will formulate a charge if he considers the evidence sufficient.

68. Minor matters of indiscipline may be disposed of without recourse to disciplinary proceedings by a member holding at least the rank of Sergeant, either by censure or admonition and without recourse to disciplinary proceedings.

69. All breaches of rules and regulations and offences against discipline may be investigated by Disciplinary Courts of Inquiry, but no Disciplinary Court of Inquiry can be held except under the authority of a warrant signed by the Inspector-General. A Court of Inquiry is made up of such officers and such ranks, as the Inspector-General may direct, but in every case the President must be of higher rank than the accused. Where the matter under investigation is of a serious nature and involves a complaint made by or affecting a member of the public, the Inspector-General will request the Attorney General to nominate a Barrister to be an additional member of the Court of Inquiry.

70. Members may, at [illegible] own expense, employ [illegible] their defence.

71. A Court of Inquiry affecting internal discipline is not open to the public unless the Inspector-General so directs. Where a member of the public is affected the Inspector-General must authorise a public hearing unless it is considered undesirable for security reasons. The President of the Court transmits the record of proceedings and the decision to the Inspector-General. The Inspector-General may then impose any of the punishments listed in the Regulations. The member concerned is entitled to appeal to the Minister against both the finding and the punishment of the Court but must submit a concise statement of the grounds on which he desires to appeal and send a copy to the Inspector-General. The Minister may allow the appeal, dismiss it or vary the punishment by substituting some other punishment, whether more or less severe, than that imposed by the Inspector-General.

72. Breaches of the rules and regulations and offences against discipline may also be investigated by other Courts at the instance of the Minister of Home Affairs.

73. In 1967, 1968 and this year to date the number of alleged offences dealt with by disciplinary inquiry were 20, 15 and 25 respectively. In addition three members were charged with criminal offences (other than traffic offences not involving death) in 1968 and two this year up to now.

74. The Constabulary and Police (Ireland) Act 1919 as applied by the Constabulary Act (N.I.) 1922 provides for the establishment of a representative body (or bodies) in accordance with rules made by the Minister of Home Affairs, to consider and bring to the notice of the Inspector-General and the Minister all the matters affecting the members of the Force as regards their welfare and efficiency, other than questions of discipline and promotion affecting individuals.

75. Any body thus formed is empowered to represent all or each of the ranks below that of Deputy Inspector-General provided it consists of representatives, elected by the members of the rank or ranks represented, from amongst their number in the manner prescribed by the rules. Any representative body thus formed is required to be independent of and unconnected with any organisation or person outside the R.U.C.

76. In pursuance of these provisions, rules have been made by the Minister which have resulted in the setting up of:

(*a*) Consultative Committees in each County and in Belfast, representing the ranks of Constable, Sergeant and Head Constable with the responsibility of—

(i) ascertaining the views of the members they represent on matters prescribed by the Act of 1919;

(ii) deciding what subjects should be brought before the Central Representative Body for discussion;

(iii) electing members to serve on the Central Representative Body;

(iv) considering such matters as may be referred to them by the Inspector-General.

G5-1 · 412

(*b*) a Central Representative Body made up of representatives of ranks up to and including County Inspector. The County and District Inspector on this body are elected by members of their respective ranks; the Head Constables, Sergeants and Constables are selected from members of the Consultative Boards mentioned at (*a*) above.

77. The Central Representative Body has taken the power provided in the rules to form itself into separate representative bodies known as the Men's Representative Body (for Constables, Sergeants and Head Constables) and an Officers' Representative Body.

78. The Act of 1919 requires that the draft of any Order relating to pay, pensions and allowances of the Force shall be submitted to the representative body or bodies whose members are affected and that the Minister shall consider any representations made by the body or bodies affected.

79. As from 1st September 1969 provision has been made for the appointment of a full-time Secretary (a serving member of the Force) to the Central Representative Body and the making of rules which will permit, as in the case of the Police Federations in England and Wales and in Scotland, the collection of voluntary subscriptions to be used and accounted for in a manner to be approved by the Ministry of Home Affairs.

PS1 . A13

CHAPTER 4

Proposed Changes in the Role and Organisation of the Royal Ulster Constabulary

ROLE

80. The most striking difference between the Royal Ulster Constabulary and the police forces elsewhere in the United Kingdom is that it fulfils a military as well as a civilian role. The traditional duties of the mainland are the prevention and detection of crime, the control of traffic and the maintenance of public order. In Northern Ireland the military role has understandably been regarded as of first importance, and has played a significant part in the training, equipment and traditions of the force. The impression of a military force is strengthened by the close association of the force with the Ulster Special Constabulary which, at least in the rural areas of the Province, is almost wholly devoted to security duties of a military kind.

81. Policing in a free society depends on a wide measure of public approval and consent. This has never been obtained in the long term by military or paramilitary means. We believe that any police force, military in appearance and equipment, is less acceptable to minority and moderate opinion than if it is clearly civilian in character, particularly now that better education and improved communications have spread awareness of the rights of civilians. We accept that, in view of the threat to security discussed in Chapter 2, there is, and may remain for some time, a continuing need to guard against the incidence of armed guerilla-type attacks or incursions of the type which have occurred in the past. We consider that this is a task which, by its nature and under the Constitution, should be the responsibility of the Government at Westminster. We discuss this matter in Chapters 9 and 10.

82. *We therefore recommend* that the R.U.C. be relieved of all duties of a military nature as soon as possible and that its contribution to the security of the State from subversion be limited to the gathering of intelligence, the protection of important persons and the enforcement of the relevant laws.

83. On the basis of this recommendation, it becomes necessary to consider measures likely to improve the acceptability and effectiveness of the R.U.C. in its new role as a civil police force. These measures include a change in the relationship between the force and the Central Government, and reviews of organisation and authorised establishment, of equipment, manpower, accommodation and of the policy governing the use of firearms.

ACCOUNTABILITY TO THE PUBLIC

84. The law about the relationship between the Government of Northern Ireland and the Royal Ulster Constabulary is described on pages 102-104 of the Report on the Disturbances in Northern Ireland (the Cameron Report, Cmd. 532). The law defines the relationship in a vague and unsatisfactory way,

[illegible] but that the Inspector-General is responsible for [illegible] operational control and for the enforcement of the law. In fact, the Inspector [illegible]neral is not accountable to anyone for his operational policies; yet he and his force are held by many to be closely associated with the Government, which has since the setting up of the Government of Northern Ireland been formed from the same party. This position is unsatisfactory on both grounds, besides making it difficult to refute allegations of partiality.

85. We are entirely in favour of the idea that the Inspector-General and the force should not be subject to political pressures; yet we believe that it is equally important that there should be some body, representative of the community as a whole, to which he can be accountable, and through which the wishes and fears of the community can be expressed. It would be best if this body could consist of elected representatives; but in the political circumstances of Northern Ireland such a body would not, at present, adequately represent the minority parties and communities.

86. We consider that this difficulty could be overcome if some of the members were chosen by representative bodies and if some were nominated by His Excellency the Governor of Northern Ireland in such a way as to ensure that the membership reflected the proportions of different groups including, in particular, Roman Catholics in the community.

87. *We therefore recommend* that a Police Authority for Northern Ireland be created by statute and that its membership should be as follows:

Association of County Councils	3
County Borough of Belfast	2
County Borough of Londonderry*	1
Queen's University, Belfast	1
New University of Ulster	1
Incorporated Law Society of Northern Ireland	1
Resident Magistracy	1
Northern Ireland Committee of the Irish Congress of Trade Unions	2
Chambers of Commerce	2
Ministry of Home Affairs	1

88. Four additional members, of whom one would be the Chairman, should be nominated by His Excellency the Governor of Northern Ireland.

89. *We recommend* that the Police Authority should be responsible, subject to the authority of the Minister of Home Affairs, for:

(*a*) the establishment and maintenance of an adequate and efficient police force for Northern Ireland;

(*b*) the appointment of the chief officer of police, his deputy and assistant chief officers, (i.e. officers of the rank of County Inspector or above) and the determination of the number of persons of each rank in the force;

*For the time being the nomination to be made by the Londonderry Development Commission.

FS 1 . 414

(*c*) the provision and maintenance of buildings, structures and premises for police purposes;

(*d*) the provision and maintenance of such vehicles, apparatus, clothing and other articles as may be required for police purposes.

90. *We recommend* that the Authority should have a particular duty to keep itself informed as to the manner in which complaints against the police are dealt with.

91. We also suggest that, as a matter of practice, the Minister of Home Affairs should exercise the power conferred upon him by the Public Order Act (Northern Ireland) 1951 to prohibit processions and meetings only after consulting the chief officer of police and the Police Authority or a committee of the Authority constituted for that purpose.

92. *We further recommend* that the Minister of Home Affairs should be empowered to:

(*a*) require the chief officer of police to submit an Annual Report on the policing of the Province to him and the Police Authority;

(*b*) require the chief officer of police to submit to him a report on any matter connected with the policing of the area;

(*c*) call upon the Police Authority to require a chief officer* to retire in the interests of efficiency, subject to the safeguarding of his right to make representations and to an inquiry.

Inspection

93. We consider that it is a disadvantage that the Minister of Home Affairs at present lacks the means to undertake an impartial and professionally competent assessment of the force. In order to provide for this *we recommend* that the Minister should be empowered to require that the force should be inspected as he may direct, but in any case not less than once a year, by Her Majesty's Inspectorate of Constabulary. We suggest that one of Her Majesty's Inspectors should have a special responsibility for Northern Ireland.

Police Advisory Board

94. In order to ensure good communication between the Minister, the Police Authority, the chief officer and other members of the force *we recommend* that an advisory board, representative of all members in the force, should be established. It should be presided over by the Minister of Home Affairs; the chief officer of the force should be a member of the board and the Police Authority should be represented on it. The board should have a right to be consulted about all regulations with regard to any matter affecting the force, except for pay, pensions, allowances and hours of service. Any constituent member of the board should be entitled to place on the agenda any matter within the board's responsibility.

ORGANISATION

Separate forces for Belfast and Londonderry

95. It was suggested to us that it might be advantageous to establish separate police forces for Belfast and the city of Londonderry. After careful considera-

*A chief officer means any officer of the rank of County Inspector or above.

on grounds of efficiency and that it would lessen the likelihood of uniformity in matters of policy requiring sensitive but strong central direction. We recognise the particular need, however, for the police in the city of Londonderry to establish a much closer relationship with the community and we suggest in paragraph 139 a means by which we hope this can be achieved.

Border Stations

96. We formed the impression that some of the stations near the border serve no useful purpose and impose unsatisfactory conditions on their occupants. The manning of some of the border stations induces a defensive or 'block house' attitude, immobilises valuable manpower to no good effect, provides a ready and vulnerable target for dissident elements seeking to achieve a cheap propaganda victory and retains for the border a dramatic significance at present unjustified. The increased mobility of the force ought to allow adequate policing of border areas without any of these disadvantages. *We recommend* that the chief officer of police should review the need to retain these stations.

Rank Structure

97. The present rank structure is not appropriate to the new role of the force. The essential function of inspection can in our view be better discharged by an experienced and senior official not involved in the command and administration of the force and our recommendation to achieve that end is given in paragraph 93. To underline the simplification of the role of those in command *we recommend that consideration* should be given by the Police Authority in consultation with the Police Advisory Board to the adoption of the ranks: commissioner, superintendent, inspector, sergeant and constable and such intermediate ranks as may be thought appropriate, subject to approval by the Minister.

Crime

98. The achievements of the force in dealing with crime, although apparently satisfactory, are difficult to assess because the system of recording indictable offences could be improved. We did not have the time to examine this in depth, but were satisfied that this should be done as soon as conveniently possible. We suggest this should be undertaken by H.M. Inspectorate of Constabulary.

Traffic

99. Time did not allow us to examine the Traffic Branch in detail, but from the information made available to us we formed the view that it was discharging its important duties well. It occurred to us that the time might be opportune for the Branch to assume a rather more distinctive character in view of the growing need for specialisation. This is, however, a matter which will no doubt be considered in due course by the Police Authority and we do not feel in the circumstances that any recommendation from us is necessary.

The Reserve Force

100. We were impressed by the standard and morale of the Reserve Force who have borne the brunt of physical violence and a great deal of criticism. It is not generally understood that members of this reserve are ordinarily

CS 1 · 415

dangerous task should be undertaken in turn by as many members of the force as possible, in order to avoid the criticism that a body of limited membership is different in its character or in the attitudes of its personnel from those of the force as a whole. In particular *we recommend* that—

(*a*) one-third of the Reserve Force be replaced at yearly intervals and that command should not be exercised by the same officer for longer than three years.

(*b*) deployment of this force for crowd control should constitute a special occasion calling, where appropriate, for overtime payment at the appropriate rates for all ranks.

(*c*) the Reserve Force be renamed the Special Patrol Group, to make it clear that it fulfils a role not at all different from that undertaken by similar bodies found wholly acceptable by the public elsewhere.

In this connection we suggest more training in crowd control throughout the uniformed branch.

Welfare

101. It was represented to us that a civilian welfare officer (preferably with experience in the armed forces) should be appointed. From our own experience we know how useful such an officer can be; and *we recommend* that one should be appointed.

Firearms

102. *We recommend* that the present policy of general issue and carrying of arms should be phased out as soon as possible and, in our view, this can begin immediately in most areas of the Province. The extent to which firearms are available and issued to members of the Royal Ulster Constabulary is inappropriate to its role as a civil police force. *We recommend* that—

(*a*) all automatic weapons, self-loading rifles and revolvers of a calibre larger than .38 mm should cease to be part of the equipment of the R.U.C.;

(*b*) the only firearms retained should be revolvers of a calibre no larger than .38 mm, .303 mm rifles and gas pistols or gas grenades. These should be available under strict security conditions at selected police stations for issue as required.

103. It would be for the chief officer of police and the Police Authority to consider the principles governing the use of firearms. We think it may be helpful to make it clear that they should ordinarily be restricted to personnel on mobile or detective duties or the protection of police stations. Firearms ought, in our view, rarely to be visible as an article of police equipment. We believe that the policy and principles recommended above would be appropriate in civil disorders of the kind experienced in recent months.

MANPOWER

Strength and Establishment

104. The recently approved increase in the authorised establishment of the force to 3,500 has led to the creation of about 460 vacancies, of which some

125 are filled by mobilised special constables. We consider it of the greatest importance that the vacancies should be filled as quickly as possible. One of the first duties of the Police Authority, in consultation with the chief officer of police, and Her Majesty's Inspectorate, should be to make proposals to the Minister on a realistic establishment for the force. But since there are at present many vacancies, we see little merit in proposing an arbitrary establishment which might have to be revised at an early date. In consequence *we recommend* that the Police Authority should, as a first priority, concentrate on increasing the effective strength of the force.

Women Police

105. The establishment of women police appeared to us to be rather small. We are convinced that policewomen have not only a high professional value, but can play an invaluable part in enhancing the relationship of the force with the public. *We recommend* that the new Police Authority should consider this matter, seeking advice as necessary from H.M. Inspectorate of Constabulary.

A reserve of manpower—a volunteer reserve

106. The need for a reserve of manpower to perform duties locally and voluntarily in aid of the regular police has long been recognised. The Royal Commission on the Police in England and Wales and Scotland in their final report stressed the value of such a reserve in promoting relations between police and public and expressed the view that the valuable reserve of manpower which they provided ought not to be regarded as for use only in times of emergency. The Police Act 1964 provided for such special constables to be attached to regular police forces in England and Wales, to be appointed by the chief officer of police and to be subject to his direction, control and dismissal. The Home Secretary has made regulations regarding the government, administration and conditions of service of special constables under Section 34 of the Act.

107. There is general agreement on the continuing need for a reserve of this kind to assist the regular police in times of emergency, but that it must be regarded as supplementary to, and not as a substitute for, an adequate establishment of regular police. Such a reserve should be confined to ordinary police duties in the area in which its members live. They should be given sufficient and recurrent training locally to ensure an adequate performance of duty. They should wear a uniform closely resembling that of the regular police. They should not receive any form of payment other than reimbursement of out-of-pocket expenses, as is the case in Great Britain. They should neither be issued with firearms nor undergo any training in their use.

108. It has been suggested to us that such a reserve in Northern Ireland should have a name other than that of Special Constabulary, because of the hostility and criticism which the Ulster Special Constabulary arouses in certain quarters. We feel that this matter is best resolved by those who have a longer acquaintance with the Province and a deeper awareness of its susceptibilities than ourselves. Whatever name is decided upon we would hope that members of all sections of local communities would volunteer to serve in such a reserve and that special efforts should be made to achieve the participation of members of minority groups.

FS1. 416

109. *We therefore recommend* that a volunteer reserve police force be recruited for service in Belfast, Londonderry and each of the six counties of the Province. We suggest that it be governed by regulations made by the Minister of Home Affairs, and that it be commanded and administered by the chief officer of police. We think it will be helpful if the uniform badges and buttons of the members of the volunteer reserve identify them with the area in which they serve.

Cadet Corps

110. We have considered the extent to which the system of police cadet corps on the mainland has increasingly afforded opportunities for boys to begin a police career on leaving school and to involve themselves and their parent force in social work and with youth organisations. We think this has proved of great benefit as a means of ensuring a continuous supply of recruits of good quality, of affording them a valuable opportunity to serve others whilst undergoing training for their future and of enhancing the relationship between the force and the community.

111. *We recommend* that the Police Authority consider the establishment of such a corps, subject to the approval of the Minister, and express the hope that in that event the curriculum will be devoted largely to educational, social and physical activities designed to equip young men for a police career. We realise that the task of acquiring suitable accommodation may make this recommendation difficult to implement in the near future and we suggest exploration of the possibility of training a number of cadets under existing arrangements in Great Britain as a temporary expedient. The size of such a corps is, of course, for consideration by the Police Authority, but it may be helpful to mention that we have in mind an experimental target of 75.

Civilians, equipment and extraneous duties

112. It became quickly apparent during our enquiry that there was a need for assessment of the extent to which civilians could release police officers from a variety of duties for which their physique, training and powers are unnecessary. The administration of pay, allowances and accounts for example is still done manually by police officers. Clerical and even typing duties are also being done by police officers. There were complaints of lack of modern equipment, including copying and photographic machines. *We recommend* that O. and M. studies of these matters should be undertaken.

113. *We also recommend* that there should be an early review of the extent to which the police are engaged on extraneous duties and, without charge, by private employers, including the promoters of football matches.

COMMUNICATIONS—VEHICLES AND WIRELESS

114. We found the force vehicle fleet to be adequate and wireless communications to be developing satisfactorily. There will no doubt be an increasing need for both as the strength of the force grows. But certain vehicles of a warlike character are inappropriate to a civil police role. *We recommend* that the armoured cars now in use should cease to be part of police equipment. Armoured personnel carriers and jeeps should be retained, but not replaced, until experience shows the extent to which they are likely to be required in future.

[illegible] for command purposes in an emergency. We suggest that it should be [illegible]ed or replaced so as to allow greater use of visual aids and for possible experiments with closed circuit television for crowd control. Similar facilities are required urgently for Londonderry.

BUILDINGS

116. A fresh study should be carried out to determine whether the present distribution of police stations, both in terms of location and type, is correct. An attempt has clearly been made in recent years to improve the standard of police buildings but many are unsatisfactory and much remains to be done. Too many stations are inappropriate to the needs of a modern police force. The Depot at Enniskillen was built to house the soldiery of George III, and its amenities appear to have improved little since then; in view of its importance to the force its redevelopment or replacement is urgently necessary.

117. *We recommend* that a detailed forward plan of building and adaptation of existing buildings already in being should be reviewed by the Police Authority, with a view to seeking Ministerial approval for any changes.

118. As recommended in paragraph 96, we consider that the chief officer of police should review the need to retain some border stations.

PS 1 . 412

CHAPTER 5

Proposed Changes in Recruitment, Training and Promotion Procedures

RECRUITMENT

119. Recruitment is important to any police force, but especially so to the R.U.C., firstly in view of its effect on the composition of the force, and secondly in the light of our recommendation at paragraph 104 that the rate of recruitment should be increased.

120. In Chapter 3 we referred to the fact that the Departmental Committee appointed by Sir Dawson Bates had recommended in 1922 that one-third of the regular force should be recruited from members of the Roman Catholic faith, preference to be given to Roman Catholic members of the Royal Irish Constabulary and the then Special Constabulary Force. Unfortunately this objective has not been attained and, at present, Roman Catholics only constitute approximately 11% of the members of the R.U.C. and of this percentage the great majority are probably men whose fathers had served in the police. The net percentage of Roman Catholic recruits from outside these sources is thus very small indeed.

121. We accept that genuine efforts have been made to recruit a greater number of Roman Catholics so as to achieve a better proportion in relation to the population, and we consider that the reasons for the present imbalance lie deep and reflect the long-standing divisions in the community. In short, it is not the case that Roman Catholics who are suitably qualified are not or have not been welcome to join, but rather that for various reasons they have not come forward in sufficient numbers.

122. Many reasons were advanced for this reluctance amongst the Roman Catholic section of the community to join the R.U.C. Some suggested to us that R.U.C. recruiting officers were not always made welcome at Roman Catholic secondary schools; that some newspapers refused to carry recruiting advertisements; that a Roman Catholic joining the R.U.C. might incur the social disapproval of his neighbours, friends and even his own family; that a Roman Catholic member of the R.U.C. might be discriminated against in regard to promotion; and that the R.U.C. was possibly over-cautious in considering the security background of recruits.

123. Without expressing any opinion upon the validity of each of these alleged obstacles, we wish at this stage to record that as part of our enquiries we interviewed a number of Roman Catholics of all ranks and heard no evidence of discrimination on religious grounds with regard to promotion within the R.U.C. It was, moreover, evident that the Roman Catholic members of the Force share warmly the feeling of comradeship within the R.U.C.

124. We think the reservation of a proportion of vacancies in the force for Roman Catholics amounts to reverse discrimination. *We recommend* that it be

discontinued. Nonetheless we consider it essential to the acc[illegible] of the Force that it must not only be impartial but be seen to be impartial in all its aspects and that fresh and vigorous efforts should be made to increase the number of Roman Catholic entrants and *we recommend* accordingly.

125. We hope that the recommendations made in this chapter and elsewhere in this Report will create conditions which will encourage all suitably qualified persons, irrespective of religion, to look upon the police service as a worthwhile career. We would express the hope also that the leaders of the Roman Catholic Church will feel able so to regard it and play their essential part in encouraging recruitment.

126. The present arrangements for recruitment described in Chapter 3, in our opinion, leave much to be desired. *We accordingly recommend* that the new Police Authority and the chief officer of police consider:

(*a*) the establishment of a Central Recruiting Office at Police Headquarters in Belfast to ensure the consistent application of selection standards. Such an office should be staffed mainly by suitably trained civilians. A similar but smaller organization might be established in Londonderry, perhaps on a part-time basis;

(*b*) the nomination at each County Headquarters of a senior officer to be charged with responsibility for recruitment;

(*c*) the setting up of a mobile recruiting team to tour the country areas and perhaps Great Britain;

(*d*) providing simplified application forms to join the force at all police stations, and abandoning the requirement that recruits must disclose their religion;

(*e*) extending the regular programme of 'talks to sixth-formers', supported by such aids as a short film of the R.U.C. at work. In this connection, the Cadet Corps suggested in paragraph 111 would doubtless be of particular relevance and interest;

(*f*) the use of other publicity media including the possibility of sharing in the British national advertising campaigns promoted by the Home Office.

TRAINING

127. Almost all training is carried out at the Depot at Enniskillen. It might be cheaper and more convenient to acquire a new depot than to modify the existing one, which is old and needs major renovations. There is a clear need for greatly improved accommodation for training purposes which we recognise may be difficult to acquire at short notice. The need could be aggravated if our proposals for increased recruitment are successful.

128. *We recommend*, therefore, that the Police Authority and the chief officer of police should, subject to the approval of the Minister, explore the possibility of acquiring accommodation at a District Training Centre in England or Scotland on a temporary basis. We have in mind that a wing of such a centre could be devoted to R.U.C. recruit training, as necessary.

129. The proposed change in the role of the Force will affect the training syllabus appreciably and there seems to us to be a need for an extension of

training, particularly those selected for promotion or likely to benefit from higher training, for which Northern Ireland has no facilities. We think there is a need for a study in depth of the training requirements, and suggest that Her Majesty's Inspectorate should be invited to undertake this.

130. We understand that the force already experiences some difficulty in getting as many places as it needs on courses of higher training in Great Britain. *We recommend* that the Home Office and the Scottish Home and Health Department should be asked to consider sympathetically any applications from Northern Ireland during the next few years.

PROMOTION PROCEDURES

131. We share the view of the Central Representative Body that consideration should be given by the Minister to approving the system of qualification outlined in the Police (Promotion) Regulations 1968 for England and Wales with such local adaptations as may be necessary for promotion to the ranks of sergeant and head constable (or inspector). The present system of selection for higher ranks seems to us acceptable, but we think that the long incremental scale in the rank of District Inspector throws too much emphasis on seniority. Adoption of United Kingdom ranks, as recommended in paragraph 97, would encourage flexibility in the selection for senior posts. A degree of conformity to mainland procedure is desirable if the force is to achieve the interchange of officers at intermediate rank which we consider would be of benefit to both. This is, no doubt, a matter on which H.M. Inspectorate of Constabulary entrusted with the review of training would be glad of the opportunity to offer advice.

CHAPTER 6

Relations with the Public and the Law

132. A good relationship between police and public is vital if a police force is to be effective. At one time this could be achieved almost entirely through personal contacts. But this is no longer enough. On the one hand the police nowadays tend to be remote from ordinary people except when there is trouble; and on the other hand the press, radio and television, particularly the last, bring into almost every home pictures and accounts of spectacular and newsworthy events with an immediacy and power to mould public opinion that is quite new. Moreover, the leaders of the extreme left deliberately seek to discredit the police, as part of their campaign to destroy the existing fabric of society. It is, as a result, in the interests, not only of the police, but of all who value law and order that a balanced picture of the police should be presented to the public. This requires professional skill, a realisation by the whole force of the part that they can play, and an involvement of the force with those organisations which seek to encourage good relationships within the community.

Complaints against the police and discipline

133. In our view, however, there is one essential condition to the improvement of relations between the R.U.C. and the public: this is a better method of dealing with complaints against the police. The Royal Commission devoted much care to this subject, and emphasised that the way in which complaints were dealt with should ensure that the interests of the public were protected and that justice should be seen to be done. The present procedure in the R.U.C., which is described in paragraphs 65–73, is defective because it contains no provisions to ensure that complaints are properly recorded or that they are not suppressed by the immediate superiors of the officers complained of. We ought to add that although we have studied the principles of the way in which complaints are investigated, it was not within our terms of reference to investigate actual cases, and we have not done so. *We recommend* that the procedure introduced in England and Wales by the Police Act 1964 and by the Police Discipline Regulations should be introduced, subject to any local variations that may be necessary. Under this procedure it would be prescribed that every complaint (unless it alleges a criminal offence with which a member of the force has already been charged) should be recorded forthwith, and investigated by an officer from another district or county. Unless the report discloses that there is no evidence that a criminal offence has been committed, it should be submitted to an independent legal officer, such as the Chief Crown Solicitor. The Police Authority is required to keep itself informed as to the manner in which complaints are dealt with, as we recommend in paragraph 90. In addition, so that members of the public may get redress in the civil courts if they suffer from the wrongful acts of the police, *we recommend* that the chief officer of police should be made vicariously liable for wrongful acts committed by constables under his control.

PS1.419

Community and Youth Relations

134. We were informed of the work already being done in the form of visits to business premises and of displays at exhibitions to promote crime prevention, and of visits to schools both for recruiting purposes and to give talks on road safety. *We recommend* that these activities should be stepped up, particularly the talks on road safety, which, besides being valuable on their own account, enable the police to demonstrate the contribution they make to the community as a whole. In connection with this, we believe that the introduction, which we recommend in paragraph 111, of a cadet corps, should lead to improved relations with schools, and the activities of the cadets themselves should also help.

135. We noted that members of the force already undertake a certain amount of activity in the matters of youth and community relations. *We recommend* that this too should be stepped up.

Press Relations

136. As to relations with the press, radio and television, we learned that a press officer with a staff of two has recently been appointed to the Headquarters of the force. Although he has been greatly overworked during the disturbances he has been able to provide a great deal of information about the police, including, on many occasions, corrections of wrong statements.

Future arrangements for Public and Community Relations

137. We consider that the efforts of the force in the field of community and public relations should be increased generally and properly co-ordinated. A possible arrangement would be for a public relations adviser to be established at Headquarters, and for a senior police officer at County Headquarters to be charged with co-ordinating the work in his county. *We recommend* that the Police Authority should seek the advice of public relations consultants about the organisation that is required.

138. We earnestly hope that the recommendations that we have made for improving the relationship of the police with the community will meet a response from Roman Catholics, and that in future the police will be more welcome to visit Roman Catholic schools and institutions than is sometimes now the case.

Londonderry

139. We considered the special problem of Londonderry, and found that the representatives of moderate opinion were anxious that a proper relationship between police and public should be created there. We consider, and in this we have been supported by local opinion, that the setting up of a Londonderry police liaison committee would do much to help. This committee, which should be appointed by the Londonderry Development Commission, would bring together all shades of opinion in Londonderry and the chief police officer in the City should be a member of it. *We recommend* that a police liaison committee on these lines should be set up.

Re-opening of some local police stations

140. In several areas, in particular in the Bogside district of Londonderry and in Cullingtree Road, Belfast, we were told that the closing of local police stations had led to a virtual severance of contact between police and public. In the Bogside the closing of the station has been regretted by the residents,

has since come about. We recognise the difficulties of entering [illegible]ide again, although we hope that the measures we have proposed will help [illegible]nake this possible, but *we recommend* that the decision to close small stations, in rural as well as urban areas, be reconsidered, particularly with regard to stations in difficult areas. In this connection, we recognise that the whole of the system called 'unit beat policing' may not, without modification, be applicable to Northern Ireland; but *we recommend* that the police should consider adopting one feature of the system known as 'resident constables.'

Uniform and Name

141. We have consulted most shades of opinion about the desirability of changing the uniform and the name of the force. As to the uniform, *we recommend* a change, to blue, as the symbol most likely to convince the public that the role of the force has been changed. This would also make exchanges with forces in Great Britain easier. *We recommend* that constables and sergeants throughout the force should wear numbers on their uniforms as they already do in Belfast and Londonderry. With regard to the name, different opinions were expressed to us. There are objections to all the alternatives we have heard and there is no certainty that a change would succeed in creating additional support for the force. To make one would be a blow to the morale of many members of the force, and would be unpopular with many of its supporters. *We therefore recommend* no change.

Prosecutions

142. It is the practice in Northern Ireland that prosecutions in the lower courts are undertaken by police officers and that the police decide, sometimes after taking legal advice, when prosecutions should be undertaken. While it is the unmistakable duty of the police to make offenders amenable to the law, the impartiality of the police may be questioned if they are responsible for deciding who shall be prosecuted and thereafter for acting in court as prosecutor. This practice can result also in a mistaken impression of the relationship between the courts and the police. *We therefore recommend* that the Scottish system of independent public prosecutors should be adopted; under this the police are responsible only for the collection of information about offences, all subsequent action with regard to prosecution being undertaken by a solicitor in the public service. In Northern Ireland this might be the Chief Crown Solicitor, but further study than we have been able to give would be needed before the procedure could be precisely settled. Although our principal reason for proposing this change is the improvement of relations with the public, there would be a substantial secondary benefit in that a great deal of the time of District Inspectors and Head Constables is now taken up with court work, and this time could profitably be devoted to the leadership and administration of the police in their districts and to the development of good relations with the community.

The 'Special Powers Act'

143. We considered also the position with regard to the Civil Authorities (Special Powers) Acts (Northern Ireland) 1922-1943 and regulations made under the Acts. The common name, which we shall use, for the Acts and regulations is the 'Special Powers Act.' There has been much criticism of the Acts, and

PS. 1. 420

on more than or[illegible]asion the Government has considered repeal; but on each occasion fresh acts o[illegible]lence have occurred, leading to pressure for retention of the Acts. A numbe[illegible] of police officers with first-hand experience of dealing with riots and extremists, told us that they considered that the powers given to them under the Acts were unnecessary, and that the relationship between police and public would be improved if the Acts were repealed.

144. Some of the regulations made under the Acts, for example those dealing with explosives, may well be necessary, but could be covered by ordinary legislation. We consider that the task of the police would be made easier if the few essential provisions were provided for under ordinary legislation and the Acts were repealed.

Membership of certain organisations

145. Our investigations into the present composition of the Royal Ulster Constabulary and the attitude with which its members approach their duties has led us to the conclusion that, despite the adverse publicity they have received, their best endeavours are directed towards ensuring fair treatment of all citizens under the law. We recognise however, as did those members with whom we discussed the question of public acceptability, that the failure even of a few to act and to be seen to act impartially, all too readily reflects adversely on the good name of the Force as a whole.

146. This has caused us to question whether membership of certain organisations such as the Orange Order or the Ancient Order of Hibernians which, justified or not, tend to be linked in the public mind to political parties, can be held to be compatible with membership of a police force, particularly when the latter is regularly called upon to perform duties at demonstrations organised by the bodies referred to.

147. Whilst we are prepared to accept that it should be possible to be a member, both of such an organisation and a police force, and to act at all times with complete impartiality, many would be sceptical of such a view and without wishing to reflect on the organisations we have in mind we are of the opinion that the task of demonstrating complete impartiality at all times is difficult enough without complicating it further.

CHAPTER 7

Association of the Royal Ulster Constabulary with other Police Forces in the United Kingdom

148. Many members of the R.U.C., besides a number of responsible laymen and officials, have emphasised to us that the R.U.C. ought to be much more closely linked with police forces in Great Britain. There are several reasons for this:

First: a closer association with forces in Great Britain would be of mutual benefit. It would widen the horizons of members of the R.U.C. and enable them to profit from the experience of forces in Great Britain.

Second: much thought is being given in Great Britain to the roles and functions of the police in a changing society and extensive research is being carried out into methods of policing and new types of equipment. In addition the Home Office and forces in Great Britain continue to study developments abroad so that the lessons learnt there can, if appropriate, be applied at home. Members of the R.U.C. told us that they would like to profit by and participate in these studies and experiments.

Third: we formed the impression that the R.U.C. felt isolated from other police forces; the morale of the force would be raised if there were links at all levels with forces on the mainland. We know from our own experience that the forces on the mainland would welcome this.

Fourth: the machinery for consultation in Great Britain ensures good communication between the Home Departments, chief officers of police and other members of the service, and ensures also that the views of the service as a whole are taken into account when decisions are taken. The Central Representative Body feels strongly that similar consultative machinery to that in Great Britain should be set up in Northern Ireland, and that at all levels this machinery should be associated with that on the mainland.

Fifth: there are arrangements in Great Britain under which forces can reinforce one another in emergencies. If similar arrangements were extended to Northern Ireland it would be possible to provide a considerable number of reinforcements from Great Britain when the need for them was foreseen, for example on the occasion of meetings and processions.

149. Some of the measures which we have commended elsewhere in this Report, for example the inspection of the force by Her Majesty's Inspectorate, the provision of more places on training courses and of accommodation for training, and the changes in uniform and rank structure, should strengthen the links with the police in Great Britain; in addition *we recommend* that the Home Office should be invited to take the special needs of the R.U.C. into account when planning the work of the Police Research and Development Branch; and should invite the R.U.C. to second an officer to the Branch.

150. *We recom...* ...at the Police Authority, in consultation with the Police Advisory Board, ...ould consider the following measures:—

(*a*) the interchange of personnel between the R.U.C. and forces on the mainland by means of attachments or secondments;

(*b*) members of the R.U.C. to be encouraged to apply for posts in forces on the mainland, and members of forces on the mainland to be invited, by means of advertisement, to apply for posts with the R.U.C. At some time it might be possible to apply the requirement that in order to qualify for appointment as a chief officer of police a candidate must have served for a time in another force;

(*c*) the Central Representative Body to be given a statutory right to take part in negotiations about pay, pensions, allowances and hours of work. This entails a re-organisation of the Central Representative Body and its association with the police representative organisations in Great Britain.

HS 1 . 421

CHAPTER 8

Description of the Ulster Special Constabulary

BRIEF HISTORY

151. A force of Special Constabulary was first raised in Ireland under the Special Constables (Ireland) Act of 1823. It came under the authority of the Imperial Government and the Chief Secretary for Ireland.

152. Recruiting for the Ulster Special Constabulary opened on the 1st November 1920, during a period of grave unrest which preceded the setting up of the Government of Northern Ireland. Enlistment was possible into any one of three classes. Class A involved a willingness to perform full-time duty, Class B part-time duty and Class C provided a reserve register of volunteers made up of men who, because of business commitments or age, were not readily available for training or for duty but were prepared to be called up in the event of a grave emergency.

153. Class A platoons could be posted for duty anywhere in Northern Ireland; Class B platoons being only concerned with providing local protection for the area in which they resided. Within a year of the opening of recruiting over 8,000 men had joined the Class A Constabulary and 25,000 the Class B. At the end of 1921 a further branch was authorised, the C.1 Class. It was organised on semi-military lines with an establishment of 405 officers and 10,562 other ranks. As with Class B, the service requirements were part-time in nature but subject to call-up for full-time duty if the need arose.

154. The Royal Irish Constabulary remained in being in Northern Ireland, gradually decreasing in numbers, until in 1922 it was disbanded. The Royal Ulster Constabulary came into existence in June 1922 and during what proved to be an extremely difficult period of transition and reorganisation, the U.S.C. bore a heavy responsibility for the preservation of law and order in the Province.

155. Conditions gradually returned to normal, and Class A, apart from a small number of men employed on special duties, and Class C.1 were stood down; later the maintenance of a Class C register was discontinued. Class B was retained against the risk of further outbreaks of subversive activity and continued to train throughout the 1930's. As a result, on the outbreak of war in 1939 there was a ready-made force of some 13,000 men available to undertake home guard duties. Constitutional considerations prevented the setting up of a Home Guard unit in Northern Ireland as an auxiliary of the military forces so the problem was met by forming a second section of the U.S.C. By November 1940 the combined strengths of the two sections exceeded 40,000. With the exception of some 1,500 of the original Special Constabulary in Belfast who continued to be employed only on civil duties, all were armed, trained and equipped for defence duties. Their conditions of service required that in the event of a proclamation of a state of emergency by His Excellency the Governor

for all purposes.

156. After the war the U.S.C. reverted to its former role and its strength was reduced to about 10,000. Towards the end of 1956 the I.R.A. began a prolonged campaign of violence including attacks on R.U.C. stations, Customs posts, Crown buildings and key installations, which made it essential to increase, as a matter of great urgency, the strength of the regular police force. Over 1,700 members of the U.S.C. were mobilised for full-time duty, 125 of whom remain embodied to this day. These men are also referred to in Chapters 3 and 9. The rest of the auxiliary police force, reinforced by further enlistments and operating on a part-time basis, maintained a network of patrols in what were regarded as potentially vulnerable areas.

157. The role and the training of the U.S.C. member, both past and at present, depends upon whether he is a member of a City or a County force. If the former, he is employed mainly on routine police duties and works with, and under the command of the R.U.C. He may, however, also be required to mount armed guard at key installations and police stations in his area. In Belfast where there is a force of 650, there is a long tradition of service in a civil police role. If he is a member of a County force, his main duties are likely to be concerned with road checks and the guarding of installations as directed by the R.U.C. The requirement to perform ordinary police duty is rarely placed upon him and his training and equipment, including the types of firearms with which he is issued, is primarily of a military nature and not designed for the ordinary police role.

ESTABLISHMENT

158. Several years of peace and an ever increasing need to economise generally in the field of public expenditure resulted, early in 1968, in a decision to reduce the number of part-time members to 8,000 and at the same time effect improvements in both training and equipment designed to secure higher overall efficiency and effectiveness. On the 1st August 1969, the strength (both full and part-time) was as set out in Appendix C. The reduction in the size of the force, which still continues, was achieved largely by the imposition of an age limit and by stopping recruitment except in those areas where recruited strengths had fallen seriously short of approved establishment.

ORGANISATION

159. The Inspector-General exercises command through the Staff Officer at Police Headquarters who is assisted in his duties by an Assistant Staff Officer.

160. There are eight command areas, the County Borough of Belfast, where the command structure is fully integrated with that of the R.U.C., and the senior U.S.C. officer, a Deputy City Commandant, is responsible to the City Commissioner of the regular police force; the County Borough of Londonderry, where a City Commandant is in charge, and in each county where a County Commandant is in charge. The command areas are divided into Districts which are related as closely as possible to police districts with District Commandants in charge. Districts in their turn are broken down into Sub-Districts, under Sub-District Commandants, the boundaries of which largely coincide with police sub-districts.

ably, in general it comprises a Platoon Sergeant, four Section Sergeants and 26 Special Constables.

RECRUITMENT

162. Before being accepted for the U.S.C. an applicant must be recommended by both the Sub-District and District Commandants of the area in which he hopes to join and approved by the local District Inspector of the Royal Ulster Constabulary. He is required to furnish particulars regarding age, occupation, marital status, religion, etc. Final acceptance rests with the County Commandant.

163. Whilst there is no law or official rule that precludes any person, whatever his religion, from joining the U.S.C., the fact remains that for a variety of reasons no Roman Catholic is a member.

164. Full-time and permanent appointments (see Appendix D) are made by the Minister of Home Affairs on the recommendation of selection boards comprising senior officers of the U.S.C. County Commandants are selected by a board made up of the Inspector General or his Deputy, the Staff Officer of the Ulster Special Constabulary and a representative of the Ministry of Home Affairs. Their appointment is subject to the approval of the Minister of Home Affairs.

165. Full-time, permanent and mobilized members must all undergo medical examination before they can be accepted. Members mobilized to assist the R.U.C. on duties other than guard duties are required to undergo an educational test. No educational or medical tests are required in the case of part-time members. The pay and conditions of part-time members are set out in Appendix E.

FS1 · 423

CHAPTER 9

The Future of the Ulster Special Constabulary

166. In Chapter 4 we recommended that the Royal Ulster Constabulary should be relieved of its para-military duties and assume the character and sole function of a civil police force. We established the principle that the former role should not rest with the police. We now turn to the question of what arrangements are necessary to fulfil the military tasks and how these arrangements should be made.

167. For the reasons stated in Chapter 2 we believe that it will be necessary for some time to come to protect key installations and to undertake such other tasks as may be necessary to guard against the threat of armed guerilla-type attacks. We consider that all threats to the security of Northern Ireland from armed incursions and attacks, from whatever quarter and whatever form they may take, are a proper military responsibility and should rest with the Government at Westminster. It is, however, self-evident that the Government of Northern Ireland has a vital interest in the defence of the Province which must continue to be recognised, and appropriate arrangements should be made to that end. Furthermore, we see great merit in the continuing presence of a local force, with local knowledge, capable of being at instant readiness to deal with such threats in the first instance.

168. Having established the principle of where responsibility should lie for local defence and having given our general view on the type of force required to supplement the regular armed forces stationed in Northern Ireland, we now turn to consider the future of the Ulster Special Constabulary.

169. Except in the city of Belfast, the U.S.C. have been employed on armed duties in relation to the guarding of key points as well as the patrolling of the border, including the establishment of road checks and road blocks, to deal with the types of threat to which we have referred. It is, however, in name a police force operating under the Government of Northern Ireland, controlled by the Inspector-General and, when its services are required, coming under command of the Royal Ulster Constabulary, mainly in its military role.

170. We know that to a man, members of the U.S.C. are devoted to the cause of Ulster and that they and their forbears have done gallant service and we recognise the value of the anti-guerilla patrols and armed guard duties they have carried out, particularly in times of emergency. We consider however that the protection of the border and the State against armed attacks is not a role which should have to be undertaken by the police, whether they be regular or special.

171. To undertake such a role *we recommend* that—

(*a*) a locally recruited part-time force, under the command of the G.O.C., Northern Ireland, should be raised as soon as possible for such duties

Her Majesty's Government at Westminster, in consult... ...h the Government of Northern Ireland;

(*c*) the policy for the use of the force should be decided by the G.O.C., Northern Ireland, in close consultation with the Government of Northern Ireland. Such consultation, we suggest, could best be achieved by the appointment of a Security Committee under the Chairmanship of the Minister of Home Affairs;

(*d*) the new force, together with the police volunteer reserve, should replace the Ulster Special Constabulary.

172. We believe that the recommendation we have made at (*a*) and the tting up of the police volunteer reserve we recommended in Chapter 4 ıould provide full opportunity for all sections of the community—not least ose members of the U.S.C. who are both physically and educationally quali-:d to do so—to serve the community in whichever of the two roles they efer.

173. The recommendation at (*d*) above should not be taken as one which, hen implemented, would so operate as to terminate the services of those embers of the U.S.C. who, for over ten years, have been mobilised for full-ne duty and whose continued embodiment is essential to the regular police rce; nor does it affect members recently mobilised on a short-service basis hose services should be continued until their existing contracts have expired.

174. In conclusion, we would refer to the excellent services rendered to the lster Special Constabulary and the community at large by the permanent and ll-time officers and members of that Force and express the hope that they ll find it possible to continue in office for as long as their services are required. hen that is no longer the case, we would expect that the question of compensa-ın for loss of office, where appropriate, will be given urgent and sympathetic nsideration.

CJ 1 424

CHAPTER 10

Conclusions and Recommendations

175. Before bringing together the recommendations and suggestions for changes in the R.U.C. and for the creation of two separate forces to perform those duties at present carried out by the U.S.C. which we consider will still have to be performed, we would like to preface them by setting out what we regard as the most important considerations upon which efficient enforcement of law and order depends.

176. One of the most important of these must be that the control and administration of any police force should be vested in such manner as will ensure that it will not only be, but will be seen to be, impartial in every sense and that it should be accountable to the public for its actions. Furthermore, in the eyes of the public it must be seen to be civilian in nature and to achieve this it is in our opinion essential that individual police officers should perform their duties without carrying firearms other than for a particular purpose, at a particular time and in a particular locality.

177. Another consideration is that the authorised establishment of any police force should be sufficient to enable it to perform its duties effectively and efficiently. The R.U.C. is, in our view, seriously below effective strength and we regard it as essential that it be brought to full establishment as soon as possible.

178. It is a truism that the morale of a force plays an important part in its general effectiveness and that isolation, even the feeling of isolation, from other forces can have harmful results. Close association with other police forces at all levels is to our mind essential, not only as a means of ensuring that experiences encountered and methods adopted elsewhere can be brought to bear on local problems but also during periods of extreme difficulty of the kind experienced by the R.U.C. in recent months, when the helpful advice and encouragement of fellow police officers in the rest of the United Kingdom would have proved invaluable.

179. We have therefore made a number of recommendations which are designed to bring the R.U.C. into full partnership with their colleagues in Great Britain without in any way shifting the responsibility for law and order in the Province from the Government of Northern Ireland.

180. But close comradeship with other forces is not enough. Public confidence must also be established if morale is to be maintained at a sufficiently high level. We believe that implementation of the recommendations and the suggestions which follow should provide the opportunity for closer and more informal contacts to be established between the R.U.C. and the community. We also believe their implementation should make possible a high degree of co-operation between police and public in the task of maintaining law and order, each becoming equally identified in a common need.

re also envisage.

182. As regards those tasks of a military character which have hitherto been arried out by the Royal Ulster Constabulary and the Ulster Special Constabulary and which are concerned with the protection of the Province from rmed attacks from within or outside its borders, we consider that in principle nd in practice this responsibility should properly rest with Her Majesty's overnment at Westminster.

SUMMARY OF RECOMMENDATIONS

183.

(1) The R.U.C. should be relieved of all duties of a military nature as soon as possible and its contribution to the security of Northern Ireland from subversion should be limited to the gathering of intelligence, the protection of important persons and the enforcement of the relevant laws (paragraph 82).

(2) There should be a Police Authority for Northern Ireland, whose membership should reflect the proportions of different groups in the community (paragraphs 87,88).

(3) The Police Authority should be responsible, subject to the authority of the Minister of Home Affairs, for the establishment and maintenance of an adequate and efficient police force, for the appointment of the chief officer of police and certain senior officers, for buildings, vehicles and clothing (paragraph 89).

(4) The Police Authority should have a particular duty to keep itself informed as to the manner in which complaints against the police are dealt with (paragraph 90).

(5) The chief officer of police should submit an annual report to the Minister of Home Affairs and to the Police Authority (paragraph 92).

(6) The chief officer of police should submit a report on any matter when required to do so by the Minister (paragraph 92).

(7) The Police Authority may require chief officers to retire in the interests of efficiency, subject to certain safeguards (paragraph 92).

(8) The R.U.C. should be subject to inspection by Her Majesty's Inspectorate of Constabulary (paragraph 93).

(9) A Police Advisory Board should be established for consultation between the Minister, the Police Authority, and all ranks of the force (paragraph 94).

(10) The need to retain some police stations in border areas should be reviewed (paragraph 96).

(11) The rank structure should be reviewed (paragraph 97).

(12) The maximum term of duty in the Reserve Force should be three years (paragraph 100).

(13) When the Reserve Force has to be deployed for crowd control, overtime should be payable where appropriate to all ranks (paragraph 100).

HS1 · 425

graph 101)

(16) The present po[illegible] for the general issue and carrying of firearms should be phased out as soon as possible (paragraph 102).

(17) Certain weapons should be no longer part of the equipment of the R.U.C. (paragraph 102).

(18) The effective strength of the force should be increased as a first priority (paragraph 104).

(19) The establishment of women police should be reviewed (paragraph 105).

(20) A volunteer reserve police force should be set up (paragraph 109).

(21) The establishment of a Cadet Corps should be considered (paragraph 111).

(22) There should be O. & M. studies of the administrative process so as to reduce the time spent by members of the force on duties which could be done by civilians, or where modern equipment would help (paragraph 112).

(23) The extent to which the police are engaged on extraneous duties or by private employers should be examined (paragraph 113).

(24) Armoured cars should cease to be part of the equipment of the R.U.C. (paragraph 114).

(25) The building programme should be reviewed (paragraph 117).

(26) The practice of reserving a specific proportion of vacancies in the force for Roman Catholics should be discontinued (paragraph 124).

(27) Vigorous efforts should be made to increase the number of Roman Catholic entrants into the force (paragraph 124).

(28) The establishment of a central recruiting office at Police Headquarters, with a branch at Londonderry, and supported by nominated officers at County Headquarters and mobile touring teams, should be considered (paragraph 126).

(29) Simplified application forms should be available at all police stations; in particular, applicants should not be required to disclose their religion on their initial applications (paragraph 126).

(30) The programme of talks to sixth-formers should be extended and use should be made of other publicity media (paragraph 126).

(31) The possibility of acquiring accommodation for training in Great Britain should be examined (paragraph 128).

(32) The Home Office and the Scottish Home and Health Department should be asked to consider sympathetically any applications for places on courses of higher training (paragraph 130).

(33) The procedure for dealing with complaints against the police should be changed (paragraph 133).

(34) The chief officer of police should be made vicariously liable for wrongful acts committed by members of the force (paragraph 133).

improve public relations (paragraph 137).

(37) A police liaison committee should be set up in Londonderry (paragraph 139).

(38) The closure of certain small stations in difficult urban areas and in some rural areas should be reconsidered (paragraph 140).

(39) The colour of the uniform should be changed to blue (paragraph 141).

(40) Sergeants and constables throughout the force should wear numbers on their uniforms, as is already the practice in Belfast and Londonderry (paragraph 141).

(41) The name of the force should not be changed (paragraph 141).

(42) The Scottish system of independent public prosecutors should be adopted (paragraph 142).

(43) There should be closer co-operation between the R.U.C. and the Home Office Police Research and Development Branch (paragraph 149).

(44) Arrangements should be made for interchanges of personnel between the R.U.C. and forces on the mainland (paragraph 150).

(45) Members of the R.U.C. should be encouraged to apply for posts with mainland forces, and vice versa (paragraph 150).

(46) The Central Representative Body should be reorganised and associated with the representative organisations in Great Britain, so that members of the force can have the same right to be consulted about their pay, etc., as members of police forces in Great Britain (paragraph 150).

(47) A locally recruited part-time force, under the control of the G.O.C., Northern Ireland, should be raised as soon as possible for such duties as may be laid upon it. The force, together with the police volunteer reserve, should replace the Ulster Special Constabulary (paragraph 171).

SUGGESTIONS

184.

(*a*) The power of the Minister of Home Affairs to prohibit processions and meetings should be exercised in consultation with the chief officer of police and the Police Authority (paragraph 91).

(*b*) The Crime Branches should be examined (paragraph 98).

(*c*) Training in crowd control should be given throughout the force (paragraph 100).

(*d*) The control rooms at Belfast and Londonderry should be adapted or replaced (paragraph 115).

(*e*) The adoption of the system of qualification for promotion used in England and Wales should be considered (paragraph 131).

A. P. D. Westhead, Secretary
3rd October 1969.

Ballygally, Co. Antrim.

JOHN HUNT
ROBERT MARK
JAMES ROBERTSON

FS-1 . 426

APPENDIX A

Deployment of the Royal Ulster Constabulary by Areas

County	Men							Women				
	I.G. D.I.G. Commr.	C.I.s	D.I.s	H.C.s	Sgts.	Cons.	Total	D.I.	H.C.	Sgts.	Cons.	To
ANTRIM		1	7	10	67	267	352				6	
ARMAGH		1	4	6	32	156	199				2	
BELFAST	3	6	16	47	207	906	1,185	1	1	5	23	3
DOWN		1	6	10	53	235	305				4	
FERMANAGH		1	3	3	22	81	110					
LONDONDERRY CITY		1	2	6	22	92	123			1	4	
LONDONDERRY COUNTY			3	3	23	101	130				2	
TYRONE		1	5	6	40	156	208				2	
RESERVE FORCE			2	9	41	220	272					
DEPOT			1	2	13	91	107				10	1
TOTALS	3	12	49	102	520	2,305	2,991	1	1	6	53	6

Deployment of Traffic Branch

Area	Head Constables	Sergeants	Constables
BELFAST	1	6	98
COUNTY ANTRIM	1	1	10
COUNTY ARMAGH	1	1	18
COUNTY DOWN	1	1	10
COUNTY TYRONE		1	5
COUNTY LONDONDERRY		1	7
COUNTY FERMANAGH		1	
TOTALS	4	12	148

	1965	1966	1967	1968
INDICTABLE OFFENCES				
Offences known to police	12,846	14,673	15,404	16,294
Persons proceeded against	3,897	4,173	4,513	4,787
Tried in Courts of Summary Jurisdiction	3,194	3,678	3,950	4,185
Tried at Assizes or County Courts	737	560	581	696
Results of Proceedings:				
Found guilty	3,682	3,989	4,224	4,592
Absolute discharge	145	120	232	261
Bound over:				
With supervision	361	407	401	482
Without supervision	727	695	585	932
Committed to certified schools	195	257	211	249
Fined	1,271	1,425	1,468	1,516
Sentenced to:				
Borstal training	72	89	80	65
Imprisonment	674	893	1,109	917
Preventive detention	2	1	—	1
Corrective training	10	14	4	1
Death	1*	—	—	—
Otherwise dealt with	222	88	134	168
NON-INDICTABLE OFFENCES				
Persons proceeded against	43,432	39,000	39,601	41,061
Tried in Courts of Summary Jurisdiction	43,295	38,924	39,506	40,880
Results of Proceedings:				
Found guilty	40,660	36,326	36,783	38,317
Absolute discharge	1,041	924	895	1,452
Bound over:				
With supervision	74	86	152	493
Without supervision	724	584	661	353
Committed to certified schools	9	8	13	17
Committed to Remand homes	32	21	20	19
Fined	37,809	33,602	33,999	34,578
Sentenced to:				
Borstal training	7	9	5	12
Imprisonment	664	800	870	773
Otherwise dealt with	300	292	168	321

*Commuted to Life Imprisonment.

R.I. 427

THE 1st AUGUST 1969

Permanent and Full-Time Members

At Inspector-General's Headquarters	*At City and County Headquarters*
1 Staff Officer	1 City Commandant
1 Assistant Staff Officer	1 Deputy City Commandant
1 Paymaster	6 County Commandants
1 Director of Music	7 Adjutants
2 Special Sergeants	58 Sergeant Instructors
4 Special Constables	2 Armourers
6 Special Constable Clerks	8 Special Constable Clerks

Part-Time Members

District Commandants	*Sub-District Commandants*	*Other Ranks*	*Total*
32	315	8,134	8,481

APPENDIX D

ULSTER SPECIAL CONSTABULARY

Remuneration of Permanent and Full-time Members

Current rates of pay are as follows:

Staff Officer	£2,925—£3,140 p.a.
Assistant Staff Officer	£2,345—£2,745 p.a.
County Commandant, City Commandant, Deputy City Commandant*	£2,190 p.a.
Adjutant	£1,975—£2,115 p.a.
Director of Music	£1,885 p.a.
Paymaster	£1,625—£1,860 p.a.
Sergeant Instructor, Sergeant Armourer	£1,090—£1,400 p.a.
Special Constables	As for R.U.C. Constables

A maximum rent allowance of £184 p.a. is payable to Adjutants, County Commandants, Deputy County Commandants, the Director of Music and Assistant Staff Officer. The maximum rent allowance payable to the Staff Officer is £214 p.a. and the Paymaster is entitled to the same maximum allowance as a Head Constable of the R.U.C.

*In Belfast the U.S.C. Commandant is given this title as the Special Constabulary forces there come under the command of the City Commissioner.

Pay and Conditions of Part-time Members

Members of the U.S.C. are required to carry out such attendances, training and patrols as the Inspector-General, with the approval of the Minister of Home Affairs, may from time to time require. At least twelve training parades must be attended between the 1st October and the 31st March and a further twelve between the 1st April and 30th September, including attendance at all sessions of a course held annually in weapon training.

Subject to the above requirements being met, members are paid annual bounties, according to rank, of the following amounts:

District Commandants	£125	Special Sergeants	£17 10 0
Sub-District Commandants	£60	Special Constables	£15
Deputy Sub-District Commandants	£22	Probationary Special Constables	£11
Platoon Sergeants	£20		

If patrols are performed outside the training periods mentioned above, additional payments are made to Special Constables at the rate of nine shillings an hour.

HS1.428

Printed in Northern Ireland for Her Majesty's Stationery Office
by Bell, Logan & Carswell Ltd., Belfast, Dd.477823. K80. 10/69. 55-4615

Appendix 3

Northern Ireland
Text of a Communiqué and Declaration
issued after a meeting held at
10 Downing Street on
19 August 1969

Presented to Parliamnet by the Prime Minister
by Command of Her Majesty
August 1969

LONDON
HER MAJESTY'S STATIONERY OFFICE
Cmnd. 4154

COMMUNIQUE

A meeting was held at No. 10 Downing Street this evening between the Prime Minister, Mr. Harold Wilson, the Foreign and Commonwealth Secretary, Mr. Michael Stewart, the Home Secretary, Mr. James Callaghan, the Secretary of State for Defence, Mr. Denis Healey, and the Minister of State at the Home Office, Lord Stonham, and the Prime Minister of Northern Ireland, Major Chichester-Clark, the Deputy Prime Minister, Mr. J. L. 0. Andrews, the Minister of Home Affairs, Mr. R. W. Porter, and the Minister of Development, Mr. Brian Faulkner.

In a six-hour discussion the whole situation in Northern Ireland was reviewed. It was agreed that the GOC Northern Ireland will with immediate effect assume overall responsibility for security operations. He will continue to be responsible directly to the Ministry of Defence but will work in the closest co-operation with the Northern Ireland Government and the Inspector-General of the Royal Ulster Constabulary. For all security operations the GOC will have full control of the deployment and tasks of the Royal Ulster Constabulary. For normal police duties outside the field of security the Royal Ulster Constabulary will remain answerable to the Inspector-General who will be responsible to the Northern Ireland Government.

The GOC will assume full command and control of the Ulster Special Constabulary for all purposes including their organisation, deployment, tasks and arms. Their employment by the Northern Ireland Government in riot and crowd control was always envisaged as a purely temporary measure. With the increased deployment of the Army and the assumption by the GOC of operational control of all the security forces, it will be possible for the Special Constabulary to be progressively and rapidly relieved of these temporary duties at his discretion, starting in the cities. The question of the custody of Special Constabulary arms will similarly be within his discretion. Consideration will be given to the problem of country areas and the defence of vital public service installations.

The Northern Ireland Ministers agreed that an appeal should be made to all members of the public to hand in unauthorised weapons under an amnesty.

FS-1 · 430

In order that British troops can be withdrawn from the internal security role at the earliest possible moment the two Governments will discuss as a matter of urgency the future of the civilian security services of Northern Ireland which will take over when the troops withdraw.

Major Chichester-Clark said that it was the intention of the Northern Ireland Government to set up forthwith an impartial investigation into the recent grave public disorders. Further details will be announced very shortly by the Northern Ireland Minister of Home Affairs.

The United Kingdom Ministers proposed and the Northern Ireland Ministers readily agreed that two senior civil servants from London should be temporarily stationed with the Northern Ireland Government in Belfast

to represent the increased concern which the United Kingdom Government had necessarily acquired in Northern Ireland affairs through the commitment of the Armed Forces in the present conditions.

The question of detainees was discussed.

The two Governments agreed to a joint Declaration on the principles which should govern their future actions.

The Ministers agreed to meet again early in September.

10 Downing Street, S.W.1,
19th August, 1969.

DECLARATION

(1) The United Kingdom Government re-affirm that nothing which has happened in recent weeks in Northern Ireland derogates from the clear pledges made by successive United Kingdom Governments that Northern Ireland should not cease to be a part of the United Kingdom without the consent of the people of Northern Ireland or from the provision in Section I of the Ireland Act 1949 that in no event will Northern Ireland or any part thereof cease to be part of the United Kingdom without the consent of the Parliament of Northern Ireland. The Border is not an issue.

(2) The United Kingdom Government again affirm that responsibility for affairs in Northern Ireland is entirely a matter of domestic jurisdiction. The United Kingdom Government will take full responsibility for asserting this principle in all international relationships.

(3) The United Kingdom Government have ultimate responsibility for the protection of those who live in Northern Ireland when, as in the past week, a breakdown of law and order has occurred. In this spirit, the United Kingdom Government responded to the requests of the Northern Ireland Government for military assistance in Londonderry and Belfast in order to restore law and order. They emphasise again that troops will be withdrawn when law and order has been restored.

(4) The Northern Ireland Government have been informed that troops have been provided on

FS-1 · 431

a temporary basis in accordance with the United Kingdom's ultimate responsibility. In the context of the commitment of these troops, the Northern Ireland Government have re-affirmed their intention to take into the fullest account at all times the views of Her Majesty's Government in the United Kingdom, especially in relation to matters affecting the status of citizens of that part of the United Kingdom and their equal rights and protection under the law.

(5) The United Kingdom Government have welcomed the decisions of the Northern Ireland Government in relation to Local Government franchise, the revision of Local Government areas, the allocation of houses, the creation of a Parliamentary Commissioner for Administration in Northern Ireland and machinery to consider citizens' grievances against other public authorities which the, Prime Minister reported to the House of Commons at Westminster following his meeting with Northern Ireland Ministers on May 21 [1969] as demonstrating the determination of the Northern Ireland Government that there shall be full equality of treatment for all citizens. Both Governments have agreed that it is vital that the momentum of internal reform should be maintained.

(6) The two Governments at their meeting at 10 Downing Street today [19 August 1969] have re-affirmed that in all legislation and executive decisions of Government every citizen of Northern Ireland is entitled to the same equality of treatment and freedom from discrimination as obtains in the rest of the United Kingdom irrespective of political views or religion. In their further meetings the two Governments will be guided by these mutually accepted principles.

(7) Finally, both Governments are determined to take all possible steps to restore normality to the Northern Ireland community so that economic development can proceed at the faster rate which is vital for social stability.

FS-1 ·432

Appendix 4

Fs-1 · 433

Appendix 4

November O'Neill, under pressure from the publicity surrounding the October march, announced a reform programme which included proroguing the Londonderry Corporation; a Development Commission was appointed to run the City. In December O'Neill successfully appealed for calm (see Chapter 5) and was supported by the Nationalist Party, the DCAC and other 'moderates' in the civil rights movement. At the end of 1968 the DCAC had been largely successful in policing and organising demonstrations, but in 1969 its grip weakened as the conflict took on a more sectarian tone.

In January 1969 a small left-wing student group, the People's Democracy, defied a NICRA moratorium and organised a march from Belfast to Derry. The march was attacked repeatedly and at Burntollet was ambushed by loyalists with clubs; approximately half of these were off-duty members of the B Specials (a part-time overwhelming Protestant force with a reputation for sectarianism). The violence which met the Burntollet marchers in January 1969 reinforced the shifting focus of debate in Northern Ireland from political and economic issues to the more sensitive issue of reform of the state's security apparatus (Bew and Patterson 1985 pp. 16–18). Following police violence republicans established 'Free Derry' by organising local vigilante committees and barricades to keep out the RUC. The DCAC were appalled by this, 'But blood was up and there was nothing they could do about it' (McCann 1974 p. 53). By early 1969 republicans could see the advantage of Catholic mobilisation for achieving Irish unity (Ó Dochartaigh 1997 pp. 46–7).

Marches were continuing but were provoking serious confrontations with the RUC and getting out of control of the DCAC. In April 1969 Samuel Devenney was beaten by police and later died. After April it was difficult 'to organize a demonstration which did not end in riot', but 'by ending the demonstrations the moderates took away from the youth any channel for expression other than riot. The rage and frustration which lay just beneath the surface of life in the Bogside could no longer be contained within the thin shell of the [D]CAC's timid respectability' (McCann 1974 pp. 57–8). The agenda was shifting away from civil rights towards RUC brutality and the need to defend nationalist areas. Young rioters now ignored the persuasion of moderates or republicans to desist from attacks on the RUC (McCann 1974, Ó Dochartaigh 1997 pp. 40–1, 53, 115).

The hope of republicans and socialists that confrontation with the Stormont Government would produce a united working-class movement of Protestants and Catholics quickly appeared to be

NI The Politics of War & Peace"

Paul Dixon.

FS-1 · 434

Appendix 5

"WE SHALL OVERCOME" ....

The History of the Struggle for Civil Rights in Northern Ireland 1968-1978

Published 1978 by:
Northern Ireland Civil Rights Association (NICRA)
2 Marquis Street,
Belfast BT1 1JJ

FS 1. 436

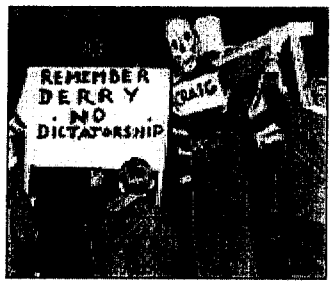
EARLY DAYS

For the first 18 months of its existence NICRA was nothing more than a pressure group. Its main activity was writing letters to the Government, mainly to Bill Craig as Minister of Home Affairs, complaining about harassment of political and social dissidents ranging from Republicans to itinerants. But it rarely went beyond the stage of dignified written protest. The Government's reply - when it came - was usually one of denying that a particular abuse had occurred and suggesting that even if the NICRA allegation was true, there was probably a very good reason for the abuse.

It was a time of frustration for NICRA. O'Neill, by polishing civic weeks to a fine art, had pushed discrimination to a high degree of sophistication.

FIRST A.G.M.

NICRA's most important advance in the period was to hold its first annual general meeting in February 1968, which produced a few new faces, but little in the way of a concerted civil rights campaign. The new faces were John McAnerney [Campaign for Social Justice], Frank Campbell [Republican], Peter Morris [no affiliation], Jim Quinn [no affiliation], Frank Gogarty [Wolfe Tone Society], and Rebecca McGlade [Republican]. They replaced Bennett, Harris, Banks, O'Brien, Dolley and Devlin. Robin Cole [Unionist] was re-elected with the highest number of votes but he later resigned from the executive. Betty Sinclair became the new chairman. But a change of executive brought little initial change to a political situation in which the Government carried on with its "not an inch" policy.



1968. Dublin demonstration against brutality on October 5th in Derry at Civil Rights March.

The situation would have probably continued to the present day had the decision to take the struggle to the streets not been made. Street violence was nothing new in Northern Ireland, but street politics were. Marching was something which both Orange and Republican organisations indulged in. Government Ministers often took part in the former and usually banned the latter.

In April 1968, for example, the Annual Republican Easter Parade in Armagh was banned, the excuse being that a Paisley prayer meeting was planned for the same day along the route.

Marches were therefore a physical manifestation of Northern Ireland politics and the recognised territorial divisions of the two sectarian groups meant that marching had become a form of sectarian one-up-man-ship. That NICRA should take to the streets was a proposal

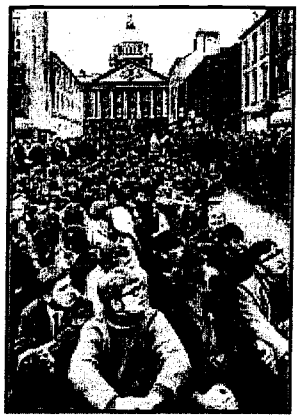
FS 1 · 437

to consider seriously.

It was the Government's ban on marches which forced NICRA into holding street demonstrations. After the ban on the Easter Parade in Armagh NICRA attended a Republican organised Rally Saturday after Easter [April 20] to protest against the ban on parades and a week later there was another meeting at the same spot to protest against the ban on Republican Clubs. Speakers at this meeting included Rev. Albert McElroy, leader of the Liberal Party, Eddie McAteer, leader of the Nationalist Party, and Austin Currie MP. NICRA was slowly coming to realise that a ban on street demonstrations was an effective Government weapon against political protest, and that although letter writing to Stormont was a fine form of occupational therapy, it was unlikely to bring any worthwhile results.

THE CALEDON SQUAT

Direct action in politics had begun. In June, members of the Brantry Republican Club and Austin Currie squatted in a house in Caledon, Co. Tyrone, which they believed had been unfairly allocated. Since there was no impartial administrative mechanism by which house allocation could be made, and since there was no method of appeal against administrative malpractice, the only course open to those wishing to object to a Government policy was direct action. In July members of the Derry Housing Action Committee continued the campaign for impartial house allocation by blocking Craigavon Bridge and 17 of them were arrested. The time for NICRA's direct action had come.



9th October, 1968. Students from Queens University Belfast hold a 3½ hour sit-down' protest against police brutality in Derry on October 5th during civil rights march. After their protest delegation was allowed to see members of the Cabinet. They presented them with the following demands: one man, one role, repeal of the Special Powers Act, the Public Order Act and the Flags and Emblems Act, the introduction of a Parliamentary Commissioner, a Human Rights Bill to be made law, the introduction of a points system for housing allocation, electoral boundaries to be re-drawn fairly, an impartial inquiry into police brutality in Derry on October 5th, and jobs to be allocated on the basis of ability.





October, 1968. Group of young students

FS 1 - 438



October, 1968. Demonstration organized by Connolly Association in London protesting about the brutality to civil rights marchers in Derry on October 5th.

from Queens University picketing the home of William Craig, the Minister of Home Affairs who banned the October 5th March in Derry and ordered the police baton charges.

The first civil rights march took place from Coalisland to Dungannon on Saturday August 14, 1968. It was organised to protest against housing allocation in the area and it was supported by more than 2,000 people. NICRA's march was faced with over 1,000 supporters of an organisation known as the Protestant Volunteers, a group politically inspired by Ian Paisley and para-militarily groomed by Major Ronald Bunting.

The police protected the civil rights marchers with minimum cover and denied them access to the town square. A few of the marchers were injured. Gerry Fitt and Austin Currie were present and Fitt later made a special report to the Prime Minister, Harold Wilson, in which he complained about the role of the police. The marchers sang "We shall Overcome" before they broke up.

As a march the Coalisland to Dungannon journey was nothing more than another one in Northern Ireland's lengthy list of marches, but as a political event this march can be firmly marked as an historical occasion which was to shape the future political development of Northern Ireland. On the day it achieved little, but in retrospect it was the signal for the beginning of the biggest mass movement seen in Ireland this century. On Monday September 2nd NICRA announced that a march would be held in Derry at some time in the future to protest about the housing situation in the city, unemployment, local government reform and the right of free speech and assembly. The march was eventually planned for October 5th, and it came as no surprise to anyone when the Apprentice Boys of Derry gave notice of a ceremony which they intended to hold on the same day along the same route. Bill Craig banned both and NICRA decided to go ahead.

FIRST BLOOD IS SHED

October 5 in Derry witnessed the first bloodshed in the present violence in Northern Ireland. The blood was that of many of the 2,000 marchers who defied Craig's ban. It was spilled by RUC batons and among those injured was Gerry Fitt. Three other Westminster MPs, Russel Kerr, Ann Kerr and John Ryan witnessed the events. They saw the police baton the leading marchers in Duke Street and they saw that as the marchers turned to go back down the street they were ambushed by another company of police. Although only 2,000 people were present, the film of the brutality taken by an RTE cameraman flashed around the living rooms of Northern Ireland and the political upheaval feared by Unionists for fifty years had begun.

Prior to the Derry march the civil rights campaign had attracted the support only of the politically conscious. It was not a mass movement in the sense that it attracted massive support. Its non-violent methods and its refusal to equate civil rights with Irish nationalism made it virtually an unknown quantity in politics. But Bill Craig's police force stamped the authenticity of NICRA as a broad movement on the heads of the people in Duke Street and on the hearts of the television public. The Government's political justification for the Duke Street police ambush was that NICRA was a subversive organisation intent on destroying the

FS 1 . 439

state.

It was the traditional Unionist response to any attempt at democratic progress but with NICRA's demands sticking rigidly to a policy of political reform and ignoring completely the issue of the state's existence, the Stormont Government had made its first wrong move in retaining power in nearly 50 years. Nothing would ever be the same again. Almost 90 people were treated in hospital for injuries sustained at the hands of the police and the first minor riots in Derry began over the week-end. In the political field events moved fast.

NICRA BEGINS TO GROW

In Derry a Citizens Action Committee was formed with Ivan Cooper as chairman and John Hume as vice-chairman. Although the nucleus of the Derry Committee had been involved in the planning of the Derry march, much of the support for the new organisation was based on a reaction to the police violence. Elsewhere in the province local civil rights groups sprang up in solidarity with NICRA and although they gave the NICRA executive some headaches through the holding of unauthorised street activities, they were a welcome illustration of the upsurge in popular support. In Queen's Univerity the Derry violence had coincided with the relaxed atmosphere at the beginning of the first term and, shocked by what they had seen on television, many of the students joined in a spontaneous march from the University to the City Hall in protest against police brutality in Derry. The march ended with a sit-down in Linenhall Street at the back of the City Hall and the afternoon 's events gave rise to an informal organisation in the University. It was called the People's Democracy (PD).



16th November, 1968. Second Civil Rights March held in Derry City. 15,000 people attended the march which halted at the police barriers at the entrance to the Walls. Later a "token" walk through was staged by one or two members at the barriers. No incidents occurred and the entire crowd walked individually to the "Diamond" where a "sit-down" was staged.

Although essentially a product of the civil rights campaign, the PD was made up of politically naive students who eventually found leadership in the politically aware personalities of Michael Farrell, Kevin Boyle, Cyril Toman and Bernadette Devlin.

Although PD grew out of a genuine desire for civil rights by a broad section of the student population, its leadership aimed it in the general direction of a socialist political philosophy and away from what they regarded as reformism. In the whale's belly that was Queen's, cut off from the outside world, the students were easily led from reform to revolution in a matter of weeks and PD declined into a narrow, politically sectarian organisation united only by the politics of impatience. Initiated into politics by the need for civil rights they decided that only socialism could provide such rights and immediately demanded socialism. Like the Nationalist Party they confused the demand for civil rights in the existing state with a demand for a specific form of government which only the abolition of the state could provide.

FS 1. 440

But in the political atmosphere in the autumn of 1968 the umbrella demand was civil rights. Several groups sprang up throughout the country and the support for NICRA's campaign was expressed at another march in Derry on November 16. The RUC's use of batons against the 2,000 in October produced a massive turn-out of 20,000 in November, especially in view of Craig's banning the march. A new demand was now chanted at civil rights marches: "Craig Out".



November, 1968. NICRA demonstration outside Derry Courthouse in Bishop Street protesting against 46 summonses against people charging them with breaches of the peace as a result of the Civil Rights March of October 5th.

UNIONISTS IN RETREAT

The Unionist Government was in retreat. O'Neill was in trouble on several fronts. Inside the Cabinet there was opposition to Craig's heavy handed tactics in dealing with the first Derry march, an opposition not based on humanitarian grounds, but founded rather on the adverse publicity which the incidents received. O'Neill was also in trouble with the extreme right wing of his own party in Stormont, which was expressed on the streets in the form of Paisley and his mobs. Relations between the Catholic community and O'Neill were also in decline and the RUC had destroyed in ten minutes what years of civic weeks had built up. But the most important front on which O'Neill was in difficulties was in his relations with Westminster. The Campaign for Democracy in Ulster had prepared the groundwork for concern about civil rights in Northern Ireland and the cut on Gerry Fitt's head brought the issue into the House of Commons. Westminster was concerned that peace was not being maintained and on November 4, Prime Minister Harold Wilson summoned O'Neill to London.

With O'Neill went Craig and Faulkner - Craig because he was the Minister for Home Affairs, Faulkner because he was the brightest boy in O'Neill's Stormont class. As Wilson later said in the Commons he thought that political reform in Northern Ireland had been "a bit too moderate so far", but in a five point plan of reform sent to O'Neill on November 21, Wilson proved that he too was moderate on the issue. The "reforms" included the abolition of the company vote in local government elections, the appointment of an Ombudsman at some future date, re-organisation of local government by 1971, a recommendation -nothing stronger - to local authorities to reform their housing allocation procedures and the establishment of a commission to run Derry in place of the Corporation. It was an empty gesture by Wilson. Derry had gone from "One Man, One Vote" to "One Man, No Vote" with the abolition of the Corporation, the Ombudsman might never come and although the company vote had been abolished, the property qualification had not. One man could still have more than one vote. Wilson's concern for Civil rights proved as strong as that of O'Neill.

FS 1 . 441

Meanwhile back on the streets NICRA continued to march. Despite a take-over of Armagh city centre by Paisley and his followers in the early hours of November 30, a civil rights march planned for the city that day went ahead. Its route was blocked and a meeting was held at the RUC barrier. A lawful march had been halted by an illegal meeting and the RUC - the para-military arm of the Unionist Government - was either unwilling or unable to do anything about it. Things were rapidly coming to a head in politics. Craig had become isolated in the Cabinet. In December he said "When you have a Roman Catholic majority, you have a lesser standard of democracy", and O'Neill effectively decided to remove him from office. Before doing so he made his famous "Ulster at the Crossroads" speech on television on December 9. Armed with an upswing in public support he had the confidence to sack Craig two days later. There were two reactions to the speech and the sacking. The PD decided to form a number of extra-mural branches as soon as the reforms were announced and the following day, for example, they held a meeting in Dungannon to gloat at Craig's sacking. The reaction of NICRA was much different. They decided to give O'Neill one last chance and they declared a "truce" for one month without marches or demonstrations.



16th November, 1968. Section of "sit-down" protest crowd in the "Diamond" Derry on a civil rights demonstration.

TO DEFUSE SECTARIANISM

The NICRA decision was arrived at after much discussion on the Executive Committee. The course of action was finally agreed upon for two reasons:

1. the promised reforms must be given a chance to work, both for their own sake and for the credibility of the whole principle of civil rights demands, and

2. the chances of sectarian violence were growing by the day and anything which might defuse the situation would be welcome.

The year ended peacefully. In the period from August to December the civil rights campaign had managed to split the Unionist cabinet, arouse concern at British cabinet level, bring

FS-1 · 442

thousands of people demanding civil rights on to the streets and produce a general public awareness of the lack of democracy and a political programme for its introduction. On the negative side it had aroused extreme Protestant reaction as a result not only of the marches but also of the Government's political reactions and it had given rise to an impatient group of students seeking instant revolution in a text book society. In the light of the influence of the organisation since its beginnings, this four month period put NICRA in the vanguard of the struggle for civil and human rights in N. Ireland. But there was still a long way to go.



November, 1968. Connolly Association demonstration in London Hyde Park to protest about lack of civil rights in Northern Ireland. In the background can be seen the banner of a powerful trade union: the Draughtsmen's & Allied Technicians' Association (DATA).

FS 1 · 443

Appendix 6

Fs 1 · 444

Table 7.3 Unemployment in Northern Ireland

	1971 %	*1981* %	*1983–4* %
Male			
Catholic	17.3	30.2	35
Non-Catholic	6.6	12.4	15
AVERAGE	10.3	19.1	24
For comparison: GB	5.5	11.3	14
Female			
Catholic	7.0	17.1	17
Non-Catholic	3.6	9.6	11
AVERAGE	4.7	12.6	13
For comparison: GB	4.7	7.4	10

Note: Unemployment is expressed as a percentage of all economically active persons, including the self-employed

Sources: Figures for 1971–81 are derived from the relevant Census of Population. NI figures for 1983–4 are derived from the Continuous Household Survey (see *PPRU Monitor*, No. 2, 1985). GB figures for 1983–4 are derived from information given in the *Employment Gazette*

down by high emigration. Under present conditions, however, emigration is no longer necessarily an option. The economic crisis is now international and there are fewer jobs available in Britain and elsewhere for would-be emigrants. So, many Catholics who would otherwise have left, have remained at home to swell the ranks of the unemployed.

2 The collapse of employment opportunities for Catholics within Northern Ireland itself. The spectacular loss of jobs in the mainly Protestant industries, such as engineering and artificial fibres, has been accompanied by massive losses of Catholic jobs in such industries as clothing and construction. However, there is a crucial

FS 1. 445

7. POLITICAL CONTEXT

7.1. Introduction and summary of submissions

7.1.1. The political context within which decisions were taken in advance of Bloody Sunday was defined and governed by a number of relationships and dynamics. Primarily in the frame were the British government in London, the Northern Ireland government in Belfast, and the British Army. The interaction between these entities, the individuals who led them and the pressures exerted by and on them shaped the background to the events of Bloody Sunday

7.1.2. As has been seen, the British government, despite having ultimate responsibility for what took place in Northern Ireland preferred, by and large, to take a "hands-off" approach and leave the governing of that jurisdiction to the Northern Ireland government. During the period at issue for this Tribunal however, the escalating crisis in Northern Ireland was the subject of much international concern and required the commitment of a large number of troops. The British Government could therefore no longer ignore it. By 1971 the British Government had become directly involved in attempts to find a political solution to Northern Ireland's problems, while at the same time attempting to avoid the imposition of direct rule and maintain its distance from the actual government of Northern Ireland.

7.1.3. The British Government's objective was therefore to maintain the devolved system of government in Northern Ireland by the agreement of a political initiative that was acceptable to both the majority and minority communities. This objective was frustrated by a number of factors including

(i) The intransigence of the ruling Ulster Unionist party;
(ii) The opposition to reform within the unionist community generally and;
(iii)The impact of the deteriorating security situation.

7.1.4. In these circumstances and taking into account their overall objective of maintaining the devolved administration at Stormont the British Government

i) Failed to give any or adequate political direction to the Army;
ii) Failed to clarify the source of the Army's political direction;
iii) Allowed a situation to develop where, because of the lack of clarity in relation to the Army's political direction, the Northern Ireland Government had direct access to the Army and applied pressure for its own political ends;
iv) Appeased and bolstered the Northern Ireland government by agreeing to measures such as the introduction of internment;
v) Showed unwavering support for the Army in the face of allegations of brutality and murder.

7.1.5. As a result the army was susceptible to the pressures applied to them by the Northern Ireland Government. The failure of the British Government to respond (i) appropriately to the demands of the Northern Ireland government and (ii) in circumstances where the actions of the army were a matter of grave concern, created a climate where both parties had the freedom to act with a certain amount of latitude and according to their own agendas.

7.1.6. This section provides an outline of the political background to the events of Bloody Sunday and an analysis of the context within which the decisions relating to that march were taken. The extent of the governments' knowledge of the plans for Operation Forecast and the decisions taken by them in relation to that operation are discussed in Section twelve.

7.2. The Objectives of the British Government

7.2.1. What is abundantly clear from the material before the Tribunal is that the British Government's objective was to ensure that Northern Ireland continued to be governed by its own administration from Stormont[1].

7.2.2. This objective would only be achieved by securing Brian Faulkner's position and avoiding the need for direct rule to be imposed. Direct rule, once imposed, would be indefinite and would mean a huge military and financial commitment for the British, not to mention the time and effort that would be necessary to govern Northern Ireland. In a situation where soldiers had become targets and precious military resources were being diverted to Northern Ireland the British government also sought to ensure the speedy withdrawal of the army[2].

7.2.3. If, however, direct rule was to be imposed (and as time went on it seemed inevitable) then the British Government's wish was that it be imposed under conditions which were most favourable to them. They feared that the imposition of direct rule, or some action short of direct rule, would provoke a Protestant backlash, that the support of police and civil servants would be lost and that the British Army and government would assume responsibility for Northern Ireland in circumstances where they would, politically and militarily, be fighting a war on two fronts. They therefore had to attempt to find a solution to the problems in Northern Ireland while all the time keeping the unionist population placated to ensure that the conditions for direct rule, should it become necessary, were as favourable as possible.

7.2.4. Despite the Government's objectives however it is clear that, from an early stage, direct rule was a distinct possibility. Many appeared to see it as the logical next step after the deployment of the army on the streets in

---

[1] Giving evidence Dr Robert Ramsay indicated that he believed that at that stage the British Government had not yet come "to the unspoken, unwritten, underlying policy assumption, which a future senior official of the Northern Ireland office described to me as being a policy of 'incremental disengagement'" **Day 215/30/9 to Day 215/30/20**

[2] When Anthony Stephens gave evidence to the Tribunal he said "whether or not they kept Mr Faulkner in power, it would be a useful thing, to put it mildly, if the involvement of the Army were to some extent reduced" **Day 273/53/25 to Day 273/54/3**

Northern Ireland. Indeed the CGS himself suggested that responsibility for security policy should be transferred to Westminster[3]. With this in mind therefore, the British Government was making contingency plans for direct rule from as early as September 1969 (the month after troops were deployed). By the end of 1971 a fairly advanced plan was in place **Day 271/80/19**.[4]

7.2.5. Given that Brian Faulkner was seen to be the last Prime Minister standing between Northern Ireland and direct rule the British government had no choice but to work closely with him. Some within the government had serious reservations about his ability to deliver progress. Reporting in June 1971 to the Home Secretary Reginald Maudling the UK Representative in Northern Ireland, Howard Smith, expressed the view that Brian Faulkner was not trusted, by Catholics because of his political background or by Unionists because they feared his ambition would lead to a betrayal of their interests Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.1**.

7.2.6. Expressing his own reservations, Smith indicated that he believed Faulkner overemphasised the issue of security to the near exclusion of reform and that he saw the problem as essentially, a security one. This overemphasis of the security issue, led, in turn to dissatisfaction among many within Unionism who, the more the issue was emphasised, the more discontented they became with progress on that front. Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.2**.

7.2.7. Mr Smith continued

---

[3] Minute of meeting of the Northern Ireland Policy Group 22 December 1971 **G44B.282.4 to G44B.282.9 at G44B.282.4**

[4] For example, at the GEN 47 meeting of 29th October 1971 Sir Phillip Allen reported that "...he had set up a new division in the Home Office whose main task would be to handle contingency planning for direct rule and to engage in long term political planning" **G22C.163.5 to G22C.163.8 at G22C.163.8**

"Whether or not Mr Faulkner is up to scratch we have to make the best we can of him, and I think he can be got to do a tolerable job if we handle him right. The heart of the matter is his assessment of the pressures, which bear upon him and his resolution in pursuing a policy appropriate to the problem of Northern Ireland and acceptable to the United Kingdom government. ***He is a short term thinker and if he assumes, as I think he does, that the problem of the minority is first and foremost a problem of weeding out the violent elements, that is to say it is...primarily a security problem, the main political pressure which he feels is the threat to his position from the extremists in his own party and from Mr Paisley. He is therefore tempted to see his policy in terms of countering this political threat and in this lies the danger that he will fall down on reform.***" Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.7** (emphasis added)

7.2.8. There were also concerns among the British establishment about those working with Mr Faulkner. Mr Smith also commented,

"I suspect that Mr Faulkner could be more efficiently served by parts of his own Governmental machine and I have already indicated that some of his Ministers are not sufficiently house trained. Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.7**

7.2.9. In addition, the GOC had his own concerns

"General Tuzo said that Commander Anderson was proving an embarrassment. His appointment had been made without any consultation or prior discussion with the army. He saw himself as a kind of Inspector-General of the UDR and if given access to members of the force would undoubtedly try

to make mischief. He was both foolish and reactionary." Note of the Home Secretary's Meeting with GOC & other senior officers at Lisburn. 14 December 1971 **G40.259 to G40.261 at G40.261**.[5]

7.2.9.1. Despite these reservations, however, the British government worked with Brian Faulkner and, publicly at least, presented a united front with him. In turn Faulkner was relying on the British Government's fears that he was their last hope and their reluctance to assume responsibility for Northern Ireland to ensure that he was in a position to steer Government policy in whatever direction he chose.

"He may have calculated that the United Kingdom Government is anxious at all costs to keep him in office and will not press him very strongly to get ahead with putting the reform legislation into practice. If that is his conclusion and if it is not corrected, the joint declaration of the 19th August 1969 may become a dead letter. If that were to happen the consequences not least for Mr Faulkner himself do not need spelling out." Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.7**

7.2.10. Realistically, the only means of avoiding the imposition of direct rule or imposing direct rule in the most favourable conditions and ensuring the early withdrawal of troops was for the British Government to use its position to work towards a political settlement which had the agreement of the majority and minority communities in Northern Ireland. Sir Arthur Hockaday agreed when giving evidence that in the lead up to Bloody Sunday the British Government's favoured plan for Northern Ireland was to keep Brian Faulkner in power which, they recognised, would require

[5]Giving evidence Lord Kilclooney remarked on the GOC's comments "...he was getting rather personal there. Commander Anderson, I knew him quite well, he was a Member of Parliament for this city; he obviously had been – he was an ex-serviceman and a real gentleman and I was sorry to see these somewhat slighting comments about him" **Day 196/57/7 to Day 196/57/12**

some kind of political initiative to deal with the grievances of the Catholic and nationalist population. **Day 271/80/12** [6]

7.2.11. By 5th October 1971 however, it appeared clear that at least some in Government were resigned to direct rule, as a memo emanating from the Ministry of Defence makes clear

> "S of S may wish to suggest that the undesirability of direct rule should be given more weight than hitherto as a factor in deciding policy. The Home Office incline to think that direct rule is inevitable, and that it is more important to seek the most favourable time for imposing it." Memorandum from AUS(GS) on meeting with Prime Minister of Northern Ireland 5 October 1971 **G14C.86.16 to G14C.86.19 at G14C.86.19**

7.3. Protestant Backlash?

7.3.1 Whether the British government achieved its preferred option of the maintenance of devolved government in Northern Ireland or had to settle for the imposition of direct rule, the success of either option depended on avoiding a "Protestant backlash" **Day 271/81/13**.

7.3.1. The "Protestant backlash" theory appears to have been based on the potential for an adverse reaction by the unionist community in Northern Ireland to action taken by the governments towards political change. The fear was that the police, civil service and prison staff, amongst others, could take action in the form of non co-operation or that violent action could be taken by loyalist paramilitaries.

[6] Anthony Stephens called the government's introduction of political reforms in tandem with its objective of maintaining devolved government in Northern Ireland an attempt to "fine tune" the status quo **Day 273/27/6 to Day 273/27/7**

7.3.2. The British assessment was that the potential for a Protestant backlash existed in relation to both the actions of the Northern Ireland government and the British government.

7.3.3. In relation to the Northern Ireland government, opposition was primarily expected, and materialised, in respect of two issues – security and reform. Lack of improvement in the security situation brought warnings that unionists would be forced to take the law into their own hands. The forming of a third force was threatened, as to which see Section 7.7 below.

7.3.4. Secondly the question of political reform was not well received by the unionist population. Particularly in the context of an IRA campaign, proposals for reform were seen as capitulation to the IRA and their supporters, the enemies of Ulster.

7.3.5. In relation to the actions of the British Government however, it was expected that the worst possible reaction would come if direct rule was imposed,

> "in the event of Direct Rule the co-operation to be expected from the Civil Service, the public utility services etc., would be less than has hitherto been assumed in London. This renders the Direct Rule option even less palatable than we have hitherto supposed. Moreover it is at least possible that a situation in which the Army was either fighting both sides in the middle of a civil war, or (with whatever help was available from GB police, prison service etc.) having virtually to run Northern Ireland would, quite apart from its military implications, be very difficult to sustain in British political terms. From his assessment of the possible implications of direct Rule SoS is even more impressed than before with the importance of keeping Mr Faulkner in power as the only apparent alternative to Direct Rule." Memorandum from AUS

(GS) on meeting with Prime Minster of Northern Ireland **G14C.86.016 to G14C.86.019 at G14C.86.018**.

7.3.6. The possibility of a Protestant backlash would present serious problems for the British Government, whether direct rule had been imposed or not, in the form of commitment of larger numbers of troops and resources to Northern Ireland. It is clear however that for the Secretary of State for Defence at least, direct rule was seen to be the worst of all options

> "....(2)Direct Rule would represent an even more appalling strain on our resources than we have hitherto been prepared to contemplate.
> (3)We must therefore redouble our efforts to ensure that Mr Faulkner remains in power." Memorandum from Sir Burke Trend to the Prime Minister. 5th October 1971. **G14D.86.20 to G14D.86.23 at G14D.86.20**

7.3.7. This can also be seen from Sir Arthur Hockaday's paper of 31st December 1971 where he notes

> "The question of the "Protestant backlash" is perennial; and many political decisions, from non-implementation of Home Rule in 1914 through partition in 1921 to internment in 1971, have been taken primarily to satisfy Protestant opinion. ***The restraint of the Protestant community has been notable while the security forces have been operating mainly in Catholic areas***: would it last if Westminster decided to bring the present Stormont system to an end?...the possibility of armed Protestant resistance cannot be excluded". Memorandum from AUS(GS) enclosing draft minutes and brief for Secretary of State, 31 December 1971 **G45A.285.1 to G45A.285.16 at G45A.284.13**. (emphasis added)

7.3.8. While this was the British assessment of the position it is not clear that in fact a "Protestant backlash" on the scale feared was ever a realistic

possibility. Giving evidence to the Tribunal Dr Robert Ramsay, when asked about the possibility of a Protestant backlash in relation to the policing of the march on Bloody Sunday, said "I mean that was always threatened because – the threat was always there for political reasons and sometimes it materialised and sometimes it did not." **Day 215/39/21 to Day 215/39/24**.

7.3.9. Lord Kilclooney, when asked about the possibility that the Northern Ireland civil service might have refused to co-operate under direct rule, said,

> "I heard that but never any evidence of it, and of course it was not correct, the Northern Ireland Civil Service remained totally impartial and loyal to whoever was the Government" **Day 196/124/7 to Day 196/124/14**

7.4. The Proposed Political Initiative

7.4.1. In order therefore to achieve the balance needed to reach their desired political outcome the British Government had to

(i) Keep the unionist population on board by ensuring that NI remained part of the UK and not diluting the commitment to that;
(ii) Keep the unionist population on board by ensuring that proposals for reform were not such as to alienate them from the process and;
(iii) Keep the nationalist population on board by producing proposals that would satisfy them and allow them to feel they had some input into the governance of NI.[7]

7.4.2. In addition it was felt that progress towards a political initiative would only really take root if there were a reduction in the incidents of bombing and shooting by the IRA. Giving evidence, Anthony Stephens agreed that the timing and viability of any political initiative in Northern Ireland was

[7] See, for example the evidence of Lord Carrington **Day 280/1/22 to Day 280/2/6** and Anthony Stephens **Day 273/62/7 to Day 273/62/15** and also **Day 273/69/10 to Day 273/69/21**

"***heavily dependent on the security situation***" **Day 273/27/18 to Day 273/27/21** (emphasis added).

7.4.3. The problems involved were numerous. The attempts to keep unionists on board were hampered by the deteriorating security situation. Most among the unionist fraternity wanted the IRA crushed and would accept nothing less than a corresponding escalation of security measures. In addition, suggestions of reform did not receive popular support. Unionists were certainly not prepared to share power with those they saw as being subversives and hooligans and their supporters. Giving evidence Sir Arthur Hockaday agreed that Faulkner and the Unionists generally did not want to make significant reforms **Day 271/87/1**. It was noted at a meeting of the Official Advisory Committee at Stormont on 4th December 1971 that

> "The Government needed to decide upon its basic philosophy in relation to the minority. Did it consider itself at war with the minority or did it believe in treating it fairly, firmly and openly? At present the Government's attitude was not clear" **OS1.529**

7.4.4. On the nationalist side, the escalation of army operations over the previous two years meant that the initially warm welcome for the army had evaporated. In addition, the years of unionist rule had taken their toll and the proposals for reform now put forward by the Northern Ireland government were not accepted as far reaching enough. There was a feeling that no one among the Catholic population supported the retention of the Stormont regime[8].

---

[8] As to which see Sir Arthur Hockaday's memo of 31st December 1971 where he stated "You are aware that official thinking within the Ministry of Defence has been coming more and more to the conclusion that the Stormont system, whatever its value, must be modified, and that we cannot support it indefinitely. The basic reasons for our misgivings regarding the continuance of the Stormont regime are:-
Political, in that it must be extremely doubtful whether any significant section of the Roman Catholic community will ever again co-operate in the government and administration of Northern Ireland in its present form; Memorandum from AUS(GS) enclosing draft minutes and brief for Secretary of State, 31 December 1971 **G45A.285.1 to G45A.285.16 at G45A.285.**

7.4.5. Despite these problems, however, there appeared to be some cause for optimism at the beginning of July 1971. At the Cabinet Ministerial Meeting on Northern Ireland held on 6th July 1971 it was noted that Mr Faulkner had made several proposals for reform including the formation of Committees in the Northern Ireland Parliament and the setting up of a directorate for public prosecutions and that these proposals had "received cautious acceptance from the Opposition in Stormont". Minutes of a Cabinet Ministerial Committee on Northern Ireland. 6 July 1971 **G2AA.23.1.1 to G2AA.23.1.5 at G2AA.23.1.2**

7.4.6. While the Home Secretary noted that "it remained to be seen how far the system would succeed in giving the minority an acceptable voice in public administration". Minutes of a Cabinet Ministerial Committee on Northern Ireland. 6 July 1971 **G2AA.23.1.1 to G2AA.23.1.5 at G2AA.23.1.2** the Committee also "welcomed signs of improvement in the security situation as compared with that of last year." Minutes of a Cabinet Ministerial Committee on Northern Ireland. 6 July 1971 **G2AA.23.1.1 to G2AA.23.1.5 at G2AA.23.1.4**

7.4.7. However it was noted by the Prime Minister that "while there had been some overall improvement in the last year the situation remained intractable; 14 battalions were committed in Northern Ireland and that no political solution was yet in sight." Minutes of a Cabinet Ministerial Committee on Northern Ireland. 6 July 1971 **G2AA.23.1.1 to G2AA.23.1.5 at G2AA.23.1.5**

7.4.8. Within a matter of days, however, the situation was to deteriorate rapidly when the opposition SDLP withdrew from Stormont in protest at the government's refusal to hold an inquiry into the shooting of Desmond Beattie and Seamus Cusack by the Army in Derry.

7.4.9. Later in July it was noted by the Home Secretary that "the dominant factor in Northern Ireland affairs was public security....there was little room at this juncture for any fresh political initiative within the Province." Minutes of meeting of Cabinet Ministerial Committee on Northern Ireland 29 July 1971 **G3BC.48.13.7 to G3BC.48.13.11 at G3BC.48.13.7**

7.4.10. Discussions between the Prime Ministers of Ireland, the UK and Northern Ireland in late September 1971, while a breakthrough in themselves, proved fruitless. There was little if any agreement on the main issues and even the statement to be issued at the end of the discussions could not be agreed without some discussion. Record of meetings held at Chequers during the visit of the Prime Ministers of the Irish Republic and Northern Ireland 26-28 September 1971 **G14AC.86.1.13 to G14AC.86.1.50 at G14AC.86.1.39 to G14AC.86.1.45**.

7.4.11. It was perhaps this lack of progress that led Prime Minister Heath to take a rather more robust attitude to the situation in Northern Ireland thereafter. On 30th September 1971 he requested from the Ministry of Defence "a fully documented and argued appreciation of what measures the Army would propose, if they were instructed that the primary objective was to bring terrorism in Northern Ireland to an end at the earliest possible moment, without regard to the inconveniences caused to the civilian population, and what forces they would require to carry these measures out." Letter from Robert Armstrong to R.J. Andrew Ministry of Defence 30th September 1971 **G14AAA.86.9**.

7.4.12. Continuing in this vein, at the next meeting of GEN 47 it was clear that the Prime Minister was frustrated at the lack of progress on Northern Ireland

> "the crisis in Northern Ireland continued to overshadow the work of the Government in many fields and threatened to jeopardise the success of the economic and defence policies and the approach to Europe. A concerted Northern Ireland policy, with its objects clearly defined in an order of priority,

was now needed, based on the best reconciliation that could be made between conflicting considerations. Probably Mr Faulkner embodied the last prospect of maintaining an independent Government at Stormont. If he fell direct rule would be a virtual certainty and in the worst case the transfer to direct rule could take place in a situation in which the machinery of administration in Northern Ireland had virtually collapsed. Taking full account of the political dangers of further alienating the minority population in Northern Ireland and of the risks of strain on our relations with Dublin, [the Prime Minister] believed that the first priority should be the defeat of the gunmen using military means and that in achieving this we should have to accept whatever political penalties were inevitable." Minutes of a Meeting held at 10 Downing Street, Wednesday 6 October 1971 at 10.30am **G15.87 to G15.91 at G15.88**

7.4.13. These minutes appear to foreshadow the beginning of a much tougher policy towards the IRA by the British Government. When asked about this Lord Carrington said "...I think that the – what we felt was, that it was still necessary to keep Mr Faulkner in power. Therefore we had somehow to satisfy him and the Protestants that we were not being too feeble in our attitude towards the gunmen. I think that is what that means." **Day 280/20/6 to Day 280/6/11**. Of course Lord Carver's written evidence to this Tribunal would appear to chime with this when he says, "Edward Heath was very good to deal with. He would listen to what you had to say, not comment much but then ask questions and make up his own mind. He was influenced by his military background and wanted to solve problems by the use of military means." **KC8.11 paragraph 28**

7.4.14. Also at that meeting there was a recognition that the government had to define its Northern Ireland policy. Minutes of a Meeting held at 10 Downing Street on Wednesday 6 October 1971 at 10.30am **G15.87 to G15.91 at G15.88**. Also at that meeting Ministers considered that direct

rule could prove to be inevitable. Minutes of a Meeting held at 10 Downing Street on Wednesday 6 October 1971 at 10.30am **G15.87 to G15.91 at G15.89**.

7.4.15. When Mr Heath met Mr Faulkner on 7th October it was clear that Faulkner's proposals for political reform on their own were not seen to be far reaching enough to provide the impetus for a breakthrough as to which see Brief for Prime Minister's meeting with Mr Faulkner 7 October 1971 **G16.92 to G16.118 at G16.94, G16.95**.

7.4.16. In addition some of the proposals put forward by Mr Faulkner to deal with other problems were deemed unacceptable. For example, the Draft Bill to compulsorily gather money owed as a result of the ongoing civil disobedience campaign by methods such as attachment of earnings and withholding family allowance payments was said to "present difficulties" Brief for Prime Minister's meeting with Mr Faulkner 7 October 1971 **G16.92 to G16.118 at G16.94, G16.101** and other measures were described as "unnecessarily vindictive" and "harsh" Brief for Prime Minister's meeting with Mr Faulkner 7 October 1971 **G16.92 to G16.118 at G16.94, G16.101**.

7.4.17. At his meeting with Mr Faulkner on 7th October Prime Minister Heath indicated that

> "It was necessary, not merely to exchange views, but to co-ordinate their policies in every field so that they presented a united front to public opinion and to the Opposition parties on both sides of the Irish Sea. They could no longer risk giving the impression of being borne along by events; the situation was now grave socially, economically and politically, and the British government could not continue to support Stormont unless public opinion at home was behind it. Furthermore, the Government's policies in other fields were being jeopardised. The situation was one of danger for both

Governments." Record of a Discussion with the Prime Minister of Northern Ireland held at 10 Downing Street on Thursday 7 October 1972 **G17.119 to G17.132 at G17.120**

7.4.18. While it appears therefore that at this stage Prime Minister Heath was prepared to tackle the problem head on it also became clear that the British and Northern Ireland governments still assessed the situation differently. It was abundantly clear that the approach being taken by the governments was not working.

7.4.19. Mr Faulkner indicated that he had "no doubt that a solution of the security problem was the key to progress elsewhere....Furthermore without an immediate breakthrough in dealing with the terrorists the administration of government would shortly become impossible" Record of a Discussion with the Prime Minister of Northern Ireland held at 10 Downing Street on Thursday 7 October 1972 **G17.119 to G17.132 at G17.121**[9].

7.4.20. Mr Heath on the other hand spoke of the need for a political settlement and indicated that political opinion in Britain would be satisfied with nothing less. "It was thus essential that any immediate increase in the military effort should be accompanied by parallel political moves." Record of a Discussion with the Prime Minister of Northern Ireland held at 10 Downing Street on Thursday 7 October 1972 **G17.119 to G17.132 at G17.121**

7.4.21. While Mr Faulkner seemed to think his green paper would solve the problems the Home Secretary said the green paper dealt largely with changes in the size and composition of the Parliament and asked how far Mr Faulkner was prepared to go in broadening the base of the Ministry to include Minority representatives. Record of a Discussion with the Prime

[9] That this was the view of the Ulster Unionist party as a whole was made clear by Lord Kilclooney who, when giving evidence agreed that he believed that the emphasis on reforms was misplaced "that you could not proceed with reforms and gain the electoral support of the people unless you had peace in the land" **Day 196/106/18 to Day 196/106/24**

Minister of Northern Ireland held at 10 Downing Street on Thursday 7 October 1972 **G17.119 to G17.132 at G17.122**

7.4.22. At this point Mr Faulkner delivered a thinly veiled threat by saying that "he could not contemplate leading or serving in a Government of Northern Ireland which included Republicans, whether or not they eschewed the use of violence in bringing about a unified Ireland. Nor would he serve in a Ministry composed according to proportional principles. In neither case could a workable Government be formed since its component parts would be too disparate....If the British Government had it in mind to propose the inclusion of the Republicans in the Government he would have to tell his colleagues forthwith and they would act accordingly. On the other hand, there were prominent Catholics who took a constitutionalist view." Record of a Discussion with the Prime Minister of Northern Ireland held at 10 Downing Street on Thursday 7 October 1972 **G17.119 to G17.132 at G17.122**[10]

7.4.23. After that date it appears that British government activity on NI was stepped up. The Prime Minister announced that there was to be a meeting of the cabinet committee on Northern Ireland at least once a week, more if required. Minutes of meeting of cabinet sub-committee on Northern Ireland 29 October 1971 **G22C.163.5 to G22C.163.8 at G22C.163.6**.

7.4.24. At the same meeting the Home Secretary, who was holding discussions with the parties in Northern Ireland about possible reform, indicated that,

> "So far as his own consultations over giving the minority a guaranteed place in administration were concerned, the main stumbling block was Mr Faulkner's refusal to contemplate the inclusion in his Government of anyone who held the Republican viewpoint over the constitution of Northern

[10] Giving evidence to this Tribunal Dr Robert Ramsay did not accept that there was a major discrepancy between what Brian Faulkner was offering in terms of reform and what the Westminster Government was seeking **Day 215/69/14 to Day 215/69/25**

> Ireland, however such a person might be prepared to subordinate his views to the general public interest in the current situation. Reform of Northern Ireland institutions, to be effective, had to be centred on the structure of central Government, Parliamentary reforms would not be enough." Minutes of meeting of cabinet sub-committee on Northern Ireland 29 October 1971 **G22C.163.5 to G22C.163.8 at G22C.163.7**

7.4.25. At this time, however, the security situation appeared to be showing some improvement. During November the Chief of the General Staff's situation reports were positive[11] and after a visit to NI in November 1971 the leader of the opposition, Harold Wilson, met with the Prime Minister, Mr Heath and Mr Maudling and Lord Carrington on 22nd November 1971 where he reported that

> "General Tuzo had expressed to him in his briefing a qualified optimism about the security situation and prospects. Mr Wilson thought that optimism justified, though the problem of dealing with Derry might well be more difficult than that of dealing with Belfast...." Note of meeting between Harold Wilson and United Kingdom government ministers 22 November 1971 **G32A.233.1 to G32A.233.6 at G32A.233.2**

7.4.26. The note later records

> "Turning to what should now be done, Mr Wilson said that he thought that there could be no solution until the gunmen had been extirpated. But a political solution ought to be discussed before then, in order to try to win over the support of as many as possible of those who were now supporting the IRA." Note

[11] Minutes of a Meeting held at 10 Downing Street on Tuesday 16th November 1971 at 11.30am **G30.225 to G30.226 at G30.226**; Minutes of a Meeting held at 10 Downing Street on Monday 22 November 1971 at 11.00am **G32.231 to G32.233 at G32.233**; Minutes of a Meeting held at 10 Downing Street on Friday 26 November 1971 at 11.00am **G34.237 to G34.238 at G34.238**

of meeting between Harold Wilson and United Kingdom government ministers 22 November 1971 **G32A.233.1 to G32A.233.6 at G32A.233.3**

7.4.27. As to what this political solution should be it appears that Mr Wilson was not in a position to assist the government materially. He did indicate that the contents of Mr Faulkner's Green Paper would not be acceptable to the SDLP who were still refusing to talk to the Home Secretary while internment continued. Note of meeting between Harold Wilson and United Kingdom government ministers 22 November 1971 **G32A.233.1 to G32A.233.6 at G32A.233.4**

7.4.28. So the position in November was that, while there was an improvement in the security situation there did not appear to be any concrete proposals for political agreement on the table or any indication that the conditions for agreeing such a political initiative could be achieved.

7.4.29. There was some increase in "security incidents" at the end of November 1971 and into December 1972 Minutes of a Meeting held at 10 Downing Street on Monday 29 November 1971 **G35.239 to G35.240 at G35.240**; Minutes of a Meeting held at 10 Downing Street on Monday 13 December 1971 **G38.253 to G38.254 at G38.254**.

7.4.30. However, General Carver (CGS) visited Northern Ireland between 15 and 17 December 1971. His report to the Defence Secretary is at **G44.281 to G44.282.1**. In it, and in his report to the MoD's NI Policy Group at its meeting on 22nd December 1971 **G44B.282.4 to G44B.282.9 at G44B.282.4**, Carver expressed the view that the government should aim at a positive political initiative about February. He indicated that there would only be a short time available for such a move before any hardening of attitudes or backlash set in. He suggested that the initiative should have 3 parts:

(i) Transfer of responsibility for law and order to Westminster;

(ii) Transferring all areas of governmental activity which were subject to inter-sectarian strife (e.g. education and housing) to public boards;

(iii) To enquire into and reorganise representation at Stormont.

7.4.31. He had his first opportunity after his visit to report this to GEN 47 on 11th January 1971. Minutes of a Meeting held at 10 Downing Street, Tuesday 11 January 1972 **G50.307 to G50.309 at G50.307**. At that meeting Ministers wondered if "the relatively lower number of violent incidents since Christmas gave rise to the question whether the present level of violence in Belfast was as low as could be reasonably expected there short of a deliberate decision by the IRA to reduce dramatically or to call off its campaign". Minutes of a meeting held at 10 Downing Street on Tuesday 11 January 1972 **G50.307 to G50.309 at G50.308**. The Prime Minister indicated that "the relative quietness of the security situation in Belfast underlined the importance of the search for a political initiative" Minutes of a meeting held at 10 Downing Street on Tuesday 11 January 1972 **G50.307 to G50.309 at G50.309**

7.4.32. Indeed on 31st December 1971 it appeared that all options for political reform were still open. In his memo of that date Sir Arthur Hockaday acknowledged that there are "a range of possibilities for a political initiative designed to clear the way forward" which, at that stage, "starting with the least radical" seemed to be:-

(a) The transfer to the GOC of operational control of the RUC for security operations (as in August – October 1969)

(b) As at a. plus some modification of the Stormont structure in the direction of proportional representation, "community" or coalition government, and blocking provisions, but no change in the powers of the Northern Ireland Parliament and Government...

(c) With greater or less modification of the structure of Stormont, transfer to Westminster of responsibility for the whole apparatus of law and order comprising not only security operations but complete responsibility for the RUC, the prison services, the internment policy, and the administration of justice

(d) Direct Rule.

Memorandum from AUS(GS) enclosing draft minutes and brief for Secretary of State, 31 December 1971 **G45A.285.1 to G45A.285.16 at G45A.285.9**.

7.4.33. His own comments on these options (also at **G45A.285.9**) were

> "As to the relationship between "security operations", "law and order" and "direct Rule", the firebreak appears to be between (b) and (c) above rather than between (c) and (d). To stop at course (b) would not involve Westminster in a mass of miscellaneous areas of direct administration, and would probably be as much as Mr Faulkner could swallow. On the other hand, it is doubtful whether course (b) would have sufficient political impact in Ireland to break the present log-jam"

7.4.34. He also indicated that

> "There is every reason for satisfaction with the amount of pressure which the Army is now exerting on the terrorists; but it is increasingly becoming increasingly clear that there is a distinct limit to how far the terrorists can be rendered ineffective – and, in particular, can be isolated from the Catholic community as a whole, which is crucially important – by military means alone. I am not suggesting that the moment for trying fresh lines of approach had arrived now, but I

believe that – at the present rate of attrition on the IRA – it may be reached quite soon: and that, when it is, we shall need to be absolutely ready to take prompt advantage of it if we are to retain the initiative. If the Army create an opportunity for us, then we must be sure of taking it: if we do not take it, my fear is that the Army will be placed in an increasingly impossible position....If fresh approaches may be needed soon, it is clearly not too early to be considering them – and I should accordingly welcome an early opportunity for a discussion of the whole situation". Memorandum from AUS(GS) enclosing draft minutes and brief for Secretary of State, 31 December 1971 **G45A.285.1 to G45A.285.16 at G45A.285.4**.

7.4.35. At that stage, while the situation in Belfast may have been improving, in Derry the position was such that

> "The Defence Secretary had agreed that the Bogside and the Creggan areas should only be entered by troops on specific information and for a minimum of routine patrolling." Cabinet Official Committee on NI: Minutes of Meeting at Cabinet Office Wednesday 5 January 1972 **G46.286 to G46.288 at G46.287**.

7.4.36. The security situation in Derry in the weeks and months preceding Bloody Sunday is discussed at some length in Section 10.

7.4.37. It is therefore clear that by the end of 1971 there was some cautious optimism, within the British military and governmental establishment at least, in respect of the security situation in Northern Ireland. At the end of 1971 however NICRA decided to increase pressure in its campaign against internment by once again organising a series of marches at a time when the

ban on marches that was so reviled by the unionist community was about to be renewed[12].

7.4.38. The first march took place on Christmas Day 1971 with the second shortly afterwards on 2nd January 1972. The renewal of the ban was announced by Mr Faulkner at Stormont on 18th January. In the short space of time between this date and Bloody Sunday it was clear that the renewal of the ban on marches coupled with the failure to ensure that NICRA marchers were prevented from marching at all was further angering Protestants who had "got used to the Roman Catholic bomber/gunman (who they don't see) and are more likely to react increasingly aggressively to the sight of NICRA supporters defying the law". Visit of CDS on 24th January 1972 **G70.437 to G70.441 at G70.439**

7.4.39. The GOC's attitude to the marchers can also be clearly seen in the note of this visit

> "The attrition operation is going well. It is designed to make the IRA desist and the policy is working but at the price of implacable and growing Roman Catholic hostility, not only to the Protestants but to the Army. This hostility is tending to spread upwards through the middle class, encouraged particularly by some Roman Catholic priests and behind it all stands NICRA, the active ally of the IRA." Visit of CDS on 24th January 1972 **G70.437 to G70.441 at G70.437**.

7.4.40. Therefore a hardening of attitudes on all sides was apparent. Clearly emerging from the papers however is the insistence that such marches, and those who participate in them, should be firmly dealt with. That this was necessary for both military and political purposes is clear and is addressed

[12] The effect of renewal of the ban and the resumption of the NICRA campaign of street marches is discussed at more length in Section 10.

in the paper prepared by Colonel Dalzell-Payne on 27th January 1972. As to military concerns

> "There is no doubt that the Force Levels to control urban situations of the sort created by illegal marches are prohibitively high. It could well be claimed that the activities of IRA gunmen/bombers are easier to control than mass civil disobedience of the sort involved in the defiance of the ban on marches." Loose Minute: Northern Ireland Marches in 1972 by Colonel Dalzell-Payne. 27 January 1972 **G82.512 to G82.521 at G82.516**.

7.4.41. However his paper also addresses the possible political implications of the renewal of the ban and failure to enforce it

> "The extension of the ban has upset the Rev Ian Paisley and his followers who see it as a final surrender to the IRA. The immediate reaction to the announcement in Stormont was that the Loyalist section of the community was going to be outraged and that victory had been given to the IRA who had said that they would put the Orangemen off the street and would certainly prevent the Twelfth of July marches. Even one of the most liberal-minded Stormont MPs, Mrs Anne Dickson, made a strong and reasoned plea to the Government to "rethink" the whole question. She said that the suppression of the normally well-disciplined Loyalist parades, and the continued failure to control the IRA and to prevent the Civil Rights movement from demonstrating publicly, will invite a Protestant backlash.
>
> The Orange Order, supported by other Loyalist organisations has said that it was not satisfied with the "alleged reasons" for the extension of the ban and in the absence of a clear demonstration of the effectiveness of the ban – a reference to

the Civil Rights marches on Christmas Day and 2 Jan 72 and the anti internment demonstrations on 22/23 Jan 72 – the Government could not expect Loyalists to observe it." Loose Minute: Northern Ireland Marches in 1972 by Colonel Dalzell-Payne. 27 January 1972 **G82.512 to G82.521 at G82.517 to G82.518**

7.4.42. The march on 30th January 1972 was therefore of tremendous political and military significance. This is explored further in Section 10 and Section 12.

7.4.43. Any attempt to progress a political initiative was rendered obsolete by the events of Bloody Sunday[13].

7.4.44. Having provided this outline of the aims of the British Government in respect of Northern Ireland and the progress of the proposed political initiative there it is now appropriate to examine the various other factors that were at work in the political arena in advance of Bloody Sunday. To do so initially requires some outline of the structure within which political decisions were taken and the pressures at work on the relevant actors.

7.5. The Governmental Structure

7.5.1. Even though at this time Northern Ireland still had its own government the UK government had put in place a system which has been called "indirect rule" or "direct rule by proxy"[14].

7.5.2. At the head of the structure stood the Prime Minister, Mr Heath and his cabinet, although most of the business relating to Northern Ireland was discussed at cabinet committee level in GEN 47 and, some time later, GEN 79. Sir Edward Heath (as he now is) has described the GEN 47 committee as a "forum for keeping Ministers updated on Northern Ireland policy

[13] See, for example the evidence of Sir Edward Heath **Day 282/118/1 to Day 282/118/3**, see also Professor Arthur's report at **E6.0040**

[14] For further discussion of the constitutional position see **Section Eight**

developments and for collective discussion and decision as required." **KH 4.85 paragraph 1(3)**

7.5.3. Brian Faulkner was Prime Minister of Northern Ireland and Minister of Home Affairs in the Northern Ireland government. His predecessor, Major Chichester-Clarke had also filled both of these roles before his resignation. This dual role meant that the Prime Minister had complete political control of security issues.

7.5.4. Mr Faulkner presided over the Joint Security Committee. Meetings of this Committee were also attended by; *inter alia*, the GOC, the Chief Constable of the RUC, the Minister of State at the Department of Home Affairs (now Lord Kilclooney) and the head of the Government Security Unit, Mr Stout.

7.5.5. One of the matters to be agreed in the Downing Street Declaration of August 1969 was that "two senior civil servants from London should be temporarily stationed with the Northern Ireland Government in Belfast". The Home Office therefore had a permanent official, known as the UK Representative ("UK Rep"), stationed in Northern Ireland. At the relevant time Howard Smith held this role, which included attendance at the meetings of the Joint Security Committee at Stormont.

7.5.6. Lord Kilclooney has said that Mr Smith's predecessor, Oliver Wright, was "light heartedly referred to as 'the British spy'!" **KK3.2 paragraph 7**. Dr Robert Ramsay, who was Principal Private Secretary to Brian Faulkner has indicated that the position was taken more seriously than that and that Brian Faulkner had always resented the setting up of the UK Representative Office....This was a constitutional enormity – an embassy to part of one's own country. This Office played a role roughly akin to that of the Soviet Embassy in the Prague of the same era, reporting secretly to London and sympathetically receiving representations from all manner of disaffected groups, who quickly came to see that they could thus bypass

and undermine the devolved governmental structures. **KR1.7 paragraph 28**[15]

7.5.7. In addition to these arrangements, the civilian and military arms of the military in Northern Ireland reported back to London. The Tribunal has heard that the GOCNI, General Tuzo, had daily contact with Lord Carver **Day 254/86/4 to Day 254/86/5**. In addition, the Ministry of Defence in London had two divisions dedicated to Northern Ireland, one on the civilian side (Defence Secretariat 10 "DS10") and one on the military side (Military Operations Branch 4 "MO4"). These were headed by Anthony Stephens and Colonel Dalzell-Payne respectively. Mr Stephens worked under the direction of Sir Arthur Hockaday who was at that time Assistant Under Secretary (General Staff) ("AUS(GS)")[16]. Sir Arthur has indicated that,

> "DS10 and I, with help from Civil Advisors in Headquarters Northern Ireland at Lisburn kept generally in touch with what was going on in Northern Ireland, and we were the link between the military staff and the political direction that the government was giving over Northern Ireland. When the Secretary of State needed to be aware of events in Northern Ireland, or of what we thought was round the corner, it was our responsibility to inform him." **KH9.1 paragraph 4**

7.5.8. General Tuzo (on occasion General Ford deputised) attended meetings of the Joint Security Committee at Stormont with; *inter alia*, the Chief Constable, the NI Prime Minister, the Minister of State at the Department of Home Affairs and the UK Representative. Lord Carver attended meetings of GEN47 with the Prime Minister, the Home Secretary and the Secretary of State for Defence. He was also a member of the Ministry of

---

[15] Indeed, giving oral evidence Lord Kilclooney confirmed that there was some resentment about the position of UK Rep "it gave people the impression that decisions were being made in London behind our backs that we did not really know about" **Day 197/89/10 to Day 197/89/20**

[16] Sir Arthur moved to the Cabinet Office in January 1972 and was succeeded as AUS(GS) by Derek Stephen KS4.

Defence's Northern Ireland Policy Group along with the Secretary of State for Defence, the Minster of State for Defence and the Under Secretary of State.

7.5.9. It is not entirely clear what the remit and/or powers of the Joint Security Committee ("JSC") were. Indeed the question of who had responsibility for security in Northern Ireland was a somewhat confused issue. Constitutionally, responsibility for security lay with the Northern Ireland government[17]. However, it is clear that ultimate responsibility for the army could only rest with the government at Westminster[18]. It was also agreed by a number of witnesses that military policy was subordinate to and must follow political policy[19].

7.5.10. In respect of the army's role in Northern Ireland however, there appeared to be what Counsel to the Inquiry Christopher Clarke QC has called "dual control"[20] and it is not at all clear from where the army was to take its political direction.

7.6. The Joint Security Committee

7.6.1. Of the witnesses who have given evidence to the Tribunal, those who were part of the Stormont machinery have been clear in their evidence to this Tribunal that the JSC was little more than a talking shop or a forum for the exchange of ideas between those who had political responsibility and the security forces. In contrast, those involved in government in London appeared to think that the JSC was the forum where the important security decisions were taken.

7.6.2. Lord Kilclooney has said that

> "its functions in the main involved the exchange of views between the politicians (being Brian Faulkner and myself),

[17] See, for example Lord Kilclooney's evidence at **Day 196/12/16 to Day 196/12/24**
[18] See, for example, Lord Kilclooney's evidence at **Day 196/19/14 to Day 196/19/17**
[19] See, for example Lord Carrington's evidence at **Day 280/124/5 to Day 280/125/7**
[20] **Day 196/20/24**

and the Chief Constable supported by the GOC. The JSC did not make decisions as such, and certainly made no decisions in relation to the role of the police or the army in relation to security and policing matters. Any decisions on operational matters were for the GOC and Chief Constable of the RUC to decide. They would inform us of decisions that they had made and tell us how they assessed the security situation. For our part, as politicians, we would update them about the political feeling on the ground and give an indication as to what we anticipated political responses would be to events on the ground." **KK3.2 paragraph 8**[21]

7.6.3. Other Stormont civil servants at the time have made it clear that, while this may be the case in relation to the meetings of the JSC the actual position meant that decisions were taken outside that forum and in private. David Gilliland a former Government Press Officer said

> "I do not think the importance of JSC should be overrated. The GOC and Chief Constable and the Minister of Home Affairs and senior officials and deputies would have regular meetings and decide what was to be done. They would then attend a full committee meeting of JSC and all would proceed as if it was fresh, but in reality many matters had been cleared up behind the scenes." **KG2.2 paragraph 9**[22]

7.6.4. It appears clear from the evidence that the British had a somewhat different view of the role of the JSC. This is reflected in Lord Crawford's written evidence

---

[21] See also the evidence of Dr Robert Ramsay **KR1.5 paragraphs 17 to 18**

[22] See also the evidence of Maurice Harris at **KH11.5 paragraph 11**. Giving oral evidence Lord Kilclooney confirmed that this was the case **Day 197/31/24 to Day 197/32/15** as did Dr Robert Ramsay **Day 215/128/10 to Day 215/128/21**

Operational matters were decided by a Joint Security Committee which was a committee chaired by the Prime Minister of Northern Ireland and the General Officer Commanding Northern Ireland was a member. **KC10.2 paragraph 3**

7.6.5. Lord Crawford also said that

On occasion when there were major matters of police and strategy to be decided the JSC would obtain the agreement of British Ministers. One example of this was the introduction of internment. Day to day running of security policy was, however, the province of the JSC. **KC10.2 paragraph 4**

7.6.6. In a memo dated 26th January 1972 the head of DS 10, Anthony Stephens, stated the position as he understood it

> "It is primarily up to the Joint Security Committee in Northern Ireland to decide on the tactics which the security forces should adopt for dealing with this march. The JSC is due to meet as usual tomorrow morning and we hope to hear the outcome during the afternoon. However we agreed this morning that it would be helpful for members of the Northern Ireland Policy Group to be aware before tomorrow's meetings of the Group and of GEN47, of the line which the GOC and UK Rep propose to take at the JSC meeting."[23] Proposed March in Londonderry – Submission from AW Stephens to Lord Carrington **G74.457 to G74.458 at G74.457**

7.6.7. When Mr Stephens gave evidence the following exchange took place

[23] Commenting on this Lord Kilclooney said that the actual tactics for the march would certainly not have been decided by the JSC but that "there would have been political advice about what the situation was...and we therefore would have advised it is better that this parade is stopped, but it is up to the Security Forces, in this case it was the Army to decide how they were going to do that." **Day 196/87/17 to Day 196/87/23**

"Is it right, in your understanding, it was for the JSC to determine, in general terms, the approach that the Security Forces should take?
Yes, I do think so and I have made this point, I think somewhere in my second statement, that it was certainly for the Security Forces to propose, but they did need the concurrence of the other members of the JSC, those representing the Northern Ireland Government, because this was all in the context of a ban on marches in the province which that Government had imposed" **Day 273/12/17 to Day 273/13/1**

7.6.8. It appears that even the Chief of the General Staff, Lord Carver, was of the view that the Joint Security Committee was "a body where decisions on security were made. I was kept informed of their decisions by Tuzo. The British Government were also kept informed." **KC8.7 paragraph 3**.

7.6.9. That there was an apparent difference of opinion between Westminster and Stormont over the role of this central and high profile body is clear. That there was further ambiguity over the position of the Army is evident.

7.6.10. Lord Crawford has called the constitutional position "ill-defined" **KC10.1 paragraph 2**

"Ultimate constitutional responsibility for the army units deployed in Northern Ireland at the time was with the UK government. In practice responsibility for security had been delegated to the Northern Ireland government...as I understand it the Northern Ireland government had the legal responsibility for law and order..." **KC10.1 paragraph 2**

7.6.11. However, Sir David Ramsbotham, at that time the Military Assistant to the Chief of the General Staff has said

"The problem with Northern Ireland at the time was that political affairs were directed by the Northern Ireland Government, the GOC having to deal with the Prime Minister, to whom the RUC reports. The army came under the Prime Minister in London to whom the CGS reports. Operations were directed from Belfast/Lisburn. Resources were controlled from London. The CGS acted as intermediary. The situation was not resolved until after direct rule. The confusion in Northern Ireland was that you had a situation where the army had been sent in, although it was not clear how they fitted into the picture and who they were properly subordinate to." **KR2.2 paragraph 7**

7.6.12. Dr Robert Ramsay also gave evidence that Mr Faulkner was concerned that the presence of the army on the streets of Northern Ireland would lead to a "constitutional awkwardness vis-à-vis London" namely "that the Army would be acting in aid of the civil power in the form of the Northern Ireland government, but would ultimately be constitutionally responsible to a different Government, namely the United Kingdom government" **Day 215/3/19 to Day 215/4/10**.

7.6.13. Indeed Mr Faulkner himself "on the first occasion of [his] appearance at a Joint Security Committee as Prime Minister" sought "to establish beyond question a clear definition both of terms of reference given by the Westminster Government to the GOC in relation to the re-establishment of law and order throughout Northern Ireland and the objectives of the GOC which he plans to pursue to satisfy his remit" **TMPD 29.35**.

7.6.14. Acknowledging that there had been some confusion about the division of responsibilities for security as between the two Governments and the GOC Mr Faulkner indicated that it was

"therefore in the interests of all Sections of our community in Northern Ireland and of the two Governments, that Westminster should state or restate publicly, clearly and unequivocally:-

(a) What are the Terms of Reference from the Westminster Government to the GOC as his remit in Northern Ireland?

(b) What are the objectives and priorities of the GOC and what target times are set for their achievement?

(c) What limitations, if any, exist in so called "No Go" areas to prevent people going about their lawful occasions?" **TMPD 29.36**

7.6.15. It is not clear that Mr Faulkner ever got any or satisfactory answers to his questions.

7.6.16. The following considerations added further to the difficulties faced by the governments and the army and led to a situation where the army, without any or adequate political direction from London, were subject to and influenced by the pressures exerted on them by the situation in which they found themselves and the views of the Northern Ireland government. In this regard the following factors are of significance

(i) Pressures on Brian Faulkner from his own party and extreme unionists

(ii) Pressure on the army from the Northern Ireland government

(iii) The British government's appeasement of the Northern Ireland government

(iv) The British government's failure to give any or adequate political direction to the army

(v) The British Government's unwavering support for the army

7.7. Pressures on Brian Faulkner

7.7.1. The question of whether Mr Faulkner could keep control of his party in the face of the deteriorating security situation and the move towards reform is a constant and recurring theme among the papers provided to the Inquiry[24]. As early as June 1971, when Faulkner had been in power for a matter of month the UK representative's assessment was

> "I suspect that Mr Faulkner could be more efficiently served by parts of his own Governmental machine and I have already indicated that some of his Ministers are not sufficiently house trained. If this is so it is a reflection on Mr Faulkner himself. It begins to look as if he lacks that authority, combined with a hint of menace, which a leader needs. It suggests that he is not the tough man we hoped to see." Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.7**

7.7.2. The pressure being exerted on Faulkner did not just come from Paisleyites and rogue elements of his party. It is clear that attempts to undermine him came from those as highly placed as MP John Taylor, now Lord Kilclooney, but then the Minister of State at the Ministry of Home Affairs (Faulkner's deputy in that department).

7.7.3. During late 1971 Mr Taylor (as he then was) made a speech in his constituency criticising the UK government's failure to provide more troops to the army in Northern Ireland and supporting the creation of a "third force" **OS1.418 to OS1.419**.

7.7.4. It also appeared from media reports at the time that Mr Taylor was invited to discuss this speech with Prime Minister Faulkner after which a statement was issued indicating that he supported government policy

[24]See also Minutes of meeting of Cabinet Ministerial Committee on Northern Ireland. 6 July 1971 **G2AA.23.1.1 to G2AA.23.1.5 at G2AA.23.1.2**; Minutes of meeting of Cabinet Ministerial Committee on Northern Ireland. 29 July 1971 **G3BC.48.13.7 to G3BC.48.13.11 at G3BC.48.13.7**; Agenda and Conclusions of JSC Meeting Thursday 2 September 1971 **G11.71 to G11.74 at G11.72**

OS1.421. Giving evidence to this Tribunal Lord Kilclooney denied that Mr Faulkner had told him to "toe the party line" and said

> "A. It is one of the realities of politics in Northern Ireland that on that issue, if you read the reports in the Irish nationalist press, like the Irish News or Henry Kelly, who is an United Irelander in the Irish Times, they give a very colourful presentation of what actually happened. In fact I was not carpeted at all by the Prime Minister. We had our normal Cabinet meeting that morning and he and I had a three or four minute chat, at the most, afterwards in which he showed me this document so that the air would be cleared and I made some amendments to it and that was it, because what I had stressed in my speech was that any third force should be under the lawful control of the authorities in Northern Ireland.
>
> So I was able to comply with this statement to show that we were united, but it was only a three or four minute meeting on the side corridors after the Cabinet meeting." **Day 196/50/13 to Day 196/51/5**

7.7.5. It is submitted that when assessing the evidence given by Lord Kilclooney, the Tribunal should be alive to his intensely partisan political background. This was illustrated, not only by his public statements in and around 1971 and 1972, but also the evidence he gave to this Tribunal.

7.7.6. One aspect of Lord Kilclooney's evidence is particularly worthy of comment. While giving evidence he claimed that "on the night of the deaths on the Bloody Sunday nationalists were drinking and celebrating because of what had happened because they knew it would bring about the downfall of the Stormont Parliament" **Day 196/163/8 to Day 196/163/11**.

Lord Kilclooney claimed that he had been given a tape of these celebrations, which took place in Derry, and indicated that he would provide it to the Tribunal **Day 197/87/14 to Day 197/87/20**. This is the first time our clients had been aware of such a tape, indeed such an allegation. As a result there were very interested to see if Lord Kilclooney would make good his evidence by production of the tape. They were not surprised when he did not.

7.7.7. Lord Kilclooney's undated letter to the Solicitor to the Inquiry appears at **KK3.22**. In the letter he indicates that despite "exhaustive searches" he has not been able to locate the tape. It is interesting to note that in this letter, for the first time, Lord Kilclooney refers to the tape as a "BBC Radio Tape". This is perhaps a last attempt to give some credibility to what was an otherwise incredible and outrageous tale.

7.7.8. As has been seen above even Mr Faulkner would not accept any political initiative that involved the inclusion of representatives of the minority in the Northern Ireland government if they were in any way committed to the idea of a united Ireland.

7.7.9. Indeed Sir Edward Heath, giving evidence to this Tribunal agreed that even moderate unionists were continually saying that the British Government was not doing enough to strengthen the union **Day 289/109/2 to Day 289/109/20**.

7.7.10. On the question of security, pressure came in the form of calls for harsher measures, such as internment, to be employed on the security front[25].

7.7.11. During the course of a telephone conversation with Prime Minister Heath on 10th September 1971 on the issue of possible tripartite talks involving them and Taoiseach Jack Lynch, Faulkner said

[25] OP Directive No 3/71 HQ 8th Infantry Brigade Ebrington Barracks 2 July 1971 **G1.1 to G1. 19, G1.1 to 2**; Report from H Smith to the Home Secretary 10 June 1971 **G1AA.19.1.1 to G1AA.19.1. 10 at G1AA.19.1.2**; Minutes of meeting of Cabinet Ministerial Committee on Northern Ireland 29 July 1971 **G3BC.48.13.7 to G3BC.48.1.3. 10 at G3BC48.13.7**

"I really cannot over emphasise the importance of this. Everybody is talking about what the Catholic population is having to put up with, but, my God, it is nothing to what the one million Protestants are putting up with at the moment and I am not talking about the Paisleyites. Every businessman in the country is saying that unless something is done to deal with this bombing we are going to do something ourselves. And there will be no demands at all for a force controlled by the Northern Ireland Government if we can make the UDR an adequate force which it would be if people had the opportunity of more localised service in it." Transcript of telephone conversation between the Prime Minister and the Prime Minister of Northern Ireland 10 September 1971 **G12AA.78.1.1 to G12AA.78.1.9 at G12AA.78.1.8**

7.7.12. Mr Faulkner therefore came under severe pressure from those inside and outside his own party. As a result and in order to placate his own constituency Mr Faulkner pressed for more and tougher security measures both from the British Government and the Army. From the former he requested internment, increase in membership and localisation of the UDR and other measures such as the cratering of unapproved border roads. From the latter he urged that action be taken to break the no go areas in Derry and that marches held in defiance of the ban be firmly dealt with.

7.8. Pressure on the Army from the Northern Ireland Government

7.8.1. It is clear that the army came under pressure from the Northern Ireland government to increase its efforts to improve the security situation. Giving evidence to this Tribunal Lord Kilclooney agreed that the politicians in the Joint Security Committee sought "as much influence as they could exert" **Day 196/21/23 to Day 196/21/25**.

7.8.2. This is a matter of some considerable importance in assessing the actions of the army on Bloody Sunday, particularly when one is reminded of the

statement made by James Callaghan in the House of Commons on the publication of the Widgery report on 19th April 1972

> "These tragic events belong in the past. They took place when there was divided responsibility for security and when it is fair to say that very heavy pressure was being brought to bear upon the Army commanders to step up their attitude. I do not suppose any of us will ever know whether they were acting on their own judgment or whether they yielded to the judgment of others." **V62**

7.8.3. Lord Callaghan now says

> "I am sorry to say that with the lapse of time and a memory that is nowadays very imperfect, I am unable to say on what information I relied when I said in the House of Commons that, "very heavy pressure was being brought to bear upon the Army commanders to step up their attitude....".
>
> "I am sure that such information would never have been committed to paper but would have been passed by word of mouth. I suppose that my comment probably derived from what I regarded as well-informed Army sources. Alternatively, it may have come from comments by Civil Servants or from journalists who had ready access to the Army, but I cannot be definite about any of this." **KC2.1**

7.8.4. That pressure was indeed exerted on the GOCNI to take more and tougher action can be seen in the following

(i) The minutes of the NI Cabinet meeting on 6th July 1971 where the GOC was criticised for "the Army's apparent reluctance to move in and "mop up" militant elements in the Bogside area of Londonderry". In addition "The GOC... agreed with the Minister [of

Agriculture] that nothing would be more reassuring to the population than the taking of positive steps against terrorists but that the local circumstances often made shooting at people out of the question." Giving evidence Lord Kilclooney indicated that in this meeting the GOC was "definitely" being pressed by ministers to fight back against law breakers with greater robustness than they were doing **Day 196/32/14 to Day 196/32/19**

(ii) The minutes of the JSC meeting of 2nd September 1971 in relation to General Tuzo's initiative to break to no-go areas in Derry. At that meeting General Tuzo explained his change of tactics in Derry. After discussions with local people he was prepared to give them a chance to see if they could bring about improvement in the situation there. The Prime Minister Mr Faulkner and the Minister of State at the Ministry of Home Affairs, now Lord Kilclooney, appear to have been outraged by this suggestion and indicated that they believed that Derry had returned to a no-go situation. Mr Taylor was particularly vociferous The minutes record the following

(iii) "The Minister of State at the Ministry of Home Affairs said that account would have to be taken of the feelings of people in the country who thought that a 'deal' had been done and that a 'No Go' area had been created. There was now an area in Londonderry where the IRA were known to be where they could now regroup and where arms were known to be and the Army were not going in to get them. He did not feel that he could support such a situation."

(iv) "The Prime Minister said that while one should not be too concerned about what might be termed 'grandstand opinion' it was nevertheless necessary to realise that a situation of this sort might have a serious effect elsewhere. The GOC pointed out that at any time the Army could go back in strength. He knew there were IRA men in the area and he knew where they were. If no

progress was made in the new tactical direction then he would be prepared to go in and to take whatever action was necessary. The situation in Londonderry was under constant review." Agenda and Conclusions of JSC Meeting Thursday 2 September 1971 **G11.71 to G11.74 at G11.72**.

(v) In a letter to General Tuzo in September 1971 Mr Faulkner requested information on a number of matters including "Can it be assumed that attention is being given to devising new means of dealing with unruly crowds and terrorists and advantage being taken of experience in other countries". Letter from the Prime Minister of Northern Ireland to the GOC 20 September 1971 **G13A.82.1 to G13A.82.2 at G13A.82.2**. General Tuzo's detailed reply can be seen at **G14AB.86.1.9 to G14AB.86.1.12**.

(vi) The minutes of the JSC meeting of 20th January 1972. "The Prime Minister emphasised strongly the importance of stopping the march effectively. Protestant and Catholic attitude to the continuing ban on processions will be vitally influenced by the outcome on Saturday and also in the case of the other marches proposed for the immediate future.." Conclusions of JSC meeting, Thursday 20 January 1972 **G63.377 to G63.379 at G63.377**.

(vii) There was also constant pressure on the army in relation to border security and the cratering of unapproved roads and the enlargement and localisation of the UDR.

(viii) Letters between the GOC NI and the Prime Minister of Northern Ireland relating to the release of internees. Letter from the GOC to the Prime Minister of Northern Ireland, 13 September 1971 **G12A.78.1** and Letter from the Prime Minister of Northern Ireland to the GOC **G12B.78.2**

(ix) The above mentioned letter from the Prime Minister of Northern Ireland to the GOC 20 September 1971 **G13A.82.1 to G13A.82.2** and the reply at **G14AB.86.1.9 to G14AB.86.1.12**.

7.8.5. While it is clear that on occasion General Tuzo was able to withstand the pressure applied by the Northern Ireland government it is also clear that such pressure could in fact, influence the army. This is seen most dramatically in the events surrounding the meeting with the Strand Traders Association in January 1972 and the resulting memo from General Ford.

7.8.6. In the minutes of the JSC meeting that preceded General Ford's visit to Derry it can be seen that a request had been made for the **Prime Minister**, Mr Faulkner to meet with the Strand Traders Association about "a spread of violent activity into the William Street area of the city" Agenda and Conclusions of JSC Meeting, Thursday 6 January 1972 **G47.289 to G47.298 at G47.294**. In the end the GOC agreed to meet members of the Association on the spot. As the Tribunal knows, it was General Ford who eventually travelled to Derry but, whoever made the trip, it was a highly unusual one. In such a situation those commanding the army were being placed in a position whereby direct pressure could be and was applied.

7.9. British Appeasement of the Northern Ireland Government

7.9.1. As the end of 1971 drew near it was clear that other areas of British government policy were feeling the effect of the situation in Northern Ireland and that Prime Minister Heath was himself coming under pressure as a result.

7.9.2. During a telephone conversation with Mr Faulkner in which the Northern Ireland Prime Minister voiced his opposition to the holding of tripartite talks between himself, Mr Heath and the Taoiseach Mr Lynch and indicated that he had been told that the Chairman and Secretary of his party would resign if he took part Prime Minister Heath said

"And I think you know we shall have to tell your colleagues, I shall have to tell them myself if you like, that public opinion isn't going to have 17 battalions over there and just have people refusing to talk as to how to deal with the problem..." Transcript of telephone conversation between the Prime Minister and the Prime Minister of Northern Ireland 10 September 1971 **G12AA.78.1.1 to G12AA.78.1.9 at G12AA.78.1.6**

7.9.3. At a GEN 47 meeting in October 1971 Mr Heath commented that

"the crisis in Northern Ireland continued to overshadow the work of the Government in many fields and threatened to jeopardise the success of economic and defence policies and the approach to Europe...." Minutes of a Meeting held at 10 Downing Street Wednesday 6 October 1971 **G15.87 to G 15.91 at G15.87**

7.9.4. As has been seen, Brian Faulkner's refusal to consider broadening his government and his concentration on the security situation to the near exclusion of political reform created considerable problems for the British Government. However, despite its increasing frustration and irritation with the situation in Northern Ireland it is clear that the British government did all in its power to present a united front with the Stormont government. This attitude can be seen in the following

(i) "The Unionist Party has formed the Government of Northern Ireland for fifty years. It still holds a substantial majority in the House of Commons at Stormont. But its authority and handling of the situation is weakened by division among its supporters despite the firm support which the UK Government gives to the Stormont administration. The Republican elements who represent the opposition at Stormont are not able to form either a coherent

opposition or an alternative government." Internal Security Instruction 1/71 (Revised) **G20.141 to G20.155 at G20.141**

(ii) Internment and associated decisions taken at the meeting between UK Ministers and Mr Faulkner on 5th August 1971

(iii) Internment without trial began in Northern Ireland with Operation Demetrius early on the morning of 9th January 1971. Internment had been an option that was called for by many in the Unionist community for a long time. It was hoped that it would have the same effect as it had during the 1960s where it was introduced simultaneously in NI and in the Republic of Ireland "with some success" **KH11.3 paragraph 5**.

(iv) While such an approach may have been successful in 1950s things had moved on quite substantially since then. Against the background of the civil rights campaign the introduction of such a repressive measure as internment without trial would inevitably lead to protests and civil disobedience.

(v) Unionists had been clamouring for the introduction of internment for quite some time. It was noted that initially Mr Faulkner had "withstood the demands of his own extremists and Mr Paisley for rearming the Police, internment and the resurrection of the B Specials" Report from H Smith to the Home Secretary. 10 June 1971 **G1AA.19.1.1 to G1AA.19.1.10 at G1AA.19.1.7**

(vi) In a telegram sent to Howard Smith for Prime Minister Faulkner on 4th July 1972 the Home Secretary made it clear that while the decision to introduce internment was for Mr Faulkner to make "under the constitution" the governments had come to an arrangement that it would be agreed with the British government first. The Home Secretary then made it clear that the GOC was not recommending internment and that the British government would raise no objection

to its introduction if after consultation with the security authorities and the NI government it was satisfied that it would help in the campaign against the IRA. Also in the message the Home Secretary is clear that, were internment to be introduced in advance of the Apprentice Boys parade on 12th August it would be essential to proceed simultaneously with the indefinite banning of all political processions. Text of Message from the Home Secretary to Mr Faulkner, 4 August 1971 **G4.49**

(vii) As it turned out, Faulkner came to London on 5th August 1971 to meet with Ministers about the possible introduction of internment. Ministers held their own meeting in advance of the meeting with Mr Faulkner at which it seemed clear that Ministers were not adverse to the implementation of internment. Minutes of meeting of Cabinet Sub-Committee on Northern Ireland, 5 August 1971 **G4A.49.1 to G4A.49.4 at G4A.49.2, G4A.49.3**

(viii) Mr Faulkner met with the Prime Minster, the Home Secretary, the Foreign Secretary and the Secretary of State for Defence that afternoon and argued strongly that internment should be introduced. Note of a Meeting at 10 Downing Street, Thursday 5 August 1971 **G5.50 to G5.55 at G5.50**

(ix) The UK Ministers indicated the difficulties they had in that their military advice was that internment was not necessary on military grounds. They further indicated that "balancing action" would be needed in the form of the banning of parades and curtailment of gun clubs. Note of a Meeting at 10 Downing Street, Thursday 5 August 1971 **G5.50 to G5.55 at G5.50**

(x) In addition it is clear that Mr Faulkner protested about the introduction of the ban on marches and the limiting of the rifle clubs "The Protestants in Northern Ireland would regard internment as no more than a merited punishment for the violence of the IRA and their

Roman Catholic supporters; they would not see it at all as something which required a corresponding gesture on the part of themselves. Since the Government would need full Protestant support for any new initiatives on political reconciliation which they might be able to undertake, it would be foolish to alienate Protestant support by an indiscriminate ban on marches." Note of Meeting at 10 Downing Street. 5 August 1971 **G5A55.1 to G5A.55.5 at G5A.55.3**.

(xi) It also appears clear that the British government softened its stance on these two issues. Therefore rather than an indefinite ban on marches it was agreed that the ban would be for six months. In addition the rifle clubs were not suspended but no additional licences for clubs were to be granted for the time being.

(xii) Giving evidence to this Tribunal Sir Arthur Hockaday agreed that the introduction of internment demonstrated the influence of Protestant Unionist opinion on political and security initiatives in Northern Ireland **Day 271/85/8**. In his memo dated 31st December Sir Arthur had commented that "....many political decisions, from non-implementation of Home Rule in 1914 through partition in 1921 to internment in 1971, have been taken primarily to satisfy Protestant opinion." Memorandum from AUS(GS) enclosing draft minutes and brief for Secretary of State, 31 December 1971 **G45A.285.1 to G45A.285.16 at G45A.285.13**.

(xiii) Sir Edward Heath himself said, "It became clear however, that Mr Faulkner and his colleagues in the Government of Northern Ireland had come to the view that the introduction of internment was essential in order to contain the threat of Republican violence, and attached such importance to it that they would be unlikely to continue in office without it. In that event, direct rule...would have become a virtual certainty. The alternative could therefore have been the collapse of the Government in Northern Ireland and the introduction at very short notice of direct rule by her Majesty's

Government. We wished to avoid that if possible." **KH4.4 paragraph** and, giving evidence that "...we, of course, were very doubtful indeed about internment at all, and we wanted every possible action taken to ensure that it did no damage" **Day 282/100/4 to Day 282/100/6**

7.10. **Lack of Political Direction From Westminster**

7.10.1. Under this heading it is worth quoting the evidence of Sir Edward Heath to this Tribunal at some length. He said

> "At that time, as you know, ***the military were entirely concerned or – yes, concerned with Ireland itself and not with us as a central power, it was entirely their affair***" **Day 285/108/1 to Day 285/108/4**
>
> "Well at that time ***the forces in Ireland were in control of the Irish government***" **Day 285/118/12 to Day 285/118/13**
>
> "...***We had no control over the military whatsoever and I did not know who was in the military there, neither did other senior members***. They can give their own evidence here." **Day 287/112/8 to Day 287/112/11**
>
> ...What we thought at the time, of course, ***was that the handling of this by the military was something for which we had no responsibility***, and which one could criticise and say that it should have been done differently. But I would not have given myself the responsibilities for doing it, because that was not our responsibility.

Q. Do you think Sir Edward that if you had involved yourself a bit more closely in what the Army were planning to do on Bloody Sunday, that things might have been different?

A. I was involving myself as Prime Minister to the right extent and in the right way, and power had been passed over to those who were more closely involved, and they acted on it.

Q. But the question I am asking you Sir Edward – I am not going to reopen this business of what your involvement was or why again – if you had involved yourself more than you claim you did, could this have been avoided?

A. The only way I could have involved myself more would have been to have taken over full responsibility for Northern Ireland and I was not prepared to do that at that time. The disadvantages of trying to do so were obviously very great and so we did not try. That had to wait until midsummer." **Day 289/95/22 to Day 289/96/21**

Q. Sir Edward is the answer then, that, to come back to a question I tried to get an answer from you earlier on, that even with the knowledge of what actually was being planned by the military at that particular stage – which presumably you have now – you would not have changed anything. Is that it?

A. Well, the responsibility of the military at that time was on the Northern Ireland Government, and one – as we saw later on, one could not change a part of it because they were unwilling. If one was going to change anything we had to change the whole thing, and that is what we were forced to do." **Day 289/97/11 to Day 289/98/6**

"...because the Armed Forces were in Northern Ireland, and their control was under Northern Ireland, except for the – what action their general officer commanding could take. And we did not interfere with that. That was their affair." **Day 289/124/4 to Day 289/124/8**

7.10.2. Asked about Operation Motorman in July 1972 Sir Edward said that at that stage

> ...I was Prime Minister of the whole governmental organisation and the military organisation, carrying out that operation. That was not the case in the earlier one." **Day 287/124/24 to Day 287/125/2**

7.10.3. Sir Edward's evidence to this Tribunal is clear. As UK Prime Minister he did not interfere in the security situation in Northern Ireland as that was the affair of the Northern Ireland government. Indeed he also said "...I found that those in Ireland who were in charge of such things for the general public were very sensible and very responsible" **Day 289/126/11 to Day 289/126/13**.

7.10.4. Sir Edward did not accept when it was put to him that the Stormont government had been given the British Army "to do with as it would" **Day 289/126/14 to Day 289/126/20**. He gave evidence that decisions were taken by the Ministry of Defence **Day 291/53/15 to Day 291/53/21** but was quite clear that even though he delegated much of the responsibility in respect of Northern Ireland to Lord Carrington and Mr Maudling as Defence and Home Secretary respectively[26] he recognised that

> "...they themselves of course, had to recognise what was the responsibility of the Northern Ireland Government." **Day 289/97/15 to Day 289/97/19**

7.10.5. This approach is apparent from the material before the Tribunal where it can be seen that as late as October 1971 Prime Minister Heath was saying that the British Government needed to formulate a "concerted Northern Ireland policy". Minutes of a Meeting held at 10 Downing Street.

[26] **Day 291/54/13 to Day 291/54/18**

Wednesday 6 October 1971 **G15.87 to G15.91 at G15.88** and that they were "giving the impression of being borne along by events" Record of a Discussion with the Prime Minister of Northern Ireland, 10 Downing Street, Thursday 7 October 1971 **G17.119 to G17.132 at G17.120**.

7.10.6. In addition, Professor Arthur has said "The Prime Minister was consumed with getting the UK into Europe....In these circumstances he was able to devote little time to Northern Ireland. Unfortunately his Home Secretary displayed little real interest." **E6.0041**.

7.10.7. However, the important signals that were being sent to the British Army by the Government in Westminster related to the rule of law in Northern Ireland, the status of the Catholic population there and the action that the army could be expected to face when allegations of criminal misconduct by troops on the ground were raised.

7.11. The Rule of Law

7.11.1. All of the relevant witnesses before the Tribunal were clear in their evidence that the British Government would not have contemplated the use of techniques which included the organised, premeditated and systematic breaches of peoples' fundamental rights.[27] In fact we submit that the opposite is the case and that what the material and evidence before the Inquiry shows is that the approach adopted to Northern Ireland by the British Government was one where adherence to the rule of law was sacrificed in what was, essentially, a war situation. This attitude can be seen in Sir Edward Heath's interview to Channel Four News where he said, "...Northern Ireland was in a state of war..." **X.1.6.59**. This was a view which he confirmed giving evidence to this Tribunal **Day 285/118/5 to Day 285/118/10**. [28]

[27] See, for example the evidence of Sir Arthur Hockaday **Day 271/31/4 to Day 271/ 31/14**
[28] Lord Carrington disagreed **Day 280/89/15 to Day 280/89/23**

7.11.2. Deep Interrogation Techniques

7.11.2.1. The British Government's approach to the rule of law is well demonstrated by the attitude that was taken to the allegations that emerged soon after internment as to the techniques being used for the interrogation of detainees[29].

7.11.2.2. During the course of the GEN47 meeting held on 18th October 1971 Prime Minister Heath indicated that he had agreed to a request to discuss allegations made concerning methods of interrogation of persons detained under the Special Powers legislation in Northern Ireland.

> "The Secretary of State for Defence said that....On 10 August he had been informed of the principles governing the proposed methods of interrogations: that detainees should be subject to medical supervision, that there should be no brutal or degrading treatment, and that interrogation should be carried out humanely, but under strict discipline; techniques designed to isolate detainees subject to interrogation, to prevent them from obtaining any exact sense of time and location and to impose fatigue by exposure to insistent and disturbing noise ("white sound") were regarded as proper. It was on the basis of this information that the Home Secretary and he had that day agreed that interrogation should be carried out according to these principles. The RUC conducted the interrogation and the Ministry of Defence provided supervision....As he understood it, the basic principles governing methods of interrogation, though not the precise techniques which he had mentioned, had been settled following the report on interrogations in Aden in 1967... Meeting of Cabinet sub-

[29] It can also be seen in the approach taken to the suggestion made by the Lord Chancellor Lord Hailsham that those who obstructed the army in carrying out their duties in Northern Ireland were ipso facto enemies of the Queen and could be shot as to which see for example **X1.33.11 to X1.33.14**. Sir Edward Heath gave evidence that "at the time people just said "Well that was Quinton" and got on with it and certainly as a government, of which I was Prime Minister, we took no notice at all" **Day 282/87/21 to Day 282/87/24**.

committee on Northern Ireland 18th October 1971 **INQ 1.375 to INQ 1.379 at INQ1.376**

"...While it was important that methods of interrogations should not overstep the proper bounds, it had to be remembered that the lives of British soldiers and of innocent civilians depended on intelligence. We were dealing with an enemy who had no scruples, and we should not be unduly squeamish over methods of interrogation in these circumstances. It was thought likely that the methods of interrogation employed in Northern Ireland had not greatly differed from those employed in Cyprus and Malaysia and, under the previous administration, in Aden..." **INQ 1.375 to INQ 1.379 at INQ1.377**.

7.11.2.3. Giving evidence, Sir Arthur Hockaday indicated that the techniques had been approved for application to a small proportion of internees at a time when "the Government, rightly or wrongly, did not realise that this was likely to be found, by at least a minority of the European Court of Human Rights, to be a "violation of rights"..." **Day 271/39/16 to Day 271/39/19**.

7.11.2.4. Sir Arthur therefore appears to suggest that Ministers were innocent of any unlawful intention in relation to the use of these techniques. His answers on this point are somewhat undermined however by the minutes of meeting of Cabinet sub-committee on Northern Ireland. 29 October 1971 **G22C.163.5 to G22C.163.8**. At **G22C.163.6** it is noted that Sir Philip Allen (PUS Home Office) said that there appeared to be little doubt that the treatment of detainees would be held legally to constitute an assault; the issue might be raised in the Northern Ireland courts or, on more general grounds, before the European Commission on Human Rights. Despite this clear statement from a senior official the government ministers did not indicate that such activities should therefore be ceased immediately but rather discussed the public relations aspects of the allegations of ill

treatment. Meeting of Cabinet sub-committee on Northern Ireland. 29 October 1971 **G22C.163.5 to G22C.163.8 at G22C.163.6, G22C.163.7**.

7.11.2.5. In fact the interrogation techniques used on internees **were** the subject of an inter-state case taken by Ireland against the United Kingdom at the European Court of Human Rights where they were found to constitute inhuman and degrading treatment[30].

7.11.3. Attitude to the People of Northern Ireland

7.11.3.1. The thrust of the approach to Northern Ireland by the military and the government was to deal with that jurisdiction as if it was a place apart, not really a part of the United Kingdom. That such thinking was abroad in a number of areas is clear from the following

(i) A note authored by Colonel Tugwell where he says "The indigenous Irish, once convinced that their cause is just, possess a breath-taking ability to lie with absolute conviction, not just in support of something they believe to be true, but to put across a story they know very well is untrue.." Note by Col Tugwell on public opinion and the Northern Ireland situation **G26A.195.1 to G26A.195.6 at G26A.195.4**

(ii) The note authored by Adrian Thorpe, which appears at **KW3.86 to KW3.87**.

(iii) This document, entitled "The Problem of Londonderry" and dated June 1972 was addressed to Mr Kelvin White and is commented on in his statement:

"This is a minute by Adrian Thorpe of RID (one of two or three juniors in RID) to myself regarding a MoD draft paper by Anthony Stephens on "The Problem of Londonderry". I

[30] Judgment Ireland v UK [Series A No. 25 18th January 1978] 2 EHRR 25

have been specifically drawn to paragraph 3 of Mr Thorpe's minutes where he comments "*As you know I have always been in favour of encouraging the no-go areas to rot from within; there is no reason why we should not encourage the break-down of essential services and the spread of disease etc.*" **KW3.33 paragraph 24**

"I have no recollection about this document now, nor can I explain why Adrian Thorpe made this comment. I clearly did not give his suggestion any serious thought. My handwritten comment at the top of the document says that any further action on the MoD paper would not be until early July. The matter was "*comatose, if not dead*". I was not aware at any stage of the government discussing or seriously contemplating the positive break down of essential services in Londonderry." **KW3.33 paragraph 25**

Kelvin White accepted that he saw this paper. He identified his handwriting on the top right corner of the copy the Tribunal has. That appears to say

"This is now comatose, if not dead. If the ceasefire does not work, and we should see clearly within the week, then we must pursue NIO on the JSC paper, which will take precedence over this MoD effort. For unless the ceasefire does work, some military moves against L'Derry are almost inevitable I judge therefore look again on 3 July" **KW3.86**

The discussion in this memo is therefore not judged to be outrageous and beyond consideration. The note on the Thorpe paper from White himself in no way discounts the proposal outlined therein. Indeed it is clear from the paper that this was a matter that the two men (i.e. Thorpe and White) had discussed previously "***As you know*** I have always been in favour of encouraging the no-go

areas to rot from within...". The language suggests that civilian deaths as a result of such a plan would not be out of the question, if not inevitable. Presumably if, during the course of previous discussion it had been made clear to Thorpe that such a proposal was unacceptable, he would not have repeated it in his paper.

It was confirmed to the Tribunal when Mr White gave evidence that Mr Thorpe is now British Ambassador to Mexico. Clearly nothing he said in this paper in any way hindered his rise to the very top of the diplomatic corps.

(i) Giving evidence to this Tribunal Mr White agreed that Mr Thorpe's suggestion was not "practical, sensible or moral" in that order **Day 269/97/18** and agreed that he did not reprimand Mr Thorpe. He did however, provide further evidence of the general attitude when he said

> A. What I said at the time I cannot possibly recall. I do not think that was practical, sensible or moral, no. But what I would have said to Adrian was probably something along the lines of "Forget it, do not be absurd. You know you cannot do that broadside. Stick to the Guinness wagons". ***And that was our old joke, that the no-go areas would not survive if the no-go areas forbade entrance to the Guinness wagons supplying the pubs. It was just a joke.*** **Day 269/97/17 to Day 269/97/25** emphasis added

7.11.4. Contemplation of Civilian Casualties

7.11.4.1. In addition there are, among the papers, numerous examples of the willingness of both the British Government and the army to contemplate military operations that would lead to the use of unlawful force against civilians, and in particular the civilian population of the Bogside and

Creggan in Derry. While this is discussed in more detail in section 10 it can be noted here that the following provide ample evidence of this fact

(i) Note of Home Secretary's meeting with GOC and other senior officers at Lisburn, 14 December 1971 **G40.259 to G40.262 at G40.261**;

(ii) Future Military Policy in Londonderry – An Appreciation by the CLF 14th December 1971 **G41.263 to G41.274 at G41.270**;

(iii) General Ford's memo The Situation in Londonderry as at 7th January 1972 **G48.299 to G48.301 at G48.300**;

(iv) The CGS report to GEN47 Minutes of a Meeting held at 10 Downing Street, Tuesday 11 January 1972 GEN 47 **G50.307 to G50.309 at G50.308, G50.309**

(v) Loose Minute: Northern Ireland Marches in 1972 by Colonel Dalzell-Payne. 27 January 1972 **G82.512 to G82.521 at G82. 519**

7.11.5. Failure to Investigate and Impunity

7.11.5.1. It appears that in the time period between June 1971 and the end of January 1972 thirty-six civilians were shot by the army in disputed circumstances[31]. If the papers in Bundle G are examined it is clear that not one of those deaths was ever mentioned at a GEN 47 meeting, nor were they mentioned at any of the Ministry of Defence's Northern Ireland Policy Group meetings.

7.11.5.2. This apparent lack of political concern in relation to disputed deaths occurring in a part of the country for which the British Government had ultimate responsibility is astounding. In fact it appears that even when

[31] *Lost Lives* David McKittrick, Seamus Kelters, Brian Feeney and Chris Thornton (Mainstream Publishing 1999). This figure does not include those classed as members of the security forces or paramilitary organisations, nor does it include those who died on 30th January 1972.

deaths produced significant political developments they did not merit any comment. This can be most clearly seen in relation to the shooting in Derry of Seamus Cusack and Desmond Beattie in July 1971. They were accused by the army of being in possession of a rifle and a bomb respectively, claims which were vigorously denied by eyewitnesses. The (Northern Ireland) government's refusal to hold an inquiry into their deaths led to the SDLP's withdrawal from Stormont and an escalation of the political crisis. Yet the deaths themselves are not mentioned as an issue of concern in the meetings held by British Ministers at the time, nor is the possibility of the establishment of an inquiry into the deaths discussed – a move that would undoubtedly have taken the heat out of the political situation. This state of affairs illustrates the latitude and unquestioning support given to the Army in the manner in which they undertook their task in Northern Ireland. In this regard see also Section Nine.

7.11.5.3. Other examples of the British Government's attitude to the actions of the army can be seen in the following

(i) Their reaction to the initial internment operation. At the GEN 47 meeting following the launch of Operation Demetrius the minutes record that those present thought "The conduct of the Army had been highly commendable." This in circumstances where nine civilians, including a priest, Father Hugh Mullan, were shot dead by soldiers on 9th August alone. Minutes of a meeting of the Cabinet Sub-Committee on Northern Ireland 12 August 1971 **INQ 1.371 to INQ1.374 at INQ1.374**

(ii) Their reaction to the events at Magilligan beach in the week prior to Bloody Sunday. The brutality of the soldiers there do not appear on the agenda of any Ministerial meeting held in the following week[32]. It was not mentioned at the GEN 47 meeting, either by the CGS who,

[32] MOD Northern Ireland Policy Group **G75D.462.5**; Minutes of a Meeting Held at 10 Downing Street Thursday 27 January 1972 **G78.485.001 to G79.487.3**

as usual, reported to the meeting on the security situation, or by Ministers who showed no concern there at the scenes shown on television the previous week. That officials were alive to the problems created by army actions at Magilligan is clear. The following passage appears in the briefing paper prepared for the Prime Minister in advance of the GEN47 meeting of 27th January

i. "You may wish to question the Secretary of State for Defence about recent suggestions in the Press and on television that the Army over-reacted against some of the Civil Rights demonstrations last weekend and that, in particular, soldiers of the Parachute Regiment, by being unnecessarily rough, have gratuitously provoked resentment among peaceful elements of the Roman Catholic population." **G75CA.462.5.1 to G75CA.462.5.4 at G75CA.462.5.4 paragraph 12**

ii. Giving evidence to this Tribunal Sir Edward Heath claimed not to remember what had taken place at Magilligan **Day 290/119/10**. In any event, he said he did not take up this suggestion "Yes, well, I did not ask him that because I did not think it was necessary" **Day 282/131/9 to Day 282/131/10**[33]. Lord Carrington did remember the events at Magilligan **Day 280/38/2 to Day 280/38/3** and agreed that the Prime Minster had not taken up the suggestion in the brief to question him about those events in the GEN 47 meeting.

(iii) On 25th January 1972 an article, authored by Simon Hoggart and Simon Winchester, appeared in the Guardian newspaper. The article appears at **L7**. The article claimed that at least two army units in Belfast had requested that the Parachute Regiment be kept out of their areas because of their reputation for brutality. The article appears to have prompted some activity within the Ministry of Defence, the results of which can be seen in a memo from the Col GS MO4 (Colonel Dalzell-Payne) to the MA/CGS (Sir David

[33] see also his supplementary statement **KH4.89 paragraph 28**

Ramsbotham) at **G75A.462.1**, a telegram to the Ministry of Defence from 39 Brigade at **G75B.462.2** a memo to the Secretary of State for Defence from the Under Secretary of State (Army) at **G75C.462.3 to G75C.462.4** and a memo from the APS to the Secretary of State for Defence to the PS of the Minister of State **G75E.462.6**. Among these papers there are various suggestions for action that might be taken against the journalists involved but no proposals for investigating the veracity of the reported comments.

i. Giving evidence to the Tribunal Sir Edward Heath appeared to confuse the issue of media coverage of the events at Magilligan with the article that appeared in the Guardian. As to the latter, he appeared to say that his reaction was to automatically dismiss it

ii. "-and we said "Very well, we know this paper" and we took no notice of it." **Day 290/118/12 to Day 290/118/13**.

(iv) These incidents are, of course, overtaken by the attitude displayed by the government ministers in the aftermath of Bloody Sunday. Rather than taking an objective approach to the terrible events of 30th January 1972 government ministers appeared to accept with little or no analysis, the Army's version of events and set about propagating that version of events in advance of the proposed inquiry. Sir Edward Heath gave evidence to this Tribunal to the effect that he, as Prime Minister, had no disciplinary force over the army **Day 285/140/15 to Day 285/142/21**. Some examples of the government's approach in this regard can be seen in the following documents

(a) Prime Minister Heath's telephone conversation with Taoiseach Jack Lynch. Telephone Conversation between the Prime Minister and the Prime Minister of the Republic of Ireland on Sunday 30 January **G104A.635.1 to G104A.635.9**

(b) At the NIPG meeting on the morning of 31st January 1972 there was discussion of how to make "our version of the facts public" Minutes of a meeting of the NIPG Monday 31 January 1972 **G101.606 to G101.608 at G101.608**

(c) At the GEN 47 meeting later that morning Ministers indicated that they had no doubt "that the facts as reported by the Chief of the General Staff were essentially correct, there were numerous direct conflicts of evidence, and a quite different version had been given currency in the publicity media. It would be wrong to leave unchallenged the allegations that had been made against the Army; and to refuse the widespread demand for an enquiry into the incidents would be represented as suggesting that the Army had something to hide." Minutes of a meeting held at Downing Street 31 January 1972 **G99A.600.004 to G100.605 at G100.601**

(d) The Government followed through on its objective to "make our version of the facts public" when on 1st February 1972 the Minister of State for Defence Lord Balniel delivered a statement in the House of Commons **V24 to V28**. The statement was delivered in advance of the setting up of the Widgery Tribunal because "It is not right that the Army's case should go by default when bitter, intemperate and, to the best of my belief inaccurate or untrue statements have been made against it." **V24**.

Giving evidence to this Tribunal Lord Carrington tried to suggest that the speech made by Lord Balniel was an attempt to "put some objectivity into the accusations made against the Army immediately after Bloody Sunday" **Day 280/114/17 to Day 280/114/17** and denied that the speech was part of a propaganda war **Day 280/115/7**. That this is exactly what the speech was designed to do can be seen from its content, its timing and the discussions that took place in the GEN 47 and NIPG meetings referred to above.

On Day 247 the Tribunal announced that Lord Crawford (as Lord Balniel now is) would be excused from giving oral evidence to the Tribunal on medical grounds **Day 247/1/1 to Day 247/1/13**. The parties were invited to pose questions to him in written form. We delivered these questions to the Inquiry under cover of letter dated 14th November 2002. On 19th June 2003 in response to our letter of 18th June 2003 the then solicitor to the Inquiry, John Tate, indicated that the written questions had not, at that stage, been furnished to Lord Crawford. After a number of requests[34] answers to those questions were finally provided to the parties under cover of letter dated 3rd March 2004. Lord Crawford's supplementary statement (dated 20th February 2004) merely reiterates the reasons he gave at the time for making the speech **KC10.15 paragraphs 50 to 51**. However his answer to question 25 from Madden & Finucane clearly demonstrates the purpose of that speech. In that answer he indicates that "the presentation of the army's case was important" and "silence by the Ministers who were responsible for the armed forces would certainly have had a damaging effect on morale.." **KC10.19 paragraph 25**.

7.12. Conclusion

7.12.1. It can therefore be seen that a combination of the circumstances existing in the months before Bloody Sunday and the interaction between the British Government, the Northern Ireland Government and the Army led to a situation where

(i) The British Government had clear objectives in mind, namely the maintenance of devolved government in Northern Ireland and the speedy withdrawal of the army;

(ii) In trying to achieve these objectives they gave disproportionate weight to the pressures faced by the Northern Ireland government

[34] As to which see letter dated 28th January 2004 entitled "Outstanding Issues" from Peter Madden to Gordon Dickinson.

and allowed their Northern Ireland policy to be guided by the question of what would keep the unionists on board;

(iii) The divided constitutional responsibility for security meant that it was not clear from whom the army took their political direction;

(iv) The British Government did not provide the army with adequate political direction and indeed by its actions failed to uphold the rule of law in Northern Ireland and countenanced measures that would not have been acceptable for use in Britain;

(v) In addition the Government provided unquestioning and uncritical support to the army at a time when accusations of murder and brutality were abroad;

(vi) The Army were thus aware that the use of lethal force would be tolerated if felt necessary to advance the security situation and/or to appease Unionists;

(vii) In these circumstances the Army came under severe pressure from the exclusively unionist Northern Ireland political establishment and was disproportionately influenced by those around it;

(viii) This led to a situation where the political objectives of the Northern Ireland government dictated the military objectives of the Army.

8 LEGAL AND CONSTITUTIONAL CONSIDERATIONS IN 1972

8.1 General Introduction

8.1.1 The very first conclusion which the Widgery Report made was:

> "there would have been no deaths in Londonderry on the 30th of January if those who organised the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable"

8.1.2 In this section we challenge the assertion that the march on 30 January 1972 was illegal. In doing so, we examine (a) the basic constitutional framework and the respective responsibilities of the Westminster and Northern Ireland Parliaments and (b) the relevant domestic and international legal framework within which the Order prohibiting the march was made.

8.2 Summary of Submissions

8.2.1 It is submitted that the Order of 9 August 1971, the consequent prohibition of the civil rights march in Derry on 30 January 1972 and the operation to enforce the prohibition violated Article 11 of the European Convention.

8.2.2 It is further submitted that the Order was an invalid and unlawful exercise of the statutory powers conferred by Section 2(2) of the Public Order Act (NI) 1951.

8.3 The Government of Ireland Act 1920

8.3.1 Section 4(1) of the Government of Ireland Act 1920 ("the 1920 Act") provided:

FS1.507

"Subject to the provisions of this Act ... the Parliament of Northern Ireland shall ... have power to make laws for the peace, order and good government ... of Northern Ireland".[1]

8.3.2 The 1920 Act established a bicameral Parliament and provided for reduced representation of the Northern Ireland electorate at Westminster. Section 4(1) transferred to the Northern Ireland Parliament ("Stormont") the extensive power to make laws for "the peace, order and good government" of the Province. This grant of power was residual in that it was subject to certain limitations[2]. First, excepted matters, which dealt with matters of Imperial or national concern, remained within the exclusive competence of Westminster. Secondly, reserved matters, which included postal services, savings banks, certain major taxes and the Supreme Court, some of which had been intended for transfer to the all-Ireland Parliament had it come into existence, were, for as long as they remained reserved matters, equated with excepted matters and consequently they too stayed within Westminster's exclusive competence. All other matters, other than the excepted and reserved matters, were transferred to Stormont. Consequently, the 1920 Act created three categories of legislative power – transferred matters (the responsibility of Stormont) and reserved and excepted matters (the responsibility of Westminster).

8.3.3 Section 75 of the Act guaranteed Westminster's continued supremacy in Northern Ireland as in any other part of the United Kingdom –

"Notwithstanding the establishment of the Parliament of Northern Ireland ...or anything contained in this Act, the supreme authority of the Parliament of the United Kingdom shall remain unaffected and

---

[1] As to whether Section 4(1) granted to the Northern Ireland Parliament plenary legislative powers or whether it thereby qualified the power to legislate by reference to the purpose or at least the effect of the legislation see Calvert, *Constitutional Law in Northern Ireland* (1968) at pp.162-72; see also Hadfield, *The Constitution of Northern Ireland* (1989) at pp.63-70 – As Hadfield points out: "That the phrase "peace, order and good government" – sometimes called the "pogg clause" – is capable of bearing a construction limiting legislative competence is clear. If the words are not to be used as a criterion for assessing the *vires* of a statute, they become superfluous, and change the power granted to the power to make laws *simpliciter*".

[2] The provisions of the Act limiting this grant of power were Sections 4(1)(1) – (14), 5, 6, 9, 21, 22, 47, 64, 65, 68 and 75.

undiminished over all persons, matters and things in [Northern] Ireland and every part thereof"[3].

"Constitutional" Conventions

8.3.4 It is clear that Westminster not only possessed exclusive competence with relation to excepted and reserved matters, but also as a result of the doctrine of Parliamentary Sovereignty and through Sections 6, 12 (the Governor's power to withhold the Royal Assent) and Section 75 of the Act specifically, shared with Stormont competence over transferred matters.

8.3.5 The circumstances or conditions under which Westminster would exercise its powers over transferred matters was ultimately a matter for the Westminster Parliament itself which was free to act as it saw fit.

8.3.6 The Convention, however, developed with regard to Stormont that Westminster would legislate over transferred matters only with the consent of the Northern Ireland Government. This apparently gave Stormont exclusive powers over transferred matters. It was a position reinforced by a ruling of the Speaker of the Westminster House of Commons in 1923, that no questions could be asked at Westminster on matters transferred to Stormont on the ground that there was no Minister responsible therefore at Westminster:

> "With regard to those subjects which have been delegated to the Government of Northern Ireland, questions must be asked of Ministers in Northern Ireland, and not in this House"[4].

---

[3] This general assertion of Westminster sovereignty was reinforced by the provisions of Section 6(2) which provided that: "where any Act of ... the Parliament of Northern Ireland deals with any matter with respect to which that Parliament has power to make laws which is dealt with by any Act of the Parliament of the United Kingdom passed after the appointed day (3rd May 1921) and extending to the part of Ireland within its jurisdiction, the Act of ... the Parliament of Northern Ireland shall be read subject to the Act of the Parliament of the United Kingdom, and so far as it is repugnant to that Act, but no further, shall be void".
Section 6(1) reserved to Westminster the power to repeal or alter the Act except where the Act itself permitted the Northern Ireland Parliament to amend certain of its provisions (eg Section 14(5) enabling it to legislate regarding Stormont elections). It also withheld from the Northern Ireland Parliament the power to repeal or alter any Act of the Westminster Parliament passed after the appointed day and extending Northern Ireland, even although that provision dealt with a transferred matter.

[4] 1923 HC Vol63, Col 1625; This policy was said to derive from the division of responsibilities and powers between Westminster and Stormont in the Government of Ireland Act "It has been held by successive governments in the UK, regardless of party, that the reserve powers in the Government of Ireland Act do not enable the UK Government to intervene in matters, which, under Section 4 are the sole responsibility of the Northern Ireland Parliament and Government" Conservative Home Secretary,

8.3.7 The convention created the impression that Stormont had been given an exclusive competence over matters transferred to it and it also served to reduce the expression of Northern Ireland opinion on excepted and reserved matters to whatever the Northern Ireland Members at Westminster could achieve or felt inclined to try to achieve.

8.3.8 Professor Wheare has stated:

> "There is nothing in law to prevent the parliament of the United Kingdom from passing laws for Northern Ireland not merely on the specified reserved subjects, but on any subject whatever. Moreover, the parliament of Northern Ireland received its powers from the Parliament of the United Kingdom, and the latter can reduce or increase or abolish these powers. Of these two governments in the United Kingdom, one only can be described as independent and that is the government at Westminster. The government at Stormont is a dependent government".[5]

8.3.9 The fundamental constitutional reality that Stormont was the dependent government was graphically illustrated when Westminster used the full force of Section 75 and its own sovereignty to dissolve Stormont in 1972 and introduce direct rule.

8.4 Domestic Law on the Banning of Marches

8.4.1 Section 2(2) of the Public Order Act (Northern Ireland) 1951 ("the Act") provides:

> "... If at any time the Minister of Home Affairs is of opinion in consequence of information furnished to him by a member of the Royal Ulster Constabulary not below the rank of superintendent or for any other reason that-

---

Henry Brooke House of Commons Debates, 5th ser., vol 698 cols 1097- 1152. 14 July 1964 A similar ruling was made by the Speaker of the Northern Ireland House of Commons ruling out questions and debate on matters outside its own competence: "Since ... we have no power to make laws on any of these reserve matters, they are not *prima facie* proper subjects for discussion here" (HC Debs (NI) Vol 8, Col 490.

[5] Wheare, *Federal Government* (4th Ed, 1963) pp 31-2

(a) the exercise of the powers conferred by the preceding sub-section will not be sufficient to prevent serious public disorder being occasioned by the holding of any public procession in any area; or

(b) the holding in any area or place of any public procession or any open-air public meeting is likely to cause serious public disorder or to cause undue demands to be made upon the police of military forces; or

(c) the holding in any area or place of any public procession or any open-air public meeting is likely to cause undue hardship to persons working or carrying on business in that area or place; the Minister may make an order-

(i) prohibiting, for such period not exceeding twelve months as may be specified in the order, the holding in that area or place of all public processions or open-air public meetings or of such classes of public procession or open-air public meeting as may be so specified;

(ii) ..."

8.4.2 An Order was made under this Section of the Act on 12 November 1971 by the Minister of Home Affairs for Northern Ireland, Brian Faulkner, which so far as material, was in the following terms:

"Whereas I, the Right Honourable Brian Faulkner, Minister of Home Affairs, am of the opinion *in consequence of information furnished to me by the Chief Constable* of the Royal Ulster Constabulary that by reason of the unrest and tension at present existing in Northern Ireland the holding of any public procession in any public highway, road, or street is likely to cause serious public disorder or to cause undue demands to be made upon the police or military forces.

Now, therefore, I, the Right Honourable Brian Faulkner, Minister of Home Affairs, in exercise of the powers conferred upon me by Section 2(2) of the Public Order Act (Northern Ireland) 1951 do hereby order that the holding of all public processions in any public highway, road or street in Northern Ireland is prohibited for the

period commencing on 12th November 1971 and ending on 8 February 1972.

This Order revokes the Order made by me on 9th August 1971".

8.4.3 It is clear that the order banning marches was a quid pro quo for the introduction of internment **LAW7.1**. Faulkner and Shillington (Chief Constable) clearly did **not** consider that a blanket ban on all marches was necessary or justified (see Dalzell-Payne's paper **G82.512 to G82.521**). The prohibition order is unsurprisingly framed to make it appear as an intra vires exercise of statutory power. However, the contemporary documents disclosed to this Tribunal reveal that the dominant reason for the prohibition order was not the reason stated in the order but rather the insistence of Westminster that such a ban was a pre-condition for Westminster's agreement to the introduction of internment (which was only viable with the support of the armed forces). The exercise of the discretion conferred by the Act for the achievement of this collateral purpose was plainly unlawful.

8.4.4 A discretion exercised by a Minister as a consequence of a power conferred or a duty imposed by statute must be used "to promote the policy and objectives of the Act" – Lord Reid in *Padfield v Minister of Agriculture* [1968] AC 997, 1030B. It is well settled that a decision taken for a collateral purpose will be amenable to judicial review, see for instance *In Re Cook's Application* [1986] NI 242 and *In Re De Brun & McGuinness* [2001] NI 442.

8.5 Article 11 of the Convention on the Banning of Marches

8.5.1 Article 11 of the European Convention provides:

"1) Everyone has the right to freedom of assembly ...

2) No restriction shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals

or for the protection of the rights of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State".

8.5.2 Article 11 confers a right to hold meetings, marches and demonstrations on the public highway. This was established in the early case of *Rassemblement Jurassien and Unite Jurassienne v Switzerland* [1979] 17 DR 93 where the Commission began its analysis of Article 11 with the following statement of principle:

> "The Commission wishes to state at the outset that the right of peaceful assembly stated in this Article is a fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such society ... as such this right covers both private meetings and meetings in public thoroughfares ...[6]

8.5.3 Under the convention, orders banning meetings and marches can be justified only in extreme circumstances. In *Christians against Racism and Fascism v UK* (1980) 21 DR 138 the applicant association had planned to hold a procession to promote its aims: unity in the love of God and opposition to racism and fascism. An order was made under the Public Order Act 1936[7] prohibiting all processions other than those of a religious, educational, festive or ceremonial character for a period of four weeks. The effect of this order was to prevent them from holding their planned procession. It complained that its rights under articles 10 and 11 of the Convention had been violated.

8.5.4 The Commission began by observing that:

> "Under Article 11(1) of the Convention, the right to freedom of peaceful assembly is secured to everyone who has the intention of organizing a peaceful demonstration. In the Commission's opinion the possibility of violent counter-demonstrations, or the possibility of

[6] [1979] 17 DR 93 at Para 119. This approach has been reinforced by subsequent decisions of the European Court, see, for example, *Plattform Artze fur das Leben v Austria* [1988] 13 EHRR 204, *Ezelin v France* [1992] 14 EHRR 362, *Chorherr v Austria* [1993] 17 EHRR 358

[7] Now Public Order Act 1986

extremists with violent intentions, not members of the organising association, joining the demonstration cannot as such take away that right. Even if there is a real risk of a public procession resulting in disorder by developments outside the control of those organising it, such procession does not for this reason alone fall outside the scope of Article 11(1) of the Convention, but any restriction placed on such an assembly must be in conformity with the terms of paragraph 2 of that provision".[8]

8.5.5 On the question of necessity, the Commission held:

"A general ban on demonstrations can only be justified if there is a real danger of their resulting in disorder which cannot be prevented by other less stringent measures. In this connection, the authority must also take into account the effect of a ban on processions which do not by themselves constitute a danger for public order. Only if the disadvantage of such processions being caught by the ban is clearly outweighed by the security considerations justifying the issue of the ban, and if there is no possibility of avoiding such undesirable side effects of the ban by a narrow circumspection of its scope in terms of its territorial application and duration, can the ban be regarded as being necessary within the meaning of Article 11(2) of the Convention".[9]

8.5.6 On the unchallenged facts the Commission found that the situation existing in London at the time was characterised by a tense atmosphere resulting in a series of riots and disturbances caused by public processions of the National Front and counter-demonstrators, particularly in the run up to a by-election in Lambeth. In view of this prevailing atmosphere of violence and the impending by-election and the fact that the applicant's procession could have taken place two days later (when the ban ran out), the Commission found no violation of article 11.

[8] Note 45 at para 4
[9] Note 45 at para 5

8.5.7 In *Rai and Others v UK* (1995) 82-A DR 134[10] the Commission had to consider government policy not to allow meetings in Trafalgar Square on issues related to Northern Ireland. Having reviewed the origin and scope of the policy, the Commission concluded that:

> "Having regard to the fact that the refusal of permission did not amount to a blanket prohibition on the holding of the applicant's rally but only prevented the use of a high profile location (other venues being available in Central London) the Commission concludes that that restriction in the present case may be regarded as proportionate and justified as necessary in a democratic society ..."

Had the policy been more broadly drawn, or alternative venues not available, the decision might have been different.

8.5.8 The breadth of the August ban (extending the previous ban) could not, on any showing, having regard to the contemporary documents and evidence, be regarded as proportionate and justified as necessary in a democratic society. Accordingly, in our submission the ban and the operation to enforce it violated Article 11 of the Convention.

Part II

8.6 General Introduction & Summary of Submissions

8.6.1 As a matter of practice allegations of the use of unlawful force against military personnel were not properly investigated because the police duty to investigate was unlawfully delegated to the Royal Military Police. Since the underlying objectives of a proper investigation are to underpin the right to life, it is apparent that the State operated and applied a policy which was incompatible with respect for the right to life itself.

8.6.2 In the run up to Bloody Sunday the Westminster Government and the Stormont regime countenanced and implemented measures which violated fundamental rights and freedoms including the non-derogable rights

[10] See also *Pendragon v UK* [1999] EHRLR 223

contained in Article 3 (prohibition of torture, inhuman and degrading treatment).

8.6.3 The armed forces were not authorised to arrest people under the Special Powers Act ("the SPA") since the relevant provisions purporting to thus empower them were ultra vires the Government of Ireland Act 1920.

8.6.4 The arrest operation by the Army on Bloody Sunday under the SPA was on this account wholly unlawful.

8.6.5 Those who authorised the deployment of the army must have known or be deemed to have known that the use of the army to conduct an arrest operation under the auspices of the SPA was unlawful.

8.6.6 The decision that soldiers should exercise these powers was the ultimate responsibility of the Secretary of State and Her Majesty's Government at Westminster.

8.7 Internment

8.7.1 Following mounting pressure from the unionist community the decision to introduce a policy of detention and internment was taken on 5 August 1971 by the Northern Ireland Government, following a meeting in London between the Northern Ireland and United Kingdom Governments **G5.50 to G5.55**.

8.7.2 The planned exercise was not aimed at any section of the unionist community but was used at this time exclusively against nationalists and republicans[11] and often on the basis of inadequate or inaccurate information.

8.7.3 Starting at 4.00am on Monday, 9 August 1971, the army, with police officers occasionally acting as guides, mounted an operation to arrest the 452 persons whose names appeared on the final list. In the event, some 350 persons were arrested in accordance with the Special Powers Regulations. The arrested persons were taken to one of the three regional holding centres at Magilligan, Ballykinler or Girdwood that had been set up to receive the prisoners during 48 hours. All those arrested were

[11] At 11.15am on 9 August 1971, the Prime Minister of Northern Ireland announced to the public the introduction of internment. He stated, inter alia:
"The main target of the present operation is the Irish Republican Army ... They are the present threat; but we will not hesitate to take strong action against any other individuals or organisations who may present such a threat in the future."

subjected to interrogation by police officers of the Royal Ulster Constabulary (RUC). 104 persons were released within 48 hours. Those who were to be detained were sent on to the prison ship "Maidstone" or to Crumlin Road Prison, both in Belfast.

8.7.4 The introduction of internment provoked a violent reaction within the Catholic community. Serious rioting broke out in Belfast and elsewhere, there was a considerable increase in shootings and bombings, and the security situation in general deteriorated rapidly. Within the minority community there occurred a further alienation from the authorities and the security forces.

8.7.5 The Special Powers Act empowered the Minister of Home Affairs for Northern Ireland to take all such steps and issue all such orders as might be necessary for preserving peace and maintaining order. It was an enabling Act whose substantive provisions were contained in Regulations made there under.

The number and scope of the Regulations in force varied over the years; they could be brought into use without any legislative act or proclamation. Regulations 10, 11 and 12 were utilised to implement the policy of internment introduced on 9 August 1971.[12]

8.7.6 Twelve persons arrested on 9 August 1971 and two persons arrested in October 1971 were singled out and taken to one or more unidentified centres. There, between 11 to 17 August and 11 to 18 October respectively, they were submitted to a form of "interrogation in depth" which involved the combined application of five particular techniques.

It emerges from the Commission's establishment of the facts in *Ireland v UK* [1978] 2 EHRR 25 that the techniques consisted of:

(a) wall-standing: forcing the detainees to remain for periods of some hours in a "stress position", described by those who underwent it as being "spreadeagled against the wall, with their fingers put high

[12] For a full analysis and explanation of the relevant powers see paras.83 and 84 of *Ireland v UK* [1978] 2 EHRR 25

above the head against the wall, the legs spread apart and the feet back, causing them to stand on their toes with the weight of the body mainly on the fingers";

(b) hooding: putting a black or navy coloured bag over the detainees' heads and, at least initially, keeping it there all the time except during interrogation;

(c) subjection to noise: pending their interrogations, holding the detainees in a room where there was a continuous loud and hissing noise;

(d) deprivation of sleep: pending their interrogations, depriving the detainees of sleep;

(e) deprivation of food and drink: subjecting the detainees to a reduced diet during their stay at the centre and pending interrogations.

The Commission's findings as to the manner and effects of the application of these techniques on two particular case-witnesses are referred to at paragraph 104 of the Report [1978] 2 EHRR 25.

8.7.7 In *Ireland v UK* it was conceded by the British Government that the use of the five techniques was authorised at "high level". Although never committed to writing or authorised in any official document, the techniques had been orally taught to members of the RUC by the English Intelligence Centre at a seminar held in April 1971.

8.7.8 Reports alleging physical brutality and ill-treatment by the security forces were made public within a few days of internment. A committee of enquiry under the chairmanship of Sir Edmund Compton was appointed by the United Kingdom Government on 31 August 1971 to investigate such allegations. Among the 40 cases this Committee examined were 11 cases of persons subjected to the five techniques in August 1971; its findings

were that interrogation in depth by means of the techniques constituted physical ill-treatment. The Committee's report (Cmd 4823), adopted on 3 November 1971, was made public, as was a supplemental report of 14 November by Sir Edmund Compton in relation to 3 further cases occurring in September and October, one of which involved the techniques.

8.7.9 The Compton reports came under considerable criticism in the United Kingdom. On 16 November 1971, the British Home Secretary announced that a further Committee had been set up under the chairmanship of Lord Parker of Waddington to consider "whether, and if so in what respects, the procedures currently authorised for interrogation of persons suspected of terrorism and for their custody while subject to interrogation require amendment".

The Parker report (Cmd 4901), which was adopted on 31 January 1972, contained a majority and a minority opinion. The majority report concluded that the application of the techniques, subject to recommended safeguards against excessive use, need not be ruled out on moral grounds. On the other hand, the minority report by Lord Gardiner disagreed that such interrogation procedures were morally justifiable, even in emergency conditions. *Both* the majority and the minority considered the methods to be illegal under domestic law, although the majority confined their view to English law and to "some if not all the techniques".

8.7.10 The Parker report was published on 2 March 1972. On the same day, the United Kingdom Prime Minister stated in Parliament:

> "[The] Government, having reviewed the whole matter with great care and with reference to any future operations, have decided that the techniques ... will not be used in future as an aid to interrogation."

He further declared:

> "The statement that I have made covers all future circumstances. If a Government did decide ... that additional techniques were required

for interrogation, then I think that ... they would probably have to come to the House and ask for the powers to do it."

As foreshadowed in the Prime Minister's statement, directives expressly prohibiting the use of the techniques, whether singly or in combination, were then issued to the security forces by the government.

8.7.11 At the hearing before the Court on 8 February 1977, the United Kingdom Attorney General made the following declaration:

> "The Government of the United Kingdom have considered the question of the use of the 'five techniques' with very great care and with particular regard to Article 3 (art. 3) of the Convention. They now give this unqualified undertaking, that the 'five techniques' will not in any circumstances be reintroduced as an aid to interrogation."

8.7.12 In its report, the Commission unanimously held that the combined use of the five techniques in the cases before it constituted a practice of inhuman and degrading treatment and of torture in breach of Article 3. It also concluded, again unanimously, that there had been at Palace Barracks, Holywood, in the Autumn of 1971, a practice in connection with the interrogation of prisoners by members of the RUC which was inhuman treatment in breach of Article 3 (art. 3) of the Convention.

8.7.13 The Court concluded that recourse to the five techniques amounted to a practice of inhuman and degrading treatment but not torture. The British Government did not contest before the Court, the finding of the Commission that the facts constituted a practice of inhuman and degrading treatment.

8.7.14 Accordingly, a short period of time before Bloody Sunday and in conjunction with internment, a practice of inhuman and degrading treatment in violation of both domestic and international law, had been in place – a practice which it was conceded by the British Government was authorised at a "high level".

8.8 Role of the Army in support of the Civil Power

8.8.1 When called to the aid of the civil power soldiers in no way differ in the eyes of the law from other citizens, although, by reason of their organization and equipment, there is always a danger that their employment in aid of the civil power may in itself constitute more force than is necessary. LAW 12.2, 3[13]

8.8.2 Indeed, in *McCann*, the European Court held that in determining whether the use of force was compatible with Article 2 that it is necessary to carefully scrutinize not only whether the force used was strictly proportionate but also whether the operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force (see para.194 of the Judgment).

8.8.3 The Law Officers at the time expressed their opinion thus:

> "... A soldier differs from the ordinary citizen in being armed and subject to discipline; but his rights and duties in dealing with crime

---

[13] In *R v Clegg* [1995] 1 All ER 334 Lord Lloyd stated as follows:

"The special position of a soldier in Northern Ireland is reflected in Lord Diplock's speech in the same case ([1976] 2 All ER 937 at 946, [1977] AC 105 at 136-137):

> 'There is little authority in English law concerning the rights and duties of a member of the armed forces of the Crown when acting in aid of the civil power; and what little authority there is relates almost entirely to the duties of soldiers when troops are called on to assist in controlling a riotous assembly. Where used for such temporary *purposes it may not be inaccurate to describe the legal rights and duties of a solider as being no more than those of an ordinary citizen in uniform.* But such a description is in my view *misleading* in the circumstances in which the army is currently employed in aid of the civil power in Northern Ireland ... In theory it may be the duty of every citizen when an arrestable offence is about to be committed in his presence to take whatever reasonable measures are available to him to prevent the commission of the crime; but the duty is one of imperfect obligation and does not place him under any obligation to do anything by which he would expose himself to risk of personal injury, nor is he under any duty to search for criminals or seek out crime. In contrast to this a soldier who is employed in aid of the civil power in Northern Ireland is under a duty, enforceable under military law, to search for criminals if so ordered by his superior officer and to risk his own life should this be necessary in preventing terrorist acts. *For the performance of this duty he is armed with a firearm, a self-loading rifle, from which a bullet, if it hits the human body, is almost certain to cause serious injury if not death'.*

I would particularly emphasise the last sentence in the above quotation. In most cases of a person acting in self-defence, or a police officer arresting an offender, there is a choice as to the degree of force to be used, even if it is a choice which has to be exercised on the spur of the moment, without time for measured reflection. But in the case of a soldier in Northern Ireland, in the circumstances in which Pte Clegg found himself, there is no scope for graduated force. The only choice lay between firing a high-velocity rifle which, if aimed accurately, was almost certain to kill or injury, and doing nothing at all".

are precisely the same as those of the ordinary citizen. ... they must act on their own responsibility ... they must not use lethal weapons to prevent or suppress minor disorder or offences of a less serious character, and in no case should they do so if less extreme measures will suffice. Should it be necessary for them to use extreme measures they should, whenever possible, give sufficient warning of their intention. LAW 12.12 to 12.13

MINISTERIAL RESPONSIBILITY

8.8.4 As set out before, the Government of Ireland Act 1920 empowered the Northern Ireland Parliament to make laws for the peace, order and good government of Northern Ireland, but specifically excluded the power to legislate about the Armed Forces and defence matters generally. These remained the responsibility of Westminster.

8.8.5 A soldier acts under higher military authority up the chain of command as far as the Defence Council and ultimately Her Majesty. The Secretary of State is the Minister responsible to Her Majesty for *everything* connected with the performance of their military duties by the Armed Forces of the Crown.

8.8.6 The decision whether or not soldiers should exercise the powers under the SPA was the responsibility of higher authority in the chain of command up to the Defence Council and is thus the ultimate responsibility of the Secretary of State and Her Majesty's Government at Westminster.

LAW 13.1 to 13.4

8.9 Army's power of Arrest and Detention

8.9.1 On 18 August 1971 John Hume MP, Ivan Cooper MP and others were arrested under the Civil Authorities (Special Powers) Act NI 1922 on the grounds that they had remained in an assembly of more than 3 persons after being ordered to disperse by an Army Officer. On 8 September 1971 they were convicted and fined £20. They challenged their conviction on the basis that Regulation 38 under which they were charged was outside

the powers of the Minister who made the regulation and that the Regulation was outside the powers of the Parliament of Northern Ireland. Their essential point was that the power of the NI Parliament under section 4(1) of the Government of Ireland Act 1920 to make laws for the peace, order and good government of Northern Ireland was subject to the limitation that they should not have power to make laws in respect of the "navy, the army, the air force, the territorial army, or any other naval. Military or air force matter" and any law made in contravention of that limitation was to be void. The contention was that the conferment of powers on officers of the Armed Forces contravened that limitation. Such a contention, if well founded, would mean that their conviction was invalid because they had been ordered to disperse by an Army Officer under a regulation purportedly made under the SPA. The case was heard in the High Court on 11 and 12 January 1972 and judgment was reserved.

8.9.2 The Attorney General argued the case and the government must have been aware as to the possibility or indeed probability that arrests by the army under the SPA would be invalidated. This being so, any arrest under the SPA made by the Army on Bloody Sunday would be similarly invalidated.

8.9.3 At a meeting on 22 February 1972 the Cabinet agreed to rush legislation through Parliament retrospectively validating action taken by the Armed Forces under the SPA in the light of an adverse judgment quashing the convictions which was then expected.

8.9.4 On the following day judgment was delivered by Lowry LCJ in which he quashed the conviction accepting the contention that the conferment of powers of arrest on the armed forces by the Parliament of Northern Ireland was ultra vires the Government of Ireland Act 1920. The case is to be found at 1972 NI 91LAW 11.1 to LAW 11.35. On the same day and the beginning of the next what became the Northern Ireland Act 1972 passed through all its stages in both Houses and received the Royal Assent.

8.9.5 Accordingly at the time when the Army made arrests on 30 January 1972 under the SPA (as they did) they were all unlawful and that the arrest operation, which involved arrest under that Act, would also have been unlawful.

8.9.6 As noted earlier, ultimate responsibility for the exercise of these powers rested with the Secretary of State and Her Majesty's Government at Westminster.

8.10 Investigation of the Army in relation to offences against the ordinary criminal law

8.10.1 In *R v Foxford* [1974] NI 181 Lowry LCJ stated at p200

> "The preliminary statements of many of the civilian witnesses were not the only ones taken by an unorthodox procedure. We learnt that from September 1970 until September 1973 an RUC Force Order was in operation whereby if an offence against the ordinary criminal law was alleged against military personnel in Northern Ireland the interviewing of military witnesses and of the alleged offender himself was conducted exclusively by military investigation. This practice has been discontinued, but we deprecate this curtailment of the functions of the police and hope that the practice will not be revived"[14].

8.10.2 In the recent judicial review of *In Re Mary Louise Thompson* [Unreported – High Court – 28 February 2003] Kerr J (as he then was) accepted the Applicant's argument that the Respondent had not conducted a proper investigation into the shooting of the deceased by military personnel in Derry in 1971.

8.10.3 Kerr J stated as follows:

---

[14] See also *Lynch v Ministry of Defence* [1983] NI 216 at p224 Letter F – p225 Letter B where the Court referred to an entry in the Batallion Log of the relevant regiment which stated: "soldiers involved in incident not to be interviewed by RUC. RUC want to interview them, stall them – telephone me and I will dispatch Flying Lawyer". Hutton J (as he then was) stated "the Court deprocates this message. It is the function of the police to investigate shootings, including shootings where it may ultimately become apparent that soldiers open fire lawfully, and the military authorities should assist the police to carry out such investigations. Moreover, the attitude of mind shown in such a message gives rise to the suspicion that there is something to conceal, a suspicion which on full subsequent investigation may be shown to be unfounded". He then went on to apply to this message the words of Lord Lowry in *Foxford* quoted above.

"I need not rehearse all of the deficiencies adumbrated by the applicant in her skeleton argument to this court. I merely point to the circumstance that the soldier who effectively discharged the shot which caused the death of Mrs Thompson and those who were with him at the time were interviewed by a member of the Royal Military Police. I do not consider that this satisfied the duty imposed on the police at the time to properly investigate this fatal shooting. In my view it was not open to them to delegate that critical responsibility to another agency such as the Royal Military Police. Quite apart from that however, the fact that each of the interviews cannot have lasted any more than half an hour; the fact that clear discrepancies appear in the statements made, discrepancies which have not been the subject of further challenge or investigation, are sufficient to demonstrate the inadequacy of the investigation into the death of the deceased".

8.10.4 Accordingly, the duty imposed upon the police to properly investigate this incident involving lethal force by the army, in Derry, was unlawfully delegated to the Royal Military Police.

8.10.5 The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and to ensure their accountability for deaths at the hands of state agents. By this means the right to life itself is secured.

8.10.6 The underlying objectives of the obligation to properly investigate are also intended to maintain public confidence in adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts.

8.10.7 However, what one finds is that by the time of Bloody Sunday there had been operating, for well over a year, a state sanctioned practice of not carrying out the necessary investigations of where, inter alia, there were allegations of the use of unlawful force against military personnel. This is clearly incompatible with the duty on the state to secure the right to life itself and demonstrates that at the material time there was a prevailing culture in which no or inadequate weight was given to the right to life and that the use of unlawful lethal force was tolerated or condoned.

8.11 Relevant Domestic Law on Use of Force

8.11.1 The reasonableness of the use of force has to be decided on the basis of the facts which the user of the force honestly believed to exist: this involves the subjective test as to what the user believed and an objective test as to whether he had reasonable grounds for that belief. Given that honest and reasonable belief, it must then be determined whether it was reasonable to use the force in question in the prevention of crime or to effect an arrest.[15]

8.11.2 The test of whether the use of force is reasonable, whether in self defence or to prevent crime or effect an arrest, is a strict one. It was described in the following terms in the Report of the Royal Commission appointed to consider the law relating to indictable offences:[16]

> "We take one great principle of the common law to be, that though it sanctions the defence of a man's person, liberty and property against illegal violence, and permits the use of force to prevent crimes to preserve the public peace and to bring offenders to justice, yet all this is subject to the restriction that the force used is necessary; that is, that the mischief sought to be prevented could not be prevented by less violent means; and that the mischief done by or which might reasonably be anticipated from the force used is not disproportionate to the injury or mischief, which it is intended to prevent".

8.11.3 Lord Justice McGonigal in *Attorney General for Northern Ireland's Reference*[17] stated his understanding of this approach as follows:[18]

> "... it appears to me that, when one is considering whether force used in any particular circumstances was reasonable, the test of reasonableness should be determined in the manner set out in that paragraph. It raises two questions:
>
> (a) Could the mischief sought to be prevented have been prevented by less violent means?

---

[15] See eg *Lynch v Ministry of Defence* [1983] NILR 216, *R v Gladstone Williams* [1983] 78 Cr App R 276 at p.81 and *R v Thain* [1985] NILR 457 at p.462
[16] [1879] 36 House of Lords Papers 117 at p.167
[17] [1976] NILR 169 (Court of Appeal)
[18] At p.187

(b) Was the mischief done or which could reasonably be anticipated from the force used disproportionate to the injury or mischief which it was intended to prevent?

These are questions to be determined objectively but based on the actions of reasonable men who act in the circumstances and in the light of the beliefs which the accused honestly believed existed and held. Force is not reasonable if:

(a) greater than that necessary, or

(b) if the injury it causes is disproportionately greater than the evil to be prevented".

STATUS OF YELLOW CARD

8.11.4 Judicial dicta on the Yellow Card persistently stressed that breach of this document has no value in helping to ascertain the guilt of an offender charged with either murder or manslaughter. In 1975, at the murder trial, *R v Jones* [1975] 2 NIJB, following the death of Patrick McElhone Justice MacDermott stated:

> "For my part, I consider this card to be something which exists for some reason of policy and is intended to lay down guidelines to the forces, but in my view it does not define the legal rights of members of the security forces. No doubt it contains much sound advice but I can readily understand that to many soldiers and perhaps to others too, it is to say the lease of it a difficult document".

8.11.5 Justice MacDermott confirmed that a failure to follow the instructions contained in the document would not imply that the soldier's conduct had been unlawful. The views are echoed by Lord Chief Justice Lowry in the *McNaughton* case in the same year, [1975] NI 203. The soldier concerned was charged with attempted murder. The shooting had taken place after a bomb explosion in the vicinity of the soldier's patrol unit, which encountered John Walsh coming from the direction of the blast. Walsh alleged that he had been ordered to climb over a nearby fence by the

accused and was subsequently shot on the basis that he was attempting to escape. In the course of his judgment, the judge reiterated that the Yellow Card was only a policy document remarking:

> "There was, of course, at the same time in existence what is called the yellow card, something the contents of which, it seems, are largely dictated by policy and are intended to lay down guidelines for the security forces but which do not define the legal rights and obligations of the forces under statute or common law". (p206 Letter C).

8.11.6 Some judges have regarded breaches of the instructions as "irrelevant" per Gibson LJ *Attorney General's Reference* [1976] NI 160 at 197.

8.11.7 Nevertheless it must be of importance that soldiers adhere to the standards that they have been set. McGonigal LJ in the *Attorney General's Reference* stated at page 191 Letter B:

> "The 'Yellow Card' has not, however, the effect of a rule of law and does not purport to define the legal limits. It is, therefore, only a factor to be taken into account. The test is still an objective test and the instructions in the 'Yellow Card' material factors to be taken into account in applying that test".

8.12 Article 2 of the European Convention

8.12.1 Article 2, which safeguards the right to life and sets out the circumstances when deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, to which in peacetime no derogation is permitted under Article 15. Together with Article 3, it also enshrines one of the basic values of the democratic societies making up the Council of Europe. The circumstances in which deprivation of life may be justified must therefore be strictly construed. The object and purpose of the Convention as an instrument for the protection of individual human beings also requires that Article 2 be interpreted and applied so as to make its safeguards practical and effective.[19]

[19] See *McCann & Ors v UK* [1996] 21 EHRR 97

8.12.2 In the light of the importance of the protection afforded by Article 2, the Court must subject deprivations of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation.[20]

8.12.3 The test of Article 2, read as a whole, demonstrates that it covers not only intentional killing but also the situations where it is permitted to "use force" which may result, as an unintended outcome, in the deprivation of life. The deliberate or intended use of lethal force is only one factor however to be taken into account in assessing its necessity. Any use of force must be no more than "absolutely necessary" for the achievement of one or more of the purposes sot out in sub-paragraphs (a) to (c). This term indicates that a stricter and more compelling test of necessity must be employed from that normally applicable when determining whether State action is "necessary in a democratic society" under paragraphs 2 of Articles 8 to 11 of the Convention. Consequently, the force used must be strictly proportionate to the achievement of the permitted aims[21].

8.12.4 The training and instruction of agents of the state and the need for operational control are matters which raise issues under Article 2(2) concerning the proportionality of the state's response.

8.12.5 In determining whether the use of force was compatible with Article 2 it is necessary to carefully scrutinise not only whether the force used by the soldiers was strictly proportionate but also whether the policing operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force.

---

[20] See *Salman v Turkey* [GC] no 21986/93, ECHR 2000-VII, 100 and also *Cakici v Turkey* [GC] ECHR 1999-IV, 85, *Ertak v Turkey* no. 20764/92 [Section 1] ECHR 2000-V, 32, and *Timurtas v Turkey* No. 23531/94 [Section 1] ECHR 2000-VI, 82).

[21] See *McCann* at paras. 148-149

9. CRIMINAL CONDUCT AND NON-ACCOUNTABILITY OF SOLDIERS IN THE NORTH OF IRELAND

9.1 General Introduction and Summary of Submissions/allegations

9.1.1 Introduction

This section will introduce the themes that run throughout the submissions and allegations that will be made out in relation to the Criminal Conduct and Non-accountability of Soldiers in the North of Ireland on and around the time of Bloody Sunday.

9.1.1.1 In particular the following aspects will be considered.

1972 RMP/RUC AGREEMENT

Shooting with Impunity

General Lawlessness of the Soldiers

Modification of Rubber Bullets

Private Supplies of Ammunition

Breaches of the Yellow Card

Reputation of the Paras

9.1.1.2 It will be demonstrated that clearly the position on Bloody Sunday in Northern Ireland was that the criminal conduct and non-accountability of soldiers derived from the fact that policing in Northern Ireland had been unlawfully abdicated to the Army by the RMP/RUC Agreement.

9.1.1.3 In this context the army were ill-prepared and ill-suited to perform this function. This was the fault both of the military command, but also of the Government of the day.

9.1.1.4 The army permitted a culture to develop whereby criminal and murderous conduct was permitted so much so that individual soldiers could act with impunity. Soldiers knew that systems did not exist to hold them accountable for their actions and that there was no will among the authorities to hold unlawful behaviour to account.

9.1.1.5 The general lawlessness of the soldiers will be identified from their disregard for the Yellow Card; the modification of rubber bullets and the direct aiming of baton guns to cause maximum injury; the retention of additional rounds of ammunition to hide the unlawful firing of live rounds; the ability to kill with impunity; the aggressiveness and brutality of the Para Regiment and the desire to live up to this reputation when placed on the streets of Northern Ireland and in Derry on Bloody Sunday.

9.1.2 1972 RMP/RUC AGREEMENT

9.1.2.1 Consideration will be given to:

The deployment of the British Army in the North of Ireland in 1969
Introduction of principles of martial law to the policing of civil disorder

The creation of a framework within which the use of lethal force and a commitment to militarism became the prevalent response to the policing of a civil conflict.

The military's dominance of the criminal justice system.

Review of the jurisprudence in relation the protection of the Right to life to show:

i) Soldiers involved in lethal force incidents were removed from the control and sanction of the domestic legal system.

ii) Lethal force incidents involving soldiers were 'investigated' by the military.

iii) The military investigation was neither 'independent' nor 'effective'.

iv) The procedures were not effective in that the military put in place procedures for investigating allegations of criminal conduct against soldiers which were expressly designed: not to investigate allegations of criminal activity but rather to; suppress evidence of criminality on the part of soldiers, while assisting the Army in countering allegations made by civilians.

v) The procedures were not independent in that the innate sympathy of the SIB to the individual soldier, ensured that evidence of criminal conduct on the part of soldiers was not and could not be the outcome of an SIB investigation.

vi) The system expressly facilitated collusive behaviour on the part of soldiers, and collusion was also a feature of the conduct of the SIB in their conduct of the investigation.

vii) As a consequence lethal force incidents involving soldiers were inadequately investigated, and soldiers in uniform engaged in the use of lethal force operated outside the controls of the legal system, and were in a very real sense 'above the law'.

viii) The Agreement, with its consequential impact on the likelihood of a soldier facing criminal prosecution for the use of lethal force, was one of a number of elements which contributed to a culture in which soldiers used lethal force with impunity.

9.1.2.2 The agreement between the GOC and the Chief Constable of the RUC was illegal.

9.1.2.3 The control of the military meant that from the outset the soldier was operating in an environment designed to assist him in protecting himself from the threat of criminal sanction.

9.1.2.4 The purpose of the agreement was not merely to create an environment conducive to the concealment of misconduct, but to create a procedure whereby the Army could control the presentation of information about shooting incidents.

9.1.2.5 The actions of the Chief Constable in delegating to the RMP the interviewing of military personnel in lethal force incidents was not only a breach of the obligation of the police under domestic law to investigate such incidents.

9.1.3 Shooting with Impunity

9.1.3.1 It is our submission that there existed a system whereby soldiers using lethal force operated outside the law and a culture in which soldiers believed that they could use lethal force with impunity with permitted to flourish.

9.1.3.2 This culture informed the conduct of soldiers throughout Northern Ireland, but also operated as a relevant backdrop to the conduct of soldiers on Bloody Sunday.

9.1.3.3 There was a willingness to engage in the use of lethal force which would not have existed had soldiers been subjected to the normal rigours of the criminal justice system for their use of lethal force prior to Bloody Sunday.

9.1.4 General Lawlessness of Soldiers

9.1.4.1 The brutality and criminal activity of the Parachute Regiment will be examined by consideration of:

The treatment of soldiers during training and the conditioning to aggressive behaviour, which resulted in alleged frustration engendered brutality and callous and sadistic behaviour;

Unlawful assaults;

Robberies;

Planting of evidence to secure internment of civilians;

Racism.

These will demonstrate that the Parachute Regiment was completely incapable of carrying out the policing duties abdicated to them.

9.1.4.2 The concentration on the maximum use of force demonstrated sadistic tendencies that rendered their presence on the streets of Northern Ireland as a recipe for acts of murder, which was duly brought to fruition throughout Northern Ireland and on Bloody Sunday.

9.1.5 Modification of Rubber Bullets

9.1.5.1 There was a regular and widespread practice that rubber bullets fired from baton guns were modified by soldiers.

9.1.5.2 In addition there is extensive evidence of the misuse of rubber bullets contrary to acknowledged rules and practice for their use and this was done to inflict maximum injury to the person.

9.1.5.3 The modification and misuse of Rubber Bullets was so widespread that it is utterly implausible that senior Officers did not have knowledge of such practices. It is also clear that there was no proper system of check or

control in force on Bloody Sunday on the number of baton rounds used by individual soldiers. It is quite clear that there was no system of control in place on Bloody Sunday for either the issue or recording on return of rubber bullets used. There is no evidence before the Inquiry of any disciplinary action or rebuke ever having been issued by officers in with regard to this practice.

9.1.6 Private Supplies of Ammunition

9.1.6.1 The practice of the keeping of private supplies of ammunition was widespread amongst soldiers and was a practice adopted by members of different ranks and regiments.

9.1.6.2 Senior Officers were aware of and condoned the practice. Checks were cursory and inadequate.

9.1.6.3 The purpose of keeping private supplies of ammunition could only be to facilitate the firing of shots and not having to account for them.

9.1.6.4 At least some soldiers carried extra supplies of ammunition on Bloody Sunday a practice must cast further doubt on the accounts of soldiers as to the quantity of shots discharged by them on the day.

9.1.6.5 The carrying of spare rounds of ammunition demonstrates the capacity of soldiers to act in an undisciplined and illegal manner.

9.1.7 Yellow Card

9.1.7.1 Government Role in respect of the drafting/approving of the Yellow Card

9.1.7.2 Commentary on the Yellow Card, in respect of the lack of clarity, training for soldiers, inherent residual discretion

9.1.7.3 Breaches of the Yellow Card (to include Para attitude to the Yellow Card)

9.1.7.4 Lack of disciplinary action in respect of the breaches

9.1.7.5 Incompatibility of the Yellow Card with Common Law Principles

9.1.8 Reputation Of The Paras

9.1.8.1 The Paras were credited with ensuring that no nationalist area was closed to military control. Their achievement was extolled constantly in the British media and through British Army public relations.

9.1.8.2 It is this type of thinking that led to the Paras being considered for deployment in Derry on 30 January 1972. That city had been seen to represent a failure for the army.

9.1.8.3 Underlying all, were the attitudes of superiority and invulnerability that were drummed into Paras and this inflated self-image of the ordinary Para was shared by the highest ranking soldiers.

9.1.8.4 Many Paras viewed bloody Sunday as a victory, for had they not once again lived up to their reputation for 'brutal efficiency.'

9.1.8.5 The military planners were guilty of a fatal lack of judgement in sending such troops into a very delicate situation such as Derry on 30 January 1972, especially when they were disregarding the advice of locally based commanders.

9.2 1972 RMP/RUC AGREEMENT

> "Those first two years.....the situation changed so much....made it up as we went along. Almost had a free hand....just a game with the SIB.....
> **During that time, the second tour, we got away with murder."**
> INQ 1413 **O18.1 paragraph 3**.[1]

9.2.1 INTRODUCTION

9.2.1.1 The deployment of the British Army in the North of Ireland in 1969 aimed to provide practical support for a local Police Force that could no longer cope with the civil disorder on the streets. However, the Army's deployment also introduced principles of martial law to the policing of civil disorder and put in place a framework within which the use of lethal force and a commitment to militarism became the prevalent response to the policing of a civil conflict.

9.2.1.2 As we will set out in more detail, the erosion of the role of the police in security matters and the illegal transfer of control over policing the security situation, from the police to the military, is key to an understanding of why lethal force was used on unarmed civilians in Derry.

9.2.1.3 However the military's dominance over the police was to be a feature, not merely in the conduct of security operations, but also of the criminal justice system. In theory, the army, when deployed in the North, operated in hierarchical subservience to the Police. In practice the lines of legal authority between the Police and the Army were blurred and in fact the military rather than the police were the dominant force.

[1] INQ 1413 denies that **O18.1** are the notes made by Neil Davies during an interview with him for the Praxis Production Company.

9.2.1.4 In the 1970's an agreement was reached between the GOC and the Chief Constable of the RUC, whereby in an investigation into the use of lethal force by military personnel, the interviewing of soldiers would be carried out, not by members of the legally constituted police force, but by the RMP, another branch of the army 'family' tree. **C3.1 paragraph 5**

9.2.1.5 The existence of the agreement was documented by the then Deputy Assistant Provost Marshall (Special Duties)

> "Back in 1970 a decision was reached between the GOC and the Chief Constable whereby the RMP would tend to military witnesses and the RUC to civilian witnesses in the investigation of offences and incidents. With both the RMP and RUC sympathetic to the soldier, who after all was doing an incredibly difficult job, he was highly unlikely to make a statement incriminating himself, for the RMP investigator was out for information for managerial, not criminal purposes, and using their powers of discretion, it was equally unlikely that the RUC would prefer charges against soldiers except in the most extreme of circumstances." **C3.1 paragraph 5**

9.2.1.6 That the investigative process in relation to the use of lethal force by state agents is key to ensuring the protection of the right to life has been made explicitly clear by the jurisprudence of the European Court of Human Rights. As the Court stated in *Jordan v. United Kingdom*:

> "The obligation to protect the right to life under Article 2 of the Convention . . . requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force . . . The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility." [*Jordan v. United Kingdom* (2003) 37 EHRR 2, para. 105]

9.2.1.7 Two of the key features identified by the European Court of Human Rights in *Jordan v. United Kingdom* were that the investigation would be "effective" and "independent".

9.2.1.8 The investigation must be independent in that:

> "For an investigation into alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events . . . This means not only a lack of hierarchical or institutional connection but also a practical independence . ." [*Jordan v. United Kingdom* (2003) 37 EHRR 2, para. 106]

9.2.1.9 The investigation must be

> "effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified . . . and to the identification and punishment of those responsible . . . This is not an obligation of result, but of means. The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident . . . Any deficiency in the investigation which undermines its ability to establish the cause of death **or the person responsible** will risk falling foul of this standard." [*Jordan v. United Kingdom* (2003) 37 EHRR 2, para. 107]

9.2.1.10 While these principles had not been expounded in 1972, they nonetheless articulate principles which of necessity underlie a properly functioning domestic criminal justice system. The absence of an independent and effective investigation results in a situation in which domestic law is not effectively implemented and state agents are rendered unaccountable for their use of lethal force. This contributes in turn to a culture within which soldiers engage in the use of lethal force without fear of criminal sanction and operate above the law.

9.2.1.11 That the principles enunciated by the European Court of Human Rights in *Jordan v. United Kingdom* were as valid in 1972 as they are today, is illustrated by the decision of the then Lord Chief Justice, Lord Lowry in *R v Foxford*:[2]

> "We learnt that from September 1970 an RUC Force Order was in operation whereby if an offence against the ordinary criminal law was alleged against the military personnel in Northern Ireland **the interviewing of military witness and of the alleged offender himself was conducted exclusively by military investigation**."

9.2.1.12 Lowry LCJ deprecated a policy which effectively curtailed the functions of the police investigation and undermined the workings of the criminal justice system.

9.2.1.13 As Major INQ 3 himself conceded during his oral testimony to this Inquiry, the entire purpose of the agreement was to "ensure that the conduct of soldiers could be protected from scrutiny". **Day 256/186/14 to Day 256/186/20**

9.2.1.14 By January 1972 the military had effectively supplanted the police as the dominant partner in all security operations resulting in an approach to policing in which notions of martial law rather than civil law were applied to law enforcement. In particular, the military were quick to have recourse to the use of maximal force and were slow to consider alternatives.

9.2.1.15 The RUC/RMP Agreement commenced in 1970 and continued until abolished in March 1972 by the Director of Public Prosecutions upon the imposition of Direct Rule and the establishment of the office of DPP in Northern Ireland. During that period soldiers engaged in the use of lethal

[2] [1974] NI 181, 200

force were not subject to the rigours of the domestic legal system, nor were they rendered accountable, in any way, for their use of lethal force.

9.2.1.16 The RUC were also in a real sense powerless to control the actions of soldiers acting outside the law. **Day 211/152/23 to Day 211/157/1** The RUC/RMP Agreement was a significant usurpation of the police responsibility for the investigation of crime when the suspects were soldiers. This Agreement, combined with the military domination of security matters contributed significantly to the creation of a culture in which the military were able to enforce a militarist state of affairs without the constriction of the rule of law, and soldiers could commit acts of assault and use lethal force with impunity.

9.2.1.17 It is our submission that this Agreement meant that:

i) Soldiers involved in lethal force incidents were removed from the control and sanction of the domestic legal system.

ii) Lethal force incidents involving soldiers were 'investigated' by the military.

iii) The military investigation was neither 'independent' nor 'effective'.

iv) The procedures were not effective in that the military put in place procedures for investigating allegations of criminal conduct against soldiers which were expressly designed: not to investigate allegations of criminal activity but rather to; suppress evidence of criminality on the part of soldiers, while assisting the Army in countering allegations made by civilians.

v) The procedures were not independent in that the innate sympathy of the SIB to the individual soldier, ensured that evidence of criminal conduct on the part of soldiers was not and could not be the outcome of an SIB investigation.

vi) The system expressly facilitated collusive behaviour on the part of soldiers, and collusion was also a feature of the conduct of the SIB in their conduct of the investigation.

vii) As a consequence lethal force incidents involving soldiers were inadequately investigated, and soldiers in uniform engaged in the

use of lethal force operated outside the controls of the legal system, and were in a very real sense 'above the law'.

viii) The Agreement, with its consequential impact on the likelihood of a soldier facing criminal prosecution for the use of lethal force, was one of a number of elements which contributed to a culture in which soldiers used lethal force with impunity.

9.2.2 The SIB Investigation

9.2.2.1 At the time of Bloody Sunday military investigations were the responsibility of 178 Provost Company; a unit of 1 Regiment RMP. With around 50 personnel, the major part of the company was made up of sub-units of an SIB Sergeant and six junior (untrained) NCO's.[3] The overwhelming proportion of the workload related to 'internal security incidents', i.e. shooting incidents. **Day 383/122/3 to Day 383/122/5** Moreover the main function, in our submission, the only function, of the SIB was to receive statements for and on behalf of the military higher command **CW1.67**

9.2.2.2 It was claimed by Warrant Officer Wood that the SIB were "specialist investigators" and the "equivalent to the CID in the civil police force". **CW1.1 paragraph 2** By way of contrast INQ 2025 responding to a query about the nature of the relationship between the SIB and the soldier, conceded that his primary purpose in dealing with a soldier in the immediate aftermath of Bloody Sunday was to protect the interests of the army rather then to help uncover the truth. **Day 243/142/17 to Day 243/142/21**

9.2.2.3 It is our submission that these "personnel trained in investigation to de-brief the soldiers concerned and to collect and preserve evidence where possible" **CW1.1 paragraph 5** did so for the exclusive benefit of the military. The "RMP investigator was out for information for managerial, not criminal purposes" **C3.10 paragraph 12** and the objective was to

[3] Derived from **CW1.67** – The Military Investigative Resource: Mr John Wood.

enable the army to counter allegations against civilians, rather than to uncover wrongdoing within the army.

9.2.2.4 In essence it is our submission that the structural deficiencies of the system were such as to ensure that the investigation conducted was not "effective" and thus was incapable of establishing whether the force used was justified in the circumstances. It is our further submission that the SIB, as with the rest of the Army, was imbued with the military culture of "closing ranks". The system lacked independence in both its hierarchical and practical sense, the SIB were blatantly sympathetic and biased towards the soldier and this operated to ensure that where the normal mechanisms failed to protect the soldier from scrutiny, the individual SIB officer would achieve that objective.

The Structural Deficiencies of the Investigation:

9.2.2.5 The 'Brief for Investigators' and accompanying *aide-memoire* drafted by Warrant Officer Wood and signed by the Assistant Provost Marshall, INQ1383 give an insight into the nature of the investigation conducted by the SIB. **CW1.46, CW1.47** This document was issued to all SIB Investigators and SIB statement-takers working in Northern Ireland and established the protocol to which the SIB should adhere when tasked to investigate an internal security incident, it was this protocol to which the SIB were working on the 30 January 1972. **Day 383/123/11 to Day 383/123/22**

9.2.2.6 It is our submission that the procedures put in place demonstrate that the purpose of the statement-taking process was not to investigate allegations of criminality with a view to establishing the truth but rather to:

i) Suppress evidence of criminal conduct so as to protect both the individual soldier and the army.

ii) To counter allegations made by civilians against the Army by allowing the Army to respond quickly with their version of the incident.

9.2.2.7 As the *aide-memoire* attached to Warrant Officer Wood's 'Brief for Investigators engaged on Inquiries and Internal Security matters in Northern Ireland' makes clear, the SIB Inquiry in Northern Ireland was ". . . not a normal 'investigation' as such". **CW1.48 paragraph G**

> "The SIB actions could not be said to constitute a full and exhaustive investigation".

9.2.2.8 In fact an Inquiry by the SIB into shooting incidents was a far cry from the type of investigation which ought to have been conducted by the legally constituted police force, charged with investigating allegations of criminal conduct. It is clear from Warrant Officer Wood's brief that, as regards the function of the SIB:

> "Assessment of criminal responsibility is not your task in these inquiries." **CW1.48**

9.2.2.9 In fact the purpose for which this information was obtained was to get basic information up the military chain of command as quickly as possible in order that the military would be in a position to "answer immediately any allegations that may be raised by civilians." **CW1.48, paragraph (a)**

9.2.2.10 That the statement obtained by the SIB investigator was far from comprehensive is illustrated by the fact that the SIB investigator saw his function as obtaining a 'contact statement', designed to amplify the initial mandatory contact report which all soldiers would previously have made as a matter of routine army procedure. **Day 383/124/22 to Day 383/125/2**

9.2.2.11 As INQ 3 accepted the SIB investigator or statement taker was merely trying to "establish what happened" rather than trying to obtain an admission of criminal responsibility. **Day 256/181/17 to Day 256/181/20**

9.2.2.12 The key to understanding how the procedures put in place by the SIB were structurally incapable of delivering an effective investigation into allegations of the use of lethal force was the fact that the SIB investigation operated, within a policy framework whereby soldiers would be treated as witnesses rather than suspects. Thus although these statements were taken

from persons who, in the normal course of events would be regarded as the prime suspect in a murder investigation, the people taking the statement did not approach their task from that perspective, and thus statements were taken without caution. **Day 252/27/4 to Day 252/27/8, Day 383/158/19 to Day 383/158/21**

9.2.2.13 Moreover it was "not the SIB investigator's job to challenge or cross-examine a soldier about his account but simply to take a note of what he was saying". **Day 256/180/21 to Day 256/180/25**

9.2.2.14 Thus soldiers were interviewed without caution or challenge and with the deliberate avoidance of the legal niceties of protections such as the Judges' Rules. **Day 383/158/1**

"Q. So a soldier knew that really so long as he did not make any incriminating admissions, his account would not be tested and he would be in the clear as far as a prosecution was concerned?

A. Possibly. **That was up to him.**

Q. there was certainly nothing to discourage a soldier from fabricating an account, was there?

A. No.

Q. In fact, you can see how this procedure would have positively encouraged soldiers to fabricate accounts where the soldier had something to hide?

A. It is possible.

Q. Because if the soldier hid the truth by a false account the SIB investigator would not look behind that?

A. He would if he had the time and he felt it was false. But if he had no time and he had no direct suspicion, then he would not follow it through." **Day 256/181/24 to Day 256/182/16**

9.2.2.15 That a person who has engaged in the use of lethal force against a person, who in many instances was demonstrably unarmed, is treated as a witness, results in a process which is irredeemably flawed from the outset. It

cannot be considered, in that context, that there is a realistic prospect that such a person will be rendered accountable or amenable to the rule of law.

9.2.2.16 That the procedures were hopelessly inadequate as a method for investigating the criminal conduct of soldiers even in 1972 has been expressly recognised by the High Court in Belfast in *Thompson v. Secretary of State*. That case involved the shooting of an unarmed woman, Kathleen Thompson in the rear garden of her home, in the Creggan Derry, by a member of the Royal Green Jackets. Kerr J. concluded that the State

> "had not conducted an investigation sufficient to comply with the obligations under article 2 of the European Convention on Human Rights. In reaching that conclusion I do not rely on the contemporary standards . . . Judged by the standards that applied in 1971-1972 when the investigations into the death of the deceased were conducted, I am satisfied that such procedural safeguards as were required to ensure that article 2 was complied with were not fully implemented by the respondent in this case." [para. 1]

9.2.2.17 Kerr J. did not detail all of the deficiencies in the investigation conducted by the state save to point out that:

> "the soldier who effectively discharged the shot which caused the death of Mrs Thompson and those who were with him at the time were interviewed by a member of the Royal Military Police. I do not consider that this satisfied the duty imposed on the police at the time to properly investigate this fatal shooting. In my view it was not open to them to delegate that critical responsibility to another agency such as the Royal Military Police. Quite apart from that however, the fact that each of the interviews cannot have lasted any more than half an hour; the fact that clear discrepancies appear in the statements made, discrepancies which have not been the subject of further challenge or investigation, are sufficient to demonstrate the

inadequacy of the investigation into the death of the deceased."

[para. 2]

9.2.2.18 The investigation conducted by the SIB into the death of Kathleen Thompson into the actions of soldiers in Derry in November 1971, was typical of investigations routinely carried out by the SIB in all lethal force incidents involving soldiers. This was a system in which the soldiers' account was never challenged, discrepancies were ignored and the investigation as such was non-existent. Ultimately as INQ 3 stated it was up to the soldier to determine whether he wished to make an incriminating statement, in the absence of a soldier volunteering there was no realistic prospect that his evidence would be tested. **Day 256/181/23 to Day 256/182/6**

9.2.2.19 However, if the inherent bias of the system was insufficient to prevent a soldier from making admissions of criminal conduct, the SIB system had in place further safeguards designed to prevent the soldier persisting with any such admission. **CW1.48 paragraph g**, **C1835.5 paragraph 31**

9.2.2.20 These safeguards were as follows:

i) An interview would be stopped if an admission of criminal conduct was volunteered. **Day 256/183/6 to Day 256/183/20**;

ii) It would be referred to an Officer for confirmation. **CW1.48**,**CW1.49**;

iii) It would be referred to the Army Legal Services. **C1835.5 paragraph 31**;

iv) A caution would then be administered reminding the soldier of his right not to say anything to incriminate himself. **Day 256/184/12 to Day 256/184/20**

9.2.2.21 In effect a four stage process designed to encourage soldiers, such as Soldier V, to withdraw any admissions they had made.

9.2.2.22 Finally, in relation to the structural deficiencies it is our submission that the system was designed to facilitate collusive activity on the part of soldiers, an issue which will be developed in our the sub-section entitled **Military Culture of Closing Ranks** below. Warrant Officer Wood described to this Tribunal a pre-interview "waiting room" for those they had "rounded up" who had been involved in shooting incidents. **CW1.8 paragraph 50** Not only was no attempt made to prevent pre-interview collusion or discussion by those involved and in fact the conditions were created to encourage it.

9.2.2.23 In essence the nature of the agreement between the RMP and the RUC provided for an 'investigation' into shooting incidents for "...managerial, not criminal, purposes." **C3.10 paragraph 12** Without cross-examination or caution it was a simple note taking exercise by the SIB – the task of each Investigative Officer "to record witness statements"[4] and the main purpose to provide information required for and on behalf of the military higher command. **CW1.46 paragraph 2** Thus the army had in place a system which enabled it: on the one hand to counter allegations made by civilians promptly and effectively; while protecting the conduct of soldiers from meaningful scrutiny. Thus the SIB investigation achieved the object of the RUC/RMP agreement to "ensure that the conduct of soldiers could be protected from scrutiny" **Day 256/186/14 to Day 256/186/20**

9.2.2.24 Kitson stated in his oral evidence that he would hope that the army would provide the support for soldiers involved in shooting incidents. **Day 237/85/4 to Day 237/85/7** The army certainly did, the agreement between the GOC and the Chief Constable removed them from the normal remit of the criminal justice system, rendering them unaccountable and above the law.

[4] INQ 2025 **Day 252/27/12 to Day 252/27/13**.

The Military Culture of 'Closing Ranks'

9.2.2.25 This undermining of the workings of the criminal justice system was aggravated by the openly sympathetic attitude exhibited by the SIB Investigative Officers towards the soldiers. Any prospect that this internal investigative procedure would fulfil the requirements of an independent investigation into lethal force incidents is undermined by the admission by a number of members of the SIB, including Major INQ 3, that the SIB officer's sympathy lay with the soldier. As his document records:

> "With both the RMP and the RUC sympathetic to the soldier, who after all was doing an incredibly difficult job, he [the soldier] was highly unlikely to make a statement incriminating himself..." **C3.1 paragraph 5**

9.2.2.26 There was a tendency amongst soldiers to: 'close ranks' if there was a risk that one of their number might face prosecution; **Day256/164/24 to Day 256/165/3** and, to "look after it's own" in the face of opposition or criticism; **C1835.5 paragraph 32** helping to create an environment which was conducive to the concealment of misconduct by soldiers.

9.2.2.27 As Warrant Officer 1835 describes it, a philosophy existed within the army that the army was "a family" and a family that "looks after it's own". **C1835.5 paragraph 32** Thus even absent, the SIB officer's sympathy and the structural edifice designed to prevent admissions of criminal liability there existed a philosophy within the ranks which operated to discourage soldiers from incriminating other soldiers. As INQ1835 suggests:

> "Had a soldier made a comment to me such as the command structure had broke down that day, I would have put it in his statement. But frankly it is not likely that the soldier would say that outside the barrack room. The Army is a family and the family looks after it's own."

9.2.2.28 The relationship the SIB enjoyed with the soldiers whom they were to investigate, contributed to the ability of the army rank and file to conceal

not only their own misconduct but that of their comrades and operated to discourage those who might otherwise have spoken out.

9.2.2.29 However, as the culture which operated within the army preventing soldiers from identifying criminal conduct from amongst their ranks, the whole atmosphere in the barrack and interview room created an environment conducive to the concealment of misconduct and to collusive activity.

9.2.2.30 Warrant Officer Wood describes a pre-interview "waiting room" for those they had "rounded up" who had been involved in shooting incidents. **CW1.8 paragraph 50** Not only was no attempt made to prevent pre-interview collusion or discussion by those involved and in fact the conditions were created to encourage it.

9.2.2.31 As for the interviewing procedure itself, Warrant Officer Wood assured the Inquiry that the Soldiers were not "wary" of the SIB and in fact the SIB had a "...very good, open relationship with them". While other witnesses to this Inquiry, such as Corporal Brobson **Day 275/149/1 to Day 275/149/2**, have sought to suggest that the soldiers involved in shooting incidents were apprehensive when interviewed by the SIB, Warrant Officer Wood assured the Inquiry that he could not recall any apprehension felt on any shooting incident inquiry. **CW1.64 paragraph 57**

9.2.2.32 Warrant Officer Wood in fact describes the 'interview procedure' as being conducted in a "relaxed atmosphere." **CW1.64 paragraph 57** With descriptions of "cigarettes and sometimes sandwiches" and the SIB working in "plain clothes" such a description does appear apt and in our submission this again operates to promote an atmosphere favourable to the suppression of adverse revelations.

9.2.2.33 It is our further submission, that on occasion the SIB played an active role in the concealment of misconduct. This was effect by:

i) The SIB 'filling the gaps' which existed within the statement/s of a soldier/s by providing the soldier with what he 'should' say to protect his own position and that of his colleagues;[5] and/or;

ii) The SIB sanitising the versions of events offered by soldiers to remove admissions of criminal liability and to enhance their credibility.

9.2.2.34 In his description of the interview procedure **CW1.9 paragraph 58** Warrant Officer Wood discussed how an interviewer would "get down to business.." when taking statements:

> "The interviewer would write out the statement in longhand during the course of the interview and the interviewee would then sign it at the end of the interview. We would not write down what was said word for word as most of the interview was merely grunt; we would turn what we were told into what looked like a proof of evidence on the spot."

9.2.2.35 Warrant Officer Wood's description of the statement taking process tends to suggest that the job description of the interviewing SIB officer was more than the mere 'recording of statements'. However it is the evidence of Soldier 018, Soldier 005 and Soldier 037 among others which suggests that the RMP statement-taker held an even more pro-active role.

9.2.2.36 Soldier 018, a member of Anti-Tank Platoon, gave evidence in a statement made on the 4th February 1972 about firing by two other members of his Platoon, Lance Corporal F and Private G at a gunman located on the second floor of the Rossville Flats. **B1491.009** In his statement to this Inquiry, Soldier 018 stated that he was not in a position to see whether there was a gunman in the flats where the shots were fired: "Nor could I see that they went through a window." **B1491.005 paragraph 42** Soldier 018 has stated that the inclusion of such detail was at the instigation of the SIB:

[5] A more detailed investigation into these allegations is offered in Soldiers - 5.2.3 Bloody Sunday

"The RMP told me that he needed to include this to substantiate the details that had been provided by my colleagues to show that when they fired, they did not hit anybody." **B1491.005 paragraph 42**

9.2.2.37 He also suggests that the SIB led him to believe that the evidence he was providing falsely was actually true:

"At the time I made my statement, I was led to believe the details about the location of the gunman in the flats and the area to which fire was returned were true...I therefore agreed to include the details in my statement." **B1491.005 paragraph 42**

9.2.2.38 In his RMP statement Soldier 005 suggests that he witnessed Soldier R shoot a man who was positioned on the first floor veranda of Rossville flats (between block 1 and 2) and who had fired two shots with a pistol. **B1370** However, in his statement to this Inquiry, Soldier 005 suggests that these details were included at the instigation of the SIB. Soldier 005 went on to suggest that the statement taking process described by Warrant Officer Wood; whereby the SIB would write out the statement long-hand and the Soldier would sign at the end of the interview, meant that he really had very little input into 'proof of evidence' at all:

"He told me to sign it and I did. I do not even remember reading it. When I saw it for the purposes of making this statement I did not recognise it at all." **B1374.005 paragraph 34**

9.2.2.39 In oral evidence to this Inquiry he again repeated the accusation that it was RMP that had provided the material details of the statement and that his role was merely to 'sign' the document without protest. **Day 338/165/24 to Day 338/166/15**

9.2.2.40 Warrant Officer Wood stated in evidence that he thought "every statement-taker was aware that he was there to record what happened, not to orchestrate what was reported as having happened." **Day 383/142/6 to Day 383/142/8** He accepted in his oral testimony that the interview process was a two-stage process in that firstly the shooters were interviewed and then those soldiers who could provide supporting evidence were interviewed. **Day 383/140/12 to Day 383/140/16** This process is certainly one which is capable of facilitating the type of exercise described by Soldier 005 and Soldier 018. Moreover as was conceded by Warrant Officer Wood, despite previously having claimed that he could not see the why orchestration would have occurred in relation to statements taken at short notice, **Day 383/141/25 to Day 383/142/2** the statements of Soldier 018 and Soldier 005 were not in fact taken until the 4th February 1972. **Day 383/172/5 to Day 383/172/17**

9.2.2.41 There is also evidence that the role of the SIB statement-taker involved sanitising the version of events which had been offered by the soldiers in their statements.

9.2.2.42 Warrant Officer Wood gave evidence which demonstrated clearly how he had sanitised the statement offered to him in interview by Soldier T. In his statement to this Inquiry Warrant Officer Wood describes Soldier T had claimed that he had been burnt by battery acid and Wood's own scepticism of such claims **CW1.10 paragraph 59** The RMP statement of Soldier T **B725** included no reference to 'battery' acid and refers merely to acid. **Day 383/176/10 to Day 383/176/13** Warrant Officer Wood accepted that the reason why such a claim was not to be found in the RMP statement of Soldier T was his scepticism:

> "That is why at that stage I did not put in there that it was battery acid." **Day 383/177/2 to Day 383/177/3**

9.2.2.43 What Warrant Officer Wood is describing, whether or not he was conscious of this at the time, is a process whereby the account of Soldier T was doctored in order to make the statement more credible.

9.2.3 Shooting with Impunity

9.2.3.1 The structural deficiencies and inherent bias, which operated to "ensure that the conduct of soldiers could be protected from scrutiny" **Day 256/186/14 to Day 256/186/20** contributed, in our submission to a system whereby soldiers using lethal force operated outside the law and a culture in which soldiers believed that they could use lethal force with impunity. This culture informed the conduct of soldiers throughout Northern Ireland, but also operated as a relevant backdrop to the conduct of soldiers on Bloody Sunday. The soldiers of 1 Para operated as part of a military institution in circumstances where they knew their use of lethal force would not be subjected to scrutiny. There was thus a willingness to engage in the use of lethal force which would not have existed had soldiers been subjected to the normal rigours of the criminal justice system for their use of lethal force prior to Bloody Sunday.

9.2.3.2 The army's arrival in 1969 was characterised by the Government as the military acting in support of the civilian power. In our view as set out in this section and in **Section 10**, this characterisation was strikingly inaccurate. In fact January 1972 was a period during which the military had primacy over the control of security with the police reduced to the role of acting in tactical support on the ground.

9.2.3.3 Military primacy contributed directly to the use of lethal force as a method for controlling public order. The existence of the RUC/RMP agreement, meant that the use of lethal force by soldiers had been removed from the control of the criminal justice system and the use of lethal force was thus uninhibited by any system of accountability under domestic law.

9.2.3.4 Over the period 1969 – 1974, 188 people were killed in Northern Ireland by the use of lethal force by state agents. The figure 188 represents 53% of the total number of deaths resulting from the use of lethal force by state agents in Northern Ireland over the period 1969 and 1994. Of those 90%, 169 deaths were caused by the use of force by the regular military. 65%

of those killed were indisputably unarmed at the time of death, while in only 12% of those deaths, 23 persons in all, was it confirmed that the deceased had been in possession of a weapon at the time of death.[6]

9.2.3.5 The rate at which lethal force was used by the military moreover dramatically increased following the introduction of Internment, which in effect copper-fastened military control over the security situation. In the period between the introduction of Internment until Bloody Sunday, 37 Catholic civilians and 2 Protestant civilians were killed by soldiers of the British army in disputed circumstances. Of those 8 were claimed as members of the IRA, although the circumstances of the shooting were disputed and 3 were killed in a robbery, they were unarmed. The widow of one of those killed in the robbery brought a case to the European Court of Human Rights which was settled by the UK Government.[7]

9.2.3.6 As regards the application of criminal sanction to the use of lethal force during the years of 1969 to 1974, information is limited. What is apparent is that only a tiny number of prosecutions concerning the exercise of force took place in comparison to the number of deaths arising from its systematic use. "This information raises highly problematic questions for the state in relation to the proportionality of the force exercised, and the lack of accountability for those deaths where there is no dispute that the deceased was unarmed."[8]

9.2.3.7 The lack of any effective investigation by the SIB arising out of the use of lethal force has already been noted. In the case involving the death of Kathleen Thompson, which was the subject-matter of *Thompson v. Secretary of State,* the interviews that were conducted by the RMP took place over a total of two hours between 3.30am – 5.30am, a total of half an hour per statement. Moreover, despite significant discrepancies

[6] Fionnuala Ní Aoláin , 'The Politics of Force: Conflict Management and State Violence in Northern Ireland', page 33
[7] David McKettrick et al "Lost Lives", p. 108 (151)
[8] Fionnuala Ní Aoláin, 'The Politics of Force: Conflict Management and State Violence in Northern Ireland', pp 33-34

between the statements made by the 4 soldiers who had been operating as a unit, who claimed to have been in close proximity at the time of the shooting, neither the prime suspect nor any of the other soldiers were ever re-interviewed in order to explore the discrepancies within their statements.

9.2.3.8 As submitted above the investigation into the death of Kathleen Thompson was typical of investigations into the exercise of lethal force in the militarist phase of 1969-1972.

9.2.3.9 A further example of the attitude to the use of lethal force, which in our submission permeated the British army operating in Northern Ireland in 1972 can be found in the transcript of Mr. Porter's tapes of radio transmissions on or about 28 January 1972. **W12 – W13**

Counter setting	Serial	To	From	Event
4.00	37	6.1	1.9	This is 1.9 did you see that last nail bomb, where it came from, over?
	38	9.1	6.1	6.1 No, but we presume that it was thrown from my right, from the alleyway along the Grandstand Bar, ??? over.
	39	6.1	1.9	1.9 Say, again, over.
	40	1.9	6.1	6.1 the nail bomb came from my right, ??? in the alleyway to my right.
	41	6.1	1.9	1.9 Roger ah ... Is there anything you can do to improve your fire position.
	42	1.9	6.1	6.1 No. It is a pretty good one, actually.
	43	6.1	1.9	6.1 this is 1.9 I want you to move, move back as so that you can see down the alleyway by the maron lorry, over.
5.00	44	1.9	6.1	6.1 I can see the whole of the alleyway, over.
	45	6.1	1.9	1.9 I understand you to say you are already covering this alleyway, is that correct.
	46	1.9	6.1	6.1 This is correct. The last the last nail bomb that was just thrown cane from the alleyway alongside the Grandstand Bar. Thrown by a youth in dark clothing, over.
	47	6.1	1.9	1.9 Roger. Why didn't you shoot him, over.
	48	1.9	6.1	My sights were not on him, and he was only in view for a second, over.
	49	6.1	1.9	1.9 Roger. I have the place covered, out.
	50	1.9	6.1	I can see the nail bomber. Do you want me to shoot him. Over. He has nothing in his hands at the moment.
	51	6.1	1.9	Say again, over.
	52	1.9	6.1	1.9 Wrong, 6.1. This is, I can see the nail bomber but he doesn't appear to have anything in his hands, over.
6.00	53	6.1	1.9	1.9 Roger, out.
	54	6.1	1.9	6.1 This is 1.9. Are you absolutely certain the person you can see is the nail bomber, over?
	55	1.9	6.1	6.1 Positive, over.
	56	6.1	1.9	1.9 Shoot him dead, over,
	57	1.9	6.1	1.9 this is 6.1 Missed him by about two inches, over.
	58	6.1	1.9	1.9 Bad shooting, out
	59	6.1	1.9	6.1 This is 1.9, was it one round or two you fired, over?
	60	1.9	6.1	Two over
	61	6.1	1.9	1.9 Roger, out.

FS1 .557

9.2.3.10 The transmission, clearly contemplates the use of lethal force in circumstances which were a breach of domestic law and the Yellow card and is a classic demonstration of the military approach was one of maximal, rather than minimal force, without reference to domestic law standards, or even their own internal standards.

9.2.3.11 Thus in a context in which the use of lethal force by the military was on the increase, the system for investigating the use of lethal force by soldiers was in a very real sense non-existent. Soldiers had nothing to fear from the criminal justice system.

9.2.3.12 As **OS3.11** and **OS7.61** demonstrate, 2 PARA had been involved in the use of lethal force against 10 civilians around internment and 1 PARA had been involved in the death of John Laverty on the 10th August 1971. It is our contention that the system for the investigation of lethal force incidents was known by soldiers generally and could not have been unfamiliar to the soldiers of the Parachute Regiment who went to Derry on Bloody Sunday.

9.2.3.13 The soldiers who went to Derry and fired live rounds on Bloody Sunday, did so in the sure and certain knowledge that they would never face the sanction of the criminal justice system.

9.2.4 Conclusion

9.2.4.1 The agreement between the GOC and the Chief Constable of the RUC was illegal. It removed soldiers from the normal operation of the criminal justice system and involved the establishment of an alternative structure operated and controlled by the military.

9.2.4.2 The control of the military meant that from the outset the soldier was operating in an environment designed to assist him in protecting himself from the threat of criminal sanction. Individual officers within the SIB were sympathetic to the soldiers 'predicament'. More importantly

however structures were put in place that operated not merely to prevent the comprehensive investigation of alleged wrongdoing by individual soldiers but to suppress any such evidence.

9.2.4.3 The existence of this policy at a time of heightened militarisation and ever-increasing use of lethal force by soldiers leads to the conclusion that, the purpose of the agreement was not merely to create an environment conducive to the concealment of misconduct, but to create a procedure whereby the Army could control the presentation of information about shooting incidents. The fact that members of the SIB took the statements enabled them to 'fill in the gaps' in statements which did not provide the necessary information required to validate the actions of the soldier or his colleagues and to edit and therefore sanitise accounts to ensure a version free from criminal liability. The agreement provided the Army with a mechanism whereby it could protect individual soldiers and the reputation of military as a whole. Neither the agreement nor the statement-taking process which flowed from it were designed to determine the legality of the actions of individual soldiers, rather it was to remove from public scrutiny any assessment of that legality that the agreement existed.

9.2.4.4 The actions of the Chief Constable in delegating to the RMP the interviewing of military personnel in lethal force incidents was not only a breach of the obligation of the police under domestic law to investigate such incidents. The RUC/RMP Agreement contributed positively to the notion held by the rank and file that their actions, however arbitrary and however deadly, were without consequence or criticism. The Agreement contributed significantly to a culture within which soldiers could shoot, and kill, with impunity.

9.3 General Lawlessness of the Soldiers

9.3.1 Introduction

9.3.1.1 We will set out the erosion of the role of the police in security matters and the illegal transfer of control over policing the security situation, from the police to the military in section 10. Section 9.2 has dealt with implications of the 1972 RMP / RUC Agreement

9.3.1.2 In section 19.9 which refers to sector 2, the lawlessness and brutality of the soldiers on Bloody Sunday has been outlined specifically in relation to the activities in that area. Further sections 9.4; 9.5; 9.6 and 9.7 deal in detail with the evidence respectively in relation to Modification of Rubber Bullets; Private Supplies of Ammunition; Breaches of the Yellow Card and Reputation of the Parachute Regiment.

9.3.1.3 However there remains a great store of information in relation to the general lawlessness and brutality of the British Army Regiments that served tours of duty in Northern Ireland and specifically the Parachute Regiment whose actions resulted in the atrocity that is Bloody Sunday.

9.3.1.4 The brutality exhibited on Bloody Sunday was not a one-off aberration on the reputation of an exemplary military regiment. Rather it was representative of the culture of brutality and lawlessness that existed within the British Army generally and the parachute regiment specifically. Indeed the authentic and reliable evidence of the individual soldiers who gave statements to the PRAXIS team, provides a unique opportunity to understand the depths of depravity that the soldiers of the parachute regiment would sink to in carrying out their duties.

9.3.1.5 Examples of criminal conduct include:

Shooting civilians with impunity; (Section 9.2.2)

The modification of rubber bullets to transform a weapon for crowd control into a lethal weapon; (Section 9.4)

Private supplies of ammunition by soldiers which would be used to cover up unlawful shootings; (Section 9.5)

Breaches of the Yellow Card; (Section 9.7)

9.3.1.6 Further examples of the brutality and criminal activity of the Parachute Regiment include:

- The treatment of soldiers during training and the conditioning to aggressive behaviour, which resulted in alleged frustration engendered brutality and callous and sadistic behaviour;
- Unlawful assaults;
- Robberies;
- Planting of evidence to secure internment of civilians;
- Racism.

These are dealt with below.

9.3.1.7 Whilst the PRAXIS material does refer to specifically identified soldiers, it is important to note that not all of the soldiers interviewed have been identified, nor have all of the soldiers referred to in those interviews have been identified. Indeed the disclosure of the activities of the Parachute Regiment proved so difficult for some soldiers that they went to some lengths and to some risk to themselves to deny that they had provided the interviews. A case in point is soldier 019. Excerpts from the cross-examination of the witness on Day 343 below refer:

MR MACDONALD: 019, I am suggesting to you that you know perfectly well that you gave these interviews with Neil Davies and other members of the Praxis team, that is Goddard and Stark, and that you are lying to this Tribunal when you say that you did not; do you understand?

A. I understand what you are saying, but, no, I did not give that statement at all.

Q. Do you understand I am accusing you of committing perjury?

A. I understand what you are saying.

Q. Do you understand the importance of giving evidence truthfully under oath?

A. I do.

Q. And you are saying that you are giving your evidence truthfully?

A. I am.

Q. What I want to demonstrate to you and invite your comment on is the material which makes it clear that you were the person who gave these interviews; do you understand?

A. I understand what you are saying.

Q. I will do it in a summary fashion: you were the only person who fits the profile that emerges from these interviews; do you understand?

A. I understand what you are saying.

Q. I was going to go through those other individuals in your Pig individually to demonstrate that, but perhaps -- unless there is any objection to it -- you can take it from me that no-one else fits that profile?

A. I never gave that statement. **Day 343/130/13 to Day 343/131/18**

Q. If the Tribunal were to find that in fact you are the person who gave this interview and the other interviews that I am coming to, you could not argue with that, could you?

A. I never gave that interview; I never gave that statement.

Q. Could you see that there is a fairly overwhelming case that you did give these interviews?

A. I never gave the interview.

Q. Could you answer the question: are you prepared -- I know you deny that this was you -- but do you even recognise or acknowledge that there is

an overwhelming body of evidence to suggest this was you?

A. No, I do not recognise it; I never gave the interview.

A. I do not remember Mr Goddard.

Q. Did you not give him or require him to keep the confidence that you had been the person giving him an interview?

A. I am not with you.

Q. You required him to give you an obligation of confidentiality to promise you that he would not disclose your name?

A. Who are we talking about now?

Q. Mr Goddard.

A. I do not know Mr Goddard. **Day 343/140/14 to Day 343/141/16**

MR MACDONALD: Why do you think you were telling your own counsel one thing and this Tribunal another?

A. Can you elaborate on that?

Q. As has been demonstrated by Mr Rawat, you were apparently telling your counsel on a previous occasion in the past that you may very well have been the source, you believe you were the source for at least part of the material that appears on the page that you are just denying being a source for, and you are telling this Tribunal none of that material came from you.

A. I am telling this Tribunal that I never made that statement.

Q. That is why I was asking you earlier on whether you were trying to engage in a play in words in some way. You have indicated to the Tribunal

that none of this material emanated from you directly or indirectly?

A. As far as I can remember none of this related to anything I said to Neil Davies.

Q. Have you some difficulty with the words that I am using and are you trying to put a different slant on what I am suggesting to you?

A. Can you explain it a bit better?

Q. It is very, very simple, do not be worried about the particular words I am using, I would like you to put it in your own words. As I understand it what you have said to the Tribunal today, on oath, is that you are not responsible, not the source of anything that appears in this page that we showed you, directly or indirectly?

A. I can only keep saying to you: I did not make that statement to Neil Davies. **Day 343/146/2 to Day 343/147/6**

MR MACDONALD: Thank you, Soldier 019, I have no further questions for you. Sir, I formally request this Tribunal to consider referring this matter to the DPP with a view to prosecuting this witness for perjury in the light of the evidence he has given today. **Day 343/176/19 to Day 343/176/24**

9.3.2 Aggressive behaviour

9.3.2.1 The treatment of soldiers during training and the conditioning to aggressive behaviour which resulted in alleged frustration engendered brutality and callous and sadistic behaviour.

There are numerous exchanges in the interviews about the need for aggression which formed an essential element of the training of the Parachute Regiment.

Q So what's different about the paras' psychological approach in the Ireland to the other regiments. You can talk about them being more aggressive or going in harder.

A. "Yeah, you have to be aggressive. It's about being a para, isn't it, its aggression.

You know, sensible aggression, er, controlled aggression is worth anything. " **O19.29**

9.3.2.2 However exercising control over their aggressive conduct does not, in reality, appear to have been a feature of the Paras conduct of policing operations In Northern Ireland. Even amongst themselves the members of the Parachute Regiment had problems with controlling aggression.

"Go to the Regt. And you meet some of the rottenest people in the world, y'know right evil bastards and they're really evil y'know and a in every sense of the word, I mean if you got into a fight with them they wouldn't think nothing – mean you think people sticking an ashtray in your – you know – something like that, I mean I've the blokes come in at night and with your para helmet you wore tin ones, not the plastic ones, your tine one, blokes 'd – he upset him and he's just come in and he 's tapped him on the shoulder and he's sat up and he's had this helmet from back there in his face, you can always tell when somebody's squad (?) in the airbourne 'cos you hit it with the airbourne helmet and the airbourne ... you can always tell somebody's got hit 'cos he have a lovely long bruise like that y'know.

"And no nose"

"A laugh they'd put a newspapers under his bed and set fire to them and all on top of these newspapers and they sit there and time to see how long it took them to wake up. You know, the bloke's bed on fire like. You know, you always have blokes like that; you have **O20.73**

other ones who work as hard as the others, they were more frightened of him and the good ones, a bloke called

"He would come home one night and you'd find that he gone down the rockery squirting petrol in through your – through the air vents and put a match in. He had no civvies, he had no uniform, he had nowt, he'd burnt the lot. Or you'd be asleep with gob open and he'd have a pair of pliers and a hexamine ri' and as you went like that he'd drop the lighted hexamine in your mouth; or he'd come in with a boiling kettle and pour it over your bollocks. They wouldn't think twice about doing it at all, they wouldn't think twice about it, so men has to look to their own. You think it was like for" **O20.74**

Pranks amongst the parachute regiment were of such an uncontrolled aggressive nature that they can be more properly considered sadistic.

9.3.2.3 However the paras themselves recognised the dilemma posed by the inappropriate role given to them by their political masters.

"at the same time I was never short of being aggressive if I needed to, you know

"you can't put the soldier as a policeman, no way they do a policeman's role"
"Two different things, you know". **O20.104**

It was the aggressiveness of the para that rendered him an inappropriate policeman, particularly when this aggressiveness could not be controlled.

"If you want 100 men to clear 2,000 off the street, they've gotta be tough and aggressive, and they've gotta be motivated"

"I would have said yes when you get into close quarters with a man, yeh probably is an over reaction. Instead of hitting him once he hits him twice, yeh that's a possibility". **O22.14**

"But the soldiers are trained to use the maximum force necessary to do a job as quickly and as ruthlessly as possible" **O22.15**

"Maximum violence in minimum time. React. "

"Dominate, sort out, people then behave themselves, unpredictable, kick shit out of em. Dominated any fucking place. Like Aden, do that, keep press out, what the army wants. Northern Ireland sort out. Politicians shit themselves. " **O28.1**

"Well you wouldn't last in the Para or Green Jackets if you weren't basically aggressive". **037.12**

"The aggress.... The aggression from your training comes out and makes you the winner of that sort of situation. That's what you've got to do ain't it, you've got to win. Whatever the situations is at the lowest level or the highest level of aggressions, you've got to win it. " **O35.36**

"Whether there is a tendency to over react in a situation like that because you're so pent up because of you training?

In any situation you'll always get a single, or a couple of people no matter what walk of life to them, that'll over react to anything. It's up to whoever's in charge of 'em to spot that and keep it in check." **O35-41**

9.3.2.4 The use of minimum force and the approach dictated by the Yellow Card was at complete odds with the training provided to paras. In a conflict

situation they reverted to what had been ingrained in them through training. There was no dampening of their aggressiveness and no curbing of their violent tendencies. Indeed if - If their inability to carry out the role and function of a police officer was evident to the individual soldiers it must surely have been evident to their NCOs, their platoon leaders and higher ranking officers.

"To actually see a bloke drop when you fire. It could be uplifting in some cases. It's so easy, You know,... about you know why you... shoots a bloke and you – his first guy as his shot and he's full of remorse. No, nothing of the sort. You are over the moon. Think bloody hell that was easy and look for another one". **O33.8**

A blood lust, gratification in the death of another highlighted how far removed the paras would become from normal feelings of remorse and revulsion at causing the death of another person.

"Quartermaster. Search house. Next night go in to where we dumped stuff off night before. Arrest. Even say he got gun out, yellow card, problem over. Trust each other, survive" **O28.2**

"I didn't get a chance to blow any IRA away. I'm fucking disgusted with that." **O37.158**

"I was fucking disgusted, because we were ready to go in, we would have enjoyed ourselves. **O37.161**

The justification for the callous behaviour of the paras was explained by one soldier

Q.
"So do you think it's difficult for the paras to operate in conditions like Northern Ireland because they've got to operate like other regiments? "

A.

"It's not difficult, its frustrating. You know, " **O19.36**

So frustration resulted from the constraints that were placed upon these aggressive soldiers and this was the reason for their behaviour. An inability to carry out their policing activities in the manner in which they had been trained to act. Their aggression however could not be contained whenever they were brought into action.

9.3.3 Unlawful assaults

9.3.3.1 The approach of the paras to opportunities for carrying out assaults is highlighted in the statements made to the PRAXIS Interviewers. Any opportunity to use disproportionate physical force was relished.

"An Irish drunk is going to give you stick. You know.... So when he argued back – get a bank on the head, whack in the legs.

Had to be seen to be hard men." **O18.1**

"We didn't, we fought the paddies of our ground; we'd bring them up to where we wanted them to go, right, but what they didn't realise that every time we were going backwards and pushing them forwards, beat the shit outta them and come back into a – the battle battalion, then we play with them again..."

"Y'know clear 'em, and the you'd go and didn't arrest nobody, you just belted them, his them, killed the – y'know, cut heads open with a stick or whatever, rifle-butted them.. If one bloke was on his knees (?) where he'd been **O20.44**

"They loved it, they enjoyed it. They enjoyed doing what they done and they wouldn't think no qualms of smacking somebody across the head with a rifle butt for no reason whatsoever. But I mean that's not just the

Para reg. You get individual people in all regiments. We just had our fair share of them" **O31.30**

"But I think we had more than most". **O31.31**

9.3.4 Robberies

9.3.4.1 The lengths to which the paras were uncontrolled went so far as organised criminal activity.

"um – A Coy., were in Fort Walsh and some – they went... they knocked off a shop, knocked off the old wog and nicked his all his money etc., went back to Fort Walsh, buried the money in Fort Walsh, it was common amongst the battalion who'd done it, because you could name the corporals, the blokes, everything that who'd done it, y'know"
"They turned up with the money at the end of the tour of duty and took it home?
"Nobody was going to tell on them – **O20.66**

"I mean I was on patrol one day, I won't mention his name, I know who is was, and used to have what's callec the doss-out wire which was plenty of barbed wire and after curfew it anybody went near that wire you could shoot him, didn't have to shout a challenge your could just shoot him and we were in the kutchy huts and there's this sort of

"..y'know and next morning he was found over the top of the wire, dead, y'know no money, all gone, I knew who'd done it, it was common fact everybody knew who'd done it –

But nobody every let on

I mean there was a bus in Aden there was a but shot up" **O20.67**

"If you found a dump....you keep some hand some in. Simple init. Never hand in the cash, that's well earned drinking money". **O29.1**

"He had fourteen years, he hasn't been bloody caught. He's been a thief for fourteen bloody years. A petty thief. ..... a few quid here a few quid there. He hasn't been caught for fourteen years so when they say he exemplary .... for fourteen years, bloody rubbish." **O34.21**

"him and this INQ 1456 – were picked up for robbing a supermarket in Southern Ireland. Now then, they were just robbers, basically, so they both claimed they were getting money for the IRA, collecting funds, so they got away with it". **O34.24**

9.3.5 Planting of Evidence

9.3.5.1 Planting of evidence to secure internment of civilians was common practice amongst members of the regiment and also soldiers generally.

"One nice dark night he's coming back from the pub, you fire 2 or 3 shots from the pistol shoot him, put the pistol in his hands. As far as anybody's concerned he fired at you, you returned fire and shot him and he's dead, he's out of the way".

"Yes. And no on one occasion. It happened on numerous occasions. It was a method of getting rid of him". **O20.11**

"So what we did one days is we got him arrested – arrested him and he was paying to various houses, depending on the amount of children, 20 pound or 30 pound a week, so we doctored the book y'see and changed – no, knocked money off, ri, so the next time we were in that area y'know, we would say, 'Get your 20 pound this week?' She says 'What're you talking about?' 'You got 20 pound of your cashier'

"So they executed him – shot him for us"

"When you found a cache of arms, ri' you would always take some of the arms from there, you know where there'd be 45 rounds or 7162 or whatever, y'know 303 rounds – never 7162, you know that's the – " **O20.33**

"Yeah then a few weeks later another patrol would go in, they would search the house, find the ammunition and turned him(?) over, got him but away. That's what – that's what you used to do"

"So there was no playing by the rules?"

"Oh no, I mean, there's not, I mean the only rule is survival" **O20.34**

"as I say, you could hide stuff in the house – 2 weeks later somebody else would find it and you've got 'em, its enough to get them interned, get them away, y'know".**O20.96**

"It was common init. Hit his place. Search. Go back the next night. Straight back to where we dumped the stuff. 303 stuff. Make out it was from information passed on" **O29.1**

"Planting ammunition, evidence, even smearing for forensics was done" **O32.1**

"....that weapon's been dropped off, you can leave it another week. Then you pick the weapon up and you've already given orders where do they drop it off at". **O34.26**

9.3.6 Racism

9.3.6.1 "If you weren't white you never got a chance to put your suitcases down, ri' before you were out, you're with a return ticket, gone"

"Racist"

"Yeah. And it was one race, just white, if you were Chinese, black or whatever, if you were not white, English, Scots or Welsh, you did not get in" **O20.38**

"Aye it got suckered in somewhere along the line. And Inq 716 being a right wing fascist and there's no doubt about that and everybody knows that"

"Right, so Inq 716 was a right wing fascist bastard as they say? "

9.3.7 Conclusion

9.3.7.1 The Praxis interviews provide an invaluable insight into the thinking of soldiers in the Parachute Regiment and their conduct in Northern Ireland. The interviews, conducted as they were by a former Para, provide an undeniably authentic and reliable account of the kind of lawless and brutally callous -not to say sadistic- culture which operated within the Paras. It was a culture which: exalted aggression and the use of maximal force; and in which contempt for the rule of law was a prominent feature.

9.3.7.1 That this culture informed the soldiers who went to Derry on Bloody Sunday is evident not merely by their unjustified use of lethal force, but by the almost routine nature of the assaults and vile verbal abuse, visited on detainees.

Examination of Soldier 229's statement of the treatment of detainees at Fort George and the statements of particular witnesses themselves including Lynn, McLaughlin and McGinley highlights these points.

9.3.7.2 Paragraph 44 sets out that he attended Fort George with Lance Corporal F who he describes as "not a friend of mine but an acquaintance.[9]" Father O'Keefe describes the pair as follows:

> "I do recall that the RMP told Lance Corporal F and the paratrooper with blond hair who I remember clearly as even having the sadistic edge on Lance Corporal F that they should not hit people in custody...
>
> (34) I do not think however that they (other soldiers) were as sadistic or as casually brutal as the paratrooper with blonde hair or Lance Corporal F. I recall that the Derry boys were talking back as well." (H21.94)

In paragraphs 48-50 (B2211.007) Soldier 229 details how he waited with his three prisoners in Fort George. He claims that the soldiers would not resort to violence even if provoked. He denies seeing any prisoner being punched, kicked or spat on nor was he involved in any such behaviour.

9.3.7.3 In relation to **Dennis McLaughlin** 229 says in his RMP statement:

> "I was the last person, so I stood at the back with my three prisoners. The prisoners and their escort were photographed together and statements taken from the prisoners. The only form of heating which I saw was an electric wall fire. ***The processing did take time and McLaughlin after standing for something like 1 ¼ hours fainted and fell to the floor*** (my emphasis). It was at this time that a WO II of the Coldstream Guards suggested that I obtain a chair for McLaughlin. I did not obtain a chair because I was not convinced that it was a genuine faint... I believe that McLaughlin was trying to attract attention. However I did pick him up, and held him until such time as he was able to stand on his own feet. The whole incident was over in approximately two minutes. It was approximately half

[9] B2211.006

an hour later that I was photographed with my prisoners and I was present when they were interviewed by RUC. One of the things asked of them is if they have any complaints about the way they had been treated... McLaughlin made no complaint about his ill treatment at Fort George." **(B2211.015, B2211.016)**

Joseph Lynn, Patrick McGinley and Terence O'Keefe all witnessed this incident. It would appear from the evidence of these witnesses that the heaters were being used to torture the prisoners. Father O'Keefe wrote to the GOC Harry Tuzo in the following terms:

"(2) More serious examples of physical assault took place. One youth (aged 16 or 17) was struck in the groin and lower abdomen so savagely that he collapsed. On being kicked and hauled to his feet, he was unable to stand upright and fell backwards, striking his head on the concrete floor. He was kicked to his feet again and placed against the wall in order to keep him upright.

(3) There were also cases of deliberate torture. Two youths were forced to hold their heads back in an unnaturally strained position in order to bring their faces as close as possible to the electric heaters[10], which were on stands and about 6'6" above floor level. They were forced to do this for about ¾ of an hour and were struck if they shifted position. The smaller youth was forced to stand on the taller youths feet to raise his face nearer the heater. When one youth was asked if he wanted a drink, he answered that he did and was told to open his mouth. A paratrooper then spat into his mouth.[11]"

[10] Other witnesses describe there being gas heaters. See the evidence of Patrick McGinley: "One by one they brought us to stand with our faces within inches of the mobile gas heaters which had been brought into the big shed to heat us. The gas heaters were on poles and therefore the flames were at head level. We were made to stand with our faces against the heat until we could stand the gas flames no more. If we ducked down they would kick us and hit us with wooden batons and tip our faces towards the gas flame and make us stand on tiptoe with our face to the flame." **AM241.7paragraph 34**.

[11] **H21.75**

O'Keefe also said that the Paras were involved in systematic assaults and acts of provocation with the prisoners which continued for a period of one-one and a half hours[12].

[12] **H21.75**

9.4 Modification of Rubber Bullets

Summary of submissions

9.4.1 There is a substantial body of evidence before the Inquiry that it was a regular and widespread practice that rubber bullets fired from baton guns were modified by soldiers. The purpose was to inflict serious injury on those whom they struck. It is submitted that this evidence is especially significant given the receipt of the evidence of Dr. Sheperd and Mr. O'Callaghan and the wounding of Patrick McDaid that is dealt with at Section 19.9 below. In addition there is extensive evidence of the misuse of rubber bullets contrary to acknowledged rules and practice for their use. The rubber bullet as a weapon in itself could be a weapon capable of inflicting serious injury and was potentially lethal.[13] When modifications were made they can only have been so made to increase the potential of this weapon to inflict maximum injury to the person. The modification and misuse of Rubber Bullets was so widespread that it is utterly implausible that senior Officers did not have knowledge of such practices.

9.4.2 A large number of soldiers from different regiments including 1 Para provided evidence as to the practice of modification and the methods employed in the modification of rubber bullets.

9.4.3 The insertion of objects into the rubber bullet with the clear intention of inflicting injury on the person struck was one type of modification. **INQ 666** a Driver in B Company RGJ stated at **C666.2 at paragraph 7** that:

> "It was ... not uncommon for rubber bullets to be doctored. For example the top of a rubber bullet could be removed and razor blades could be inserted, which would cut whoever was hit."

[13] Three civilians are known to have died in Northern Ireland as a result of being struck by rubber bullets. **OS1.842 to OS1.845**

9.4.4 **INQ 622,** a Sergeant in the Intelligence Section, HQ Company, 1 Battalion, Coldstream Guards stated at **C622. 6 paragraph 44** that:

> "...unofficially baton rounds were regularly fiddled with. It was possible to take the head of a baton round and put about three pennies in and then put the head back on. The pennies would spread out as it was fired and could make a nasty mess..."[14]

9.4.5 In addition **INQ 1937,** a Private in D Company 1 Para, stated at **C1937.3 paragraph 19**:

> "It was not practice to modify 7.62 mm rounds although rubber bullets were modified by putting coins in to pack the rounds or double charging them".[15]

9.4.6 **INQ 954,** a Rifleman 2 Platoon A Company 2 RGJ stated at **C954.2 paragraph 15**: "I was never aware of soldiers carrying dumdum bullets nor was I aware of anyone carrying any private weapons. However people did alter rubber bullets. The chamber cases of rubber bullets were sometimes filled with all sorts, such as glass and nails. The ends were then sealed up with a piece of sellotape. It was genuinely felt to be fair game to do this because of the situation in which we were operating. There was a great deal of frustration with the situation in Northern Ireland. Hour after hour we were getting stick from people and no one was ever given the authority to sort the situation out. We took a lot more stick than we should have had to".

---

[14] Warrant Officer John Wood stated at **CW1.8 paragraph 48** that he came across the practice of doctoring rubber bullets. It was possible to doctor a rubber bullet in such a way as to enable it to be fired right through a sheep. The doctoring of rubber bullets was also a court martialling offence at the time."

[15] In the Praxis material Soldier X talked of batteries in the "greeners" or nails down the rubber. **O37.2** Also **O37.68 to 037.70**. See also **O25.19**, **O31.46**, **O32.1**, **O37.35.2**.

9.4.7 There is also significant evidence before the Inquiry regarding the practice of using additional charges to fire the rubber bullets with greater velocity and to give them greater weight. **INQ 1227** a Private in 2nd platoon A company 1st Royal Anglian Regiment stated at **C1227.2 paragraph 12**:

> "I do not think any soldiers modified live rounds but they would modify rubber bullets by adding extra charges to them".

9.4.8 Again, **INQ 1282**, a Private in 2nd Royal Green Jackets stated at **C1282.1 paragraph 7** that:

> "...we did sometimes customise rubber bullets, however because they were pretty useless otherwise. We would put double charges into them by cutting off the ends and putting an extra charge in to make them go faster and harder...".

9.4.9 **Soldier 107**, a Lance Corporal of A Company 2 RGJ stated at **B1716.004 paragraph 31**:

> "I do not know of anyone modifying or altering live rounds but I knew people used to alter rubber bullets e.g. by adding extra charges or putting metal into the tips".

9.4.10 **INQ 875**, a Guardsman in 2 company Coldstream Guards, stated at **C875.4 paragraph 18**:

> "It is possible to adapt both rubber bullets and 7.62 SLR rounds. With rubber bullets you could saw off the edges to make them hit harder, file them to make them more pointed, take the bottom out and insert another charge to make them travel faster or take the bottom out and add a coin to give them more weight."

9.4.11 **INQ 1764** Lance Bombardier in 22nd LAD stated at **C1764.4 paragraph 18**:

> "I have been asked about the modification of ammunition. I have heard plenty of stories of soldiers modifying rubber bullets. Rubber bullets took different charges, the weakest being an 18 charge which was so slow a rioter could catch it in his hand. Because of this we would cut off the end of the rubber bullet and put in an 80 or 90 charge. We felt justified in increasing the rubber bullet charges because otherwise rioters would laugh at us because they knew the rubber bullets were utterly useless..."

9.4.12 **INQ 471**, a Private in C Company 1 Para stated at **C471.2 paragraph 5**: "I never modified rubber bullets but I knew that happened quite often. A rubber bullet case is about 6 inches long and you could cut it down by half and put a U2 battery in the bottom to make it go faster and hit harder".[16]

9.4.13 **Soldier 160**, a Rifleman in A Company 2 RGJ stated at **B1956.001 paragraph 7**:

> "Riots were generally boring and both the soldiers and the rioters used to try and liven them up by playing tricks on one another. For our part we used to doctor rubber bullets. Rubber bullets were not very effective they only used to shoot 30 to 40 metres and we were supposed to bounce the shots off the ground. We used to remove the bullet from its casing and then insert broken glass inside the casing before putting the rubber bullet back in. This was not effective and the glass often fell out before the bullet hit the target. It did our egos a lot of good though".

[16] **INQ 1351** who was a guardsman in 1 CSG stated he "saw" modified rubber bullets. **INQ 1828** of the RMP at **C1828.4 paragraph 27** stated that he "...knew of rubber bullets being doctored" and "one particular regiment in which the practice was particularly prevalent"

9.4.14 In answer to the Chairman of the Inquiry at **Day 350/117/8 to Day 350/117/15**, the witness explained that the glass was put into the shell casing and would come out behind the rubber bullet when fired. He denied actually inserting glass into the bullets. It is to be noted that at paragraph 7 of his witness statement quoted above the method employed was described as "not effective" in that "the glass often fell out before the bullet hit its target". It is submitted that it is an irresistible inference that this tampering could only have been to cause maximum injury to anyone hit by a rubber bullet and it was the failure to achieve this which made this particular form of tampering "ineffective".

9.4.15 The witness confirmed at **Day 350/118/3 to Day 350/118/12** that he had witnessed a few of his own personal colleagues and friends doing it. "I am quite sure a lot of them did". The witness went on to state that they did it about the same number of times as himself that he had put at once or twice and if they did it more often it was without his knowledge. The witness confirmed that if he had had enough time on Bloody Sunday he would more than likely have doctored rubber bullets to fire.

9.4.16 At **Day 350/124/17 to Day 350/124/18** the witness whilst denying tampering on the day confirmed that he was shooting rubber bullets wildly. When asked why he replied at **Day 350/125/3 to Day 350/125/5**:

> "Um, possibly boredom again, you know, the cowboy element comes into things at certain times, you know, when you are under stress like that."

He followed this with a denial of firing directly at bodies "because they would fall short". **Day 350/125/6 to Day 350/125/13**. It is submitted that this is a somewhat puzzling rationale since it hard to see why firing in front of a person to hit the ground first was more likely to make the rubber bullet hit the target.

9.4.17 It thus appears that across regiments who were based in Derry on 30th January 1972 there was widespread interference with riot control weapons to modify them with a clear intention of maximising their potential to cause injury when fired. It is submitted that it is inconceivable that Officers did not know about such practices that appear to have been known to members and engaged in by members of most of the regiments present in Derry on 30 January 1972.[17]

9.4.18 No baton gunner on duty with the Parachute Regiment on Bloody Sunday has admitted such practices. Soldier 019 was not aware of it. Soldier 112 who had used a baton gun for most of his time in the army including the three years before Bloody Sunday claimed never to have heard of a baton round being modified. The balance of the evidence suggests this to be a most unusual state of ignorance given the widespread evidence of knowledge of the practice.

9.4.19 The Inquiry also has clear evidence not only describing the background to such modification but also of regular breach of the understood rules for using rubber bullets which were to fire at the ground and not directly at the person.

9.4.20 **INQ 622** quoted above goes on to describe the background to modification. At **C666.2 paragraph 45** he stated the following:

> "The problem with rubber bullets was that they did not work. We were told to fire them at the floor so that they would bounce off the floor and knock the wind out of a rioter. It did not work, as people would move, so we tried to achieve an edge. We worked on the theory that if a person was trying to kill you he would not worry about hurting you, so why should we worry about putting a penny in a rubber bullet. We always fired rubber bullets straight at people,

[17] There is some photographic and civilian evidence of doctored rubber bullets being seen on Bloody Sunday. **AG34. 1** Statement of Danny Gillespie. Ciaran Donnelly of the Irish Times **EP27.14** and **M22.1**.

rather than bounce them off the ground whether we were told to or not."

9.4.21 **INQ 875**, quoted above, went on to comment on his understanding of the requirements at **C875.4 paragraph 18**:

"We were supposed to fire rubber bullets to the ground so that they would bounce up and hit the target but we always used them to fire them directly at the target". [18]

9.4.22 **INQ 2099** Lance Corporal Anti-Tank Platoon 3rd Royal Regiment of Fusiliers stated at **C2099.2 paragraph 10**:

"I was more familiar with the modification of rubber bullets than live bullets. This could happen in a number of ways including putting an additional disc charge at the bottom of the bullet so it came out with more force than speed. Alternatively things such as batteries or coins could be added to add weight. I am aware of one chap being killed by a battery which flew out of a rubber bullet when fired so I don't know how often that practice occurred. The frustrating thing with firing rubber bullets was that we were meant to aim at the floor so that they bounced up to hit the person targeted. We were not supposed to aim directly at the person. Aiming at the floor was completely useless as a deterrent so most soldiers simply aimed the rubber bullet directly at the person they had targeted..."

9.4.23 Inquiry document **OS1.839**, **OS1.840** dated 2 March 1973 sets out the rules for engagement for the use of the Rubber Baton Round. Given the evidence of individual soldiers of the requirements in these documents it is unlikely the rules or requirements differ much from any in force on 30 January 1972. They were as follows:

[18] Lance Corporal 010 described baton guns as "lovely at knocking people over." **B1395.003**

1. "The round is best fired from the standing position in volleys of 6-12 shots.

2. The round must not be fired at a range of less than 20 metres except when the safety of soldiers or others is seriously threatened.

3. The round must whenever possible be fired at the ground in front of the crowd which has to be dispersed. The round may be fired directly only when the safety of the soldiers or others is threatened by the crowd. And when direct fire is impossible or has proved ineffective. When the round is fired directly it should always be aimed at the lower part of a person's body, and never at the head or neck.

4. Whenever possible the baton round should be fired in conjunction with the deployment of arrest squads in order to pick up members of the crowd struck by the round."

9.4.24 A document attached at **OS1.839.40** outlines a warning to be given before the use of baton rounds in the following terms:

> "Unless you disperse immediately we shall use special weapons which may cause injuries."

9.4.25 It repeated the requirement that they were to be fired in volleys of 6 or more, they were to strike the ground first and "direct fire" to prevent injury to troops.

9.4.26 These requirements clearly emphasised the fact that this weapon was for use as a riot control device in a crowd situation. It is clear on the evidence examined at 19.9 of these submissions that this situation did not exist on Bloody Sunday on the waste ground on Rossville Street, in the car park of the flats or in block 1 itself when there is clear evidence of extensive misuse of rubber bullets. The crowd was fleeing away from the

paratroopers as they debussed. The video evidence[19] shows the smoke from baton rounds being fired either from the moving pigs or as the soldiers debussed. These weapons were fired at single targets not targets as part of a crowd. They were fired in all likelihood at a range of less than 20 metres certainly on the waste ground and they must have been fired at head height given the evidence of Rosemary Doyle.[20] The idea of the warning set out above being used on the day on the waste ground is of course ludicrous. The soldiers who admitted carrying rubber bullet guns on the day gave conflicting testimony about the rules they operated under but it is clear that they were aware of the requirement to fire at the ground first.

9.4.27 **Soldier 013** at **B1408.003 paragraphs 15 to 16** claimed he was given the job of firing baton rounds to keep the rioters away. However in fact he admitted to:

a. Firing a rubber bullet inside the northern end of block1 of the Rossville Flats up the stairs at a boy he was chasing. It is hard to conceive a more blatant misuse of a weapon issued for riot control purposes.

b. Firing a number of baton rounds at the windows of the Rossville Flats as there were good firing positions there and he wanted to keep soldiers away from the windows to prevent them shooting at soldiers. Once again apart from any breach of the rules on use of the weapon this was conduct at its most reckless and potentially lethal.

9.4.28 **Soldier 039** conducted himself in a similar fashion on Rossville Street by firing at what must have been the windows of the flat at no 2 Kells Walk.[21] His explanation at **Day 362/68/18 to Day 362/68/19** betrays the

[19] **Video 48** and **Video 2.**
[20] See submission on Paratrooper Brutality and Recklessness.
[21] **AK14.1 paragraph 8 to AK14.1 paragraph 16**. Statement of Kathleen Kelly.

paucity of regard for rules or any claim to civilized conduct by members of the Parachute Regiment on the day:

> "From my statement [referring to his RMP statement] they must have been doing something that caught my eye to make me fire the baton round." In addition this soldier clearly fabricated the account he gave of this incident in his 1972 statements of the girl at the window throwing objects to justify his actions.

9.4.29 **Soldier 017** who debussed on Rossville Street claimed in his evidence to this Inquiry that he was not trained to bounce rubber bullets of the ground but it was a "tactic" they could use. He claimed that rubber bullets could be bounced if they were closer to someone but if not to get the distance they had to aim high to get it towards the crowd. He accepted that a rubber bullet could cause serious injury.[22] On the day Soldier 017 claimed he fired his rubber bullets at the crowd, not the ground, because of the barricade. **Day 358/49/6 to Day 358/49/25**. However this does not explain why his first rubber bullet was discharged at the crowd when he debussed on Rossville Street at the "largest mass of the crowd" to "break them up and contain them". **Day 358/47/15 to Day 358/47/22**. This was clearly part of a culture of reckless misuse of these weapons by Paratroopers on Bloody Sunday, which risked serious injury to members of the public. **Video 48** was played to the witness and since he claimed in his oral testimony that he now believed he was in Sergeant O's Pig on the day, he also accepted that he probably was the person who came out of the back of the vehicle and fired a rubber bullet. He claimed he was firing towards the crowd to disperse them. It was put to him that the video clearly showed only a handful of people trying to get away and not posing a threat. Therefore why did he fire. His reply was: "Keep em moving." **Day 358/135/13 to Day 358/136/10**. This soldier therefore admitted using a weapon with the potential to at very least maim a target in order to keep a number of innocent civilians "moving."

9.4.30 **Soldier 019**, who was a baton gunner in Lieutenant N's Pig, was asked was it their training to fire rubber bullets at the ground first to disperse a crowd. He replied: " that was the general practice, yes." It was put to this soldier that he had said at **B1494.3** that when he debussed on the waste ground there some civilians around but they were "no cause for concern." It was suggested to the witness that the evidence of **V2/1:47 to V2/2.47** showed two puffs of smoke from two baton gunners which must have included himself. He was asked why he had done this if the people he saw gave no cause for concern. He answered that maybe they did not initially but it could have happened afterwards. He rejected the suggestion that it was standard practice to get out of their vehicle and start to terrorise the population just to let them know who was boss. **Day 343/163/15 to Day 343/164/22**.

9.4.31 The use of baton guns in the circumstances they were used by the soldiers of Mortar Platoon, according to the video evidence, was clearly wholly unjustified and contrary to all proper rule of law, conduct or discipline.

9.4.32 **Soldier 112** another baton gunner whose recollection at the Inquiry was that he was in Lieutenant N's Pig on the day had another version of their training on firing. He shot at specific individuals, those who were causing the most trouble. He always tried to aim at the torso being the largest part of the target and avoid the head. He recalled it was never part of their training to fire baton rounds off the ground so that they bounced up at their target rather than fire them directly at an individual. **Day 320/93/3 to Day 320/93/15**.

9.4.33 It is also clear that there was no proper system of check or control in force on Bloody Sunday on the number of baton rounds used by individual soldiers. At **Day 373/196/21 to Day 373/201/25** CSM Lewis was examined concerning the system for checking the number of baton rounds

[22] A woman Emma Groves was blinded three months before Bloody Sunday by a rubber

expended on the day. It is quite clear that no proper check was in place or carried out. He admitted there was no return done for them on the day of the number fired and he did not know why. The Battalion store man had recorded that Support Company had expended no baton rounds on the day, which was clearly wrong and accepted as such by CSM Lewis. He accepted that Major Loden might have got it wrong. It is also apparent that the figure of 64 baton rounds used came from himself, which appeared in W91 and later in the Battalion log of 64 baton rounds used. Major Loden's shot list at 2213 contained in a statement dated 31 January 1972 had with it the figure of 51 rubber bullets fired. It was suggested to the witness that the figures on rubber bullets were "pure fantasy." He answered:

"The one on rubber bullets appear to be so, yes sir."

9.4.34 It is quite clear that there was no system of control in place on Bloody Sunday for either the issue or recording on return of rubber bullets used. The main effect of such a failure was that soldiers on the ground could fire with impunity knowing that they would not have to account for numbers, use or if they chose, to doctor bullets issued to them.

There is no evidence before the Inquiry of any disciplinary action or rebuke ever having been issued by officers in with regard to this practice. Thus it is submitted that it is an irresistible inference from the evidence that this practice was known about and condoned. Indeed it would be remarkable if it was not known about, given the presence of senior officers at all such riot control situations. It is submitted that it must have been blindingly obvious to officers on the ground on 30 January 1972 that rubber bullets were being fired at persons directly.

9.5 **Private Supplies of Ammunition**

Summary of submissions

9.5.1 There is very substantial evidence before the Inquiry that soldiers from a number of Regiments including the Parachute Regiment kept private supplies of ammunition. The checks on such practices were cursory and inadequate and the sanctions on soldiers who flouted the regulations were at best unevenly applied. There is clear evidence that different standards applied in Northern Ireland to the practice in Great Britain. The laissez faire attitude of the Army and the nod and wink approach of some officers was reflected in the lenient range of penalties imposed for such offences. In consequence at least some soldiers on the ground on Bloody Sunday were in possession of private supplies of ammunition which were completely free from even the cursory and wholly inadequate checks claimed to have been carried out on ammunition issued officially to soldiers on the day.

Evidence of soldiers who admit to keeping private supplies

9.5.2 **INQ 312**, a gunner in 22 Lt AD, admitted that he had a private supply of ammunition in addition to the standard issue 20 rounds. Before he went to Northern Ireland they spent a lot of time at firing ranges. He would usually keep back some of the 20 rounds he had been issued with on each occasion he had used the firing range. It became quite easy to build up another magazine of 20 rounds.

> "In my experience it was not unusual for soldiers to carry extra ammunition and I knew a few lads in my regiment did the same as me." **C312.4 paragraph 17**

9.5.3 **Soldier 160**, a rifleman in A company RGJ stated that he had a private supply of about four or five spare rounds of ammunition which he would have kept at all times buttoned down in his top pocket. He generally obtained these from the firing range. "We were never searched when we came off the firing range; we simply gave a declaration that we had no

empty cases or unauthorised rounds in our possession." **B1956.001 paragraph 11**. The witness also stated at **B1956.001 paragraph 10** that as far as he could recall it was common in all regiments for soldiers to keep private supplies. He didn't think that they were kept for malicious purposes but to replace lost rounds. "If we lost a round, we would simply place a spare round in the magazine. There was no way to distinguish between authorised and unauthorised rounds in a magazine, as each magazine had a batch number but the individual rounds were not marked."

9.5.4 At **Day 160/121/16 to Day 160/121/21** Soldier 160 said he probably would have kept private ammunition supplies with him on Bloody Sunday. They "nearly always kept them". He confirmed other members of his platoon routinely kept them.

Praxis Material

9.5.5 The Praxis material contains a substantial body of evidence as to the widespread practice of obtaining and keeping private ammunition supplies amongst soldiers of the Parachute Regiment. In addition it provides a large body of evidence concerning the inadequacy of searches on firing ranges. The material also presents a disturbing picture of lawlessness, indiscipline and inadequate command and control over members of the Parachute Regiment.[23] In particular Soldier H is specifically cited in this material as having carried private supplies of ammunition.[24] Soldier 013 who was a baton gunner in Mortar Platoon deployed on the day stated it was possible to get spare rounds. He did not think he had any that day but he did have "later in the year." **B1408.005 paragraph 31**.

Lieutenant N at **B438.005 paragraph 27** stated as follows:

[23] INQ 1216 O20.22-27, O20.28.25. INQ1243 O35.74.88, INQ 1413 O19.3, Soldier 162, Unknown O31.33-35, Unknown O33.14-16, Unknown O36.41.48, Unknown O37.2, Unknown O37.50-67, Unknown O37.74-80. O28.2 It is submitted that this material came from Soldier 019. See Day 343/93/17 to Day 343/102/19 and Day 343/125/23 to Day 343/163/14 and the evidence of Neil Davies Day 397/99/19 to Day 397/115/18.

"...all loose/unused rounds and empty cases collected from the ranges had to be handed back. Soldiers were required to declare that they had no live rounds or especially two cases in their possession. However, no set number of rounds were used on the practice ranges and it is possible that some soldiers acquired a personal supply of ammunition by not handing over all their loose ammunition." At no time was he ever aware of any soldier having a private supply of ammunition.

Source of extra supplies and inadequacy of checks

9.5.6 **INQ 2037**, an RSM in 1 Para, confirmed that it was indeed possible to obtain spares from such a source as the firing range **C2037.6 paragraph 36**. " In theory all a soldier's equipment should be checked before he went on to the range and after he came off. However this was not always done."

9.5.7 **Soldier 229**, a Lance Corporal in 1 Para HQ Company and a member of Guinness Force, also confirmed that it was possible for soldiers to carry their own ammunition in addition to that distributed to them. "There is the opportunity to take additional ammunition from the firing range. At the end of the training, you have to give a declaration of what ammunition you have used but you could slip some into your pocket. Training ammunition and operational ammunition have batch numbers printed on them which would show up on the empty cases and could therefore be traced back to who shot them." The evidence of Soldier 160 considered above indicated that in fact the batch numbers were on the boxes not the individual bullets. **B2211.010 at paragraph 62**.

9.5.8 Both may be correct. Even if the numbers were on boxes and cartridges only the opportunity for getting round the system is obvious from the evidence of **Soldier 205.** At **2120.001 paragraph 7 to 8** the witness who

[24] See Praxis material **019.13** INQ 1413

was the company sergeant major of A Company of the 1st battalion of the first Parachute Regiment stated:

> "It was a court martial offence to be found in possession of a private supply of ammunition. Each box of ammunition would bear the same batch number, which would be numbered and/or lettered. The bullet that would actually be fired would not bear any number/lettering. The cartridge that would be discharged when the bullet is fired would bear the batch number. Whenever someone was shot it was considered good practice for the soldier who had fired to try and recover the cartridge. I suppose that in theory a soldier could have handed in rounds with a mixture of batch numbers, as there would be no way that I could physically check each bullet that was handed in. I would only check a batch number if I had a particular reason to. I cannot recall ever having reason to do so. No one from A Company fired a weapon on the 30th January 1972 and I was handed back the same number of rounds that were issued at the outset."

9.5.9 **INQ 666** stated at **C666.2 paragraph 7** that "...each issued bullet had to be accounted for but it was not uncommon for soldiers in any of the battalions to have their own private supply of ammunition which were not accounted for. It was easy to hide a few un-discharged rounds of ammunition after exercises on the firing range. When you left the firing range you had to declare to the commanding officer there that you had no live ammunition. For example you would say:.

> "Sir, I declare that I have no ammunition." He would randomly carry out a search but it was not very thorough. Spare ammunition could be hidden in our pockets or flak jackets because they were never searched. Searches were usually only of the ammunition pouches."

9.5.10 At **C312.4 paragraph 17** **INQ 312** of the 22nd Light Air Defence Regiment stated:

> "On the day, I had the standard 20 rounds I had been issued with, but I also carried a private supply of a further 20 round. When I first arrived in Northern Ireland I realised that 20 rounds would not be sufficient if I got caught in a gunfight with the IRA. Before we went to Northern Ireland we spent a lot of time at firing ranges. I would usually keep back some of the 20 rounds I had been issued with on each occasion I used the firing rake. It became quite easy to build up another magazine of 20 rounds. In my experience it was not unusual for soldiers to carry extra ammunition and I knew a few lads in my Regiment did the same as me. I did not know anyone who had dum-dum bullets although I understood they were quite easy to make. The feeling at the time was because of the tight rules of engagement soldiers were not given enough help to do the job that they were there to do. They were simply becoming targets for terrorists. By carrying a private supply of ammunition, if you were put in a situation where you had fired a shot and you did not want to declare it, having a private supply of ammunition would mean that you would not have to do so. In my opinion this would happen possibly where there was no real justification for having fired a round to avoid unnecessary red tape."

Awareness of Senior Officers

9.5.11 **Soldier 219** a Captain in the Royal Army medical Corps who was present on 30 January 1972 had been told that 109 rounds were fired on the day by the Battalion. He found this quite surprising as he thought that soldiers fired a lot more than that. He confirms it is true that some soldiers saved up a private reserve called buckshee rounds. He did not see any on the day but thereafter learnt that there was some available on that occasion.

"Soldiers got their Buckshee rounds illegally from range exercises" **B2162.004 at paragraph 16**.

9.5.12 **INQ 954** a Rifleman in 2 RGJ stated most soldiers carried their own private supply of ammunition in addition to their issued 20 rounds. Often live ammunition was taken from rifle ranges and it was easy to do." If you did not fire all your live ammunition on the firing range you could just not declare it at the end of the session." His evidence is that it would be naïve to say that officers were not aware that this went on although they did not encourage it. **C954.2 at paragraphs 12 to 13**.

9.5.13 **INQ 441** accepted it was possible to obtain private supplies of ammunition but the practice would be "frowned upon" by the Platoon Commander. **C441.7 paragraph 39**. It is notable that such practices did not always result in anything more serious than being "frowned upon" by Senior Officers.

9.5.14 **INQ 312** stated at **C312.4 paragraph 17**:

> "It would be naive to say that the officers were not aware that this went on, but it was certainly not encouraged. I would not go so far as to say that they turned a blind eye to it, but they were not too bothered."

9.5.15 At **C1828 paragraph 27** **INQ 1828** of the Royal Military Police stated:

> "I have been asked if I knew whether it was the practice of soldiers in the British army to retain personal illegal supplies of ammunition or to modify their bullets to create dumdums. Whilst I was never asked to formally investigate such practises (and I would not have investigated them without being told to) I can safely say that many soldiers did carry illegal supplies of ammunition. It was not a secret. Even the Royal Military Police did it and I expect it happens everywhere, not just in Northern Ireland. Extra rounds

were easy to obtain. If for example a soldier fired eight rounds he could say that he fired ten and then obtain two extra round. He could build up a sizeable supply over time. I expect soldiers did this because they felt safer, having extra ammunition. It was general knowledge that this happened. Those in charge turned a blind eye, not being overly worried about how many rounds soldiers had so long as they fired at what they were supposed to and within the rules."

Modus Operendi

9.5.16 **INQ 449**, a Private in HQ Company attached to Guinness Force, stated that the ammunition was not cross checked when it was returned. Therefore if a soldier did not want people to know that he had fired a shot he could just fill his magazine with any spare ammunition he had. **C449.8 at paragraph 34**.

9.5.17 **Soldier 216**, a Company Sergeant Major in the First Royal Anglian Regiment, stated there would be live firing exercises that would use up old stores of ammunition:

> "...New ammunition would then be issued. There was some spare ammunition lying around and it would be easy for a soldier to get a spare round if he wanted one. This was an illicit source and we were never able to dry it up even though we wanted to." **B2153.004 at paragraph 14**.

9.5.18 "If a live round was fired in anger that was a different matter. There would be a full inquiry into the circumstances with stringent checks. But the number of times when that happened was rare. It would nevertheless be possible for a soldier who had fired a round to conceal it with a spare round although I was never aware of it happening. Although ammunition cartridges did contain markings which identified them on the base checks did not go into that sort of detail." **B2153.OO5 at paragraph 15.**

9.5.19 **INQ 2099**, a Lance Corporal in the Royal Regiment of Fusiliers, stated it was possible for soldiers to accumulate an extra supply of ammunition on the firing ranges:

> "If you spotted a cartridge which had not been collected from the previous shoot you add it to your own collection and hand it in as having been fired and therefore, save one of your own bullets." **C2099.2 paragraph 8**.

9.5.20 "The regiment did carry out spot checks of ammunition and weapons and you did have to report the circumstances in which you fired any live rounds but other than this you were responsible for your own ammunition during the course of your tour. Consequently it wasn't difficult to build up additional supplies." **C2099.2 paragraph 9**.

9.5.21 **INQ 408** at **C408.2 paragraph 8** talked of ways of cheating the system:

> " ..If for example, you engaged a gunman and had cause to fire, you could say you had fired more shots than you actually had, get replacements and keep the spares."

9.5.22 **INQ 1345**, a Corporal in the First Royal Anglian Regiment, was aware that anyone could get "Buckshee rounds" from the firing range if they wanted them. " Random checks were made after being on the firing range and each soldier was required to make a declaration that he had no live ammunition on him but it was easy enough to get away with." **C1345.4 paragraph 22**.

9.5.23 **INQ 2023**, a Private in 1 Para B Company, who was not present on Bloody Sunday, stated that most people had 2/3 Buckshee rounds. They came from training and range exercises and were illegally held. He stated that he did not hear anyone refer to the use of Buckshee rounds on Bloody

Sunday but he did not doubt that that they were used so as to reduce the numbers of rounds that they would have to account for as having been fired. "That would have been to minimise their involvement in the action but that happens in every army in the world. It would have been possible form the inspecting officers to have discovered the buckshee rounds by inspecting the markings on the cases but they never chose to do that. **C2023.3 at paragraph 17**.[25]

9.5.24 **INQ 587** was a soldier in 9th Platoon C Company of the Parachute Regiment. His evidence was that keeping extra supplies of ammunition as a practice took place and on 30th January 1972, he would say that on the day he probably had extra rounds of ammunition. He was examined on a number of issues by Counsel for some of the soldiers, including the issue of a declaration to the Range Officer that he does not intend to leave the range with rounds issued. INQ 587's evidence was that a soldier was not searched and that it was possible to conceal a live round elsewhere than in the soldier's pouch, which was searched by the Range Officer. His evidence also was that operational ammunition would not have an individual number on it, but a NATO marking and a year of manufacture on the bottom if the bullet. The box of ammunition would have a batch number, not the round. INQ587 described as common practice to have extra rounds. "If you lost a round it caused a great problem, so if you had an extra round you replace it". **Day 324/177/18 to Day 324/186/3.**

Consequences of being caught with a Private Supply

9.5.25 A number of soldiers spoke of the serious consequences of being caught with private supplies of ammunition, which was court martial. **INQ 147** at **Day 359/43/24 to Day 359/48/25** stated that if found carrying extra supplies of ammunition:

[25] In addition to the body of evidence examined above further examples of evidence before the Inquiry confirming the practice of keeping spare rounds can be seen at **C1152.8 paragraph 35** and **C2037.7**

"You would be out of the Army in a flash".

9.5.26 He was asked to confirm by Counsel for the families that what he was saying was, that it was inconceivable that the Army would not deal seriously with anyone who had private supplies of ammunition, since to permit people to have private supplies of ammunition would mean that they could literally get away with murder. The witness agreed. The Inquiry knows of course that this evidence from INQ 147 cannot be correct. At **Day 340/98/21 to Day 340/99/25**, **INQ 1334** confirmed that he had in fact been demoted for keeping his own supply of ammunition. He was not removed from the army.

9.5.27 **Warrant Officer John Wood** stated at **CW1.8 paragraph 47** that he considered it a waste of time to check what ammunition was fired by asking the quartermaster :

> "as there was lots of spare ammunition floating round at the time. There was less stringent control of ammunition at the time - nobody worried when we had too much of it, only when we did not have enough. It was not unusual for us to find spare ammunition amongst the soldiers for instance where they had taped two magazines of the ammunition together. If a soldier was found in possession of one spare round in Aldershot he would be court's martialled instantly, but it appeared to me that there was a different philosophy in the army in Northern Ireland. I seem to recall that the team from SIB who were investigating at a later date covered the question of spare ammunition being used on Bloody Sunday, but I cannot recall what the outcome of the investigation was."

9.5.28 **INQ 1152**, a Lance Corporal in 1 Para, stated that it was possible to claim to have lost a round and get a replacement or to get one from the firing range. **C1152.8 paragraph 35**. He stated that he himself did not retain

---

paragraph 42. There is also evidence before the Inquiry of the Practice of making doctored or dum-

illegal supplies of ammunition but knows it was done. If discovered you would be fined.

Consequences on Bloody Sunday

9.5.29 This evidence is especially significant when the inadequacy of the system for checking ammunition issued is considered. There was clearly no effective or serious system for checking that a soldier did not consistently leave a firing range building up a stock of supplies. Neither was there any system for establishing whether a soldier had fired extra unissued rounds on the day of an engagement. The system in place on Bloody Sunday was for checking the use of officially issued rounds and was itself wholly inadequate. He did not even amount to a physical check but word of mouth of a runner between the soldiers on the ground and the Company Sergeant Major. The evidence of CSM Lewis under examination by Mr. Mansfield QC indicated the clear inadequacies of purported checks on Bloody Sunday even for officially issued rounds. **Day 373/172/9 to Day 373/212/19**. Such a system could well have allowed an individual soldiers who had personal supplies of bullets to under-declare the number of shots that they actually fired on that day, failing to declare shots up to the number of the private supply used. It is also, of course possible, given the clear inadequacy of the ammunition checks carried out subsequent to the shootings that a soldier or soldiers under-declared the number of shots they fired and any deficiency in the number of the bullets they held was not discovered.

9.5.30 **Summary of submissions in respect of Private supplies of ammunition**

i. The practice of the keeping of private supplies of ammunition was widespread amongst soldiers and was a practice adopted by members of different ranks and regiments.

ii. Senior Officers were aware of and condoned the practice.

---

dum bullets. See for example **C1345.4 paragraph 22** , **B1831.006 paragraph 48**

iii. The purpose of keeping private supplies of ammunition could only be to facilitate the firing of shots and not having to account for them.

iv. It is an irresistible inference that at least some soldiers carried extra supplies of ammunition on Bloody Sunday and such a practice must cast further doubt on the accounts of soldiers as to the quantity of shots discharged by them on the day.

The carrying of spare rounds of ammunition demonstrates the capacity of soldiers to act in an undisciplined and illegal manner. Soldiers clearly did so on the day of the march on Bloody Sunday. The capacity for such behaviour and the freedom to act in such a manner renders even the purported checks carried out on Bloody Sunday utterly redundant. Those who fired shots could do so in the knowledge that if they used spare ammunition their activity would go completely undetected.

9.6 Yellow Card

9.6.1 Introduction

It is proposed to review the particular issues surrounding the "Yellow Card " by providing submissions in relation to the following:

- Problems Posed By the Yellow Card;

- Breaches of the Yellow Card;

- Lack of disciplinary action in respect of the breaches;

- Incompatibility of the Yellow Card with Common Law Principles;

- Government Responsibility.

9.6.2 Problems Posed by the Yellow Card

9.6.2.1 Lord Widgery in his report in dealing with the provisions of the Yellow Card, **ED71.1**, **ED71.2**, and the justification for the soldiers firing set out the following observations:

> "Troops on duty in Northern Ireland have standing instructions for opening fire. These instructions are set out upon the Yellow Card which every soldier is required to carry. Soldiers operating collectively – a term which is not itself defined – are not to open fire without an order from the Commander on the spot. Soldiers acting individually are generally required to give warning before opening fire and are subject to other general rules. These provide *inter alia*:
>
> "2. Never use force more than the minimum necessary to enable you to carry out your duties.
> 3. Always first try to handle the situation by other means than opening fire. If you have to fire:
> (a) Fire only aimed shots.
> (b) Do not fire more rounds than are absolutely necessary to achieve your aim". **ED71.1**

9.6.2.2 The injunction to fire only aimed shots is understood by the soldiers as ruling out shooting from the hip – which they in any case regard as inefficient, indeed pointless, except that in a very sudden emergency, requiring split second action, a shot from the hip is regards as permissible if it is as well aimed a shot as the circumstances allow.

9.6.2.3 Other stringent restrictions apply to soldiers who have given warning of intention to fire. But the rule of principal significance to the events of 30 January is that which contemplates a situation in which it is not practicable to give a warning.

Rule 13 provides:

> "You may fire without warning either when hostile firing is taking place in your area, and a warning is impracticable, or when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself: and then only:
> against a person using a firearm against members of the security forces or people whom it is your duty to protect; or
> against a person carrying a firearm if you have reason to think he is about to use it for offensive purposes." **ED71.2**
>
> The term "firearm" is defined as including a grenade, nail bomb or gelignite-type bomb.

9.6.2.4 Though no-one has sought to criticise the spirit and intention of these orders, it would be optimistic to suppose that every soldier could be trained to understand them in detail and apply them rigidly. Even if he could, the terms of Rule 13 leave certain questions unanswered and, perhaps, unanswerable:

i. In conditions contemplated by Rule 13, is fire to be opened defensively and restricted to that which is necessary to cause the attacker to desist and withdraw, or is he treated as an enemy in battle and engaged until he surrenders or is killed?

ii. In these conditions, is fire to be withheld on account of risk to others in the vicinity who are not themselves carrying or using firearms? Suppose that in a crowd of youths throwing stones one is identified as holding a nail bomb. Is the solder then to hold his fire because of risk to those who are only throwing stones?

iii. When hostile fire is taking place how certain must the soldier be in identifying an object as a firearm? From the front a camera with a telescopic lens may look very much like certain types of sub-machine gun. A television sound recordist holding his microphone aloft could well be taken for someone about to throw a nail bomb.

Faced with such a situation does the soldier wait or does he give himself the benefit of the doubt and fire?

9.6.2.5 Furthermore, anomalous situations could arise from the Yellow Card's definition of a firearm. Although the definition does not embrace the petrol bomb, the soldier is authorised to fire against a person throwing a petrol bomb, but only after due warning and if petrol bomb attacks continue and if the thrower's action is likely to endanger life. There is no specific mention of other types of missile, including aid bombs. However, the soldier is authorised to fire, after due warnings, "against a person attacking.... If his action is "likely to endanger life" or "if there is no other way" for the soldier to protect himself or others "from the danger of being killed or seriously injured". So it would presumably be in order under the Yellow Card rules for a soldier to fire on a person hurling bricks or acid bombs or pieces of angle iron from high up on a tall building, but only after giving due warning, which it might not be easy to give.

9.6.2.6 It was not open to the soldier to give warning by firing warning shots. As has already been seen, the soldier is required to "fire only aimed shots". Whilst the Yellow Card does not in terms forbid a soldier hard pressed by an advancing mob to fire over their heads, to do so is certainly a breach of the orders. The justification put forward for this somewhat surprising provision is that hooligans would rapidly take note of and take advantage of the regular firing of shots. They would understand it to mean they could pass harmlessly by and the carrying of firearms would cease to deter their activities.

9.6.2.7 Soldiers will react to the situations in which they find themselves in different ways according to their temperament and to the prevailing circumstances. The more intensive the shooting or stone-throwing which is going on the more ready will they be to interpret the Yellow Card as permitting them to open fire. The individual soldier's reactions may also be affected by the general understanding of these problems that prevail in his unit. In the Parachute Regiment, at any rate in the 1st Battalion, the

soldiers are trained to take what may be described as a hard line upon these questions. The events of 30 January and the attitude of individual soldiers whilst giving evidence suggest that when engaging an identified gunman or bomb-thrower they shoot to kill and continue to fire until the target disappears or falls.

When under attack and returning fire they show no particular concern for the safety of others in the vicinity of the target.

9.6.3 Breaches of the Yellow Card

9.6.3.1 On Bloody Sunday there was a wholesale disregard for the Yellow Card. This was recognised by Officers at a very early stage, INQ 1900 who gave evidence at **C1900.4 paragraph 23** stated, "I recall that after reading two or three of them, it was clear to me that much of what had occurred was outside the scope of the Yellow Card. In one statement, a soldier said that he had fired 19 shots at a shadow in a window. In another case, a soldier said that he had fired over the heads of the crowd. These two statements stick in my mind because they were totally outside the requirements of the Yellow Card and so blatantly wrong."

9.6.3.2 It is our submission that the actions of a large number of soldiers and officers, points clearly and unquestionably to a breakdown in discipline and order which undoubtedly contributed towards innocent people being shot. The fact that such a large number of soldiers disregarded the Yellow Card on Bloody Sunday and then escaped punishment is confirmation that the Yellow Card was treated lightly and was habitually ignored.

9.6.3.3 It was exactly as INQ 119 stated in **B1752.002 paragraph 5** "a bit of joke". This attitude of contempt towards the yellow card was shown by Soldier 019 in his Praxis interview at **O28.2** and by Soldier 162 in his praxis interview at **O18.1** "Yellow card system that was a joke. ...well we laughed at that. Just a game with the SIB." And **O18.2** "Yellow card - fuck who believes in that nonsense". INQ 1216 **C1216.3 paragraph 14**

stated "I said in my conversation with Tony Stark that the Yellow Card was a bit of a joke. I would still say that... you would get one of the lads in your platoon to fire in the air so that you could fire back at the terrorists and say that they fired first. You would also fire a few rounds into likely points of cover where there might be terrorists whether you had seen them or not."

9.6.3.4 Soldiers and Officers believed that the yellow card was too restrictive and not only should they be entitled to shoot on suspicion that someone had a firearm, **Day 306/59/1 to Day 306/59/13** they should be entitled to shoot stone throwers. The attitude of the officers was displayed memorably in General Ford's memo of the 7th of January and by Colonel Roy Jackson on **Day 286/43/17 to Day 286/43/24**. Lord Hailsham was of a similar mind and it was his belief that stone throwers could be shot. **OS4.24**

9.6.3.5 The first and most obvious way of reducing the chances of an innocent civilian being shot is to restrict the occasions when it is permissible for soldiers to carry live rounds in the breech of their weapons. It is clearly stated in the Yellow card (November 1971 revision) **ED71.1** General rules no.4, "Unless you are about to open fire no live round is to be carried in the breech and the working parts must be forward. Company Commanders and above may, when circumstances in their opinion warrant such action, order weapons to be cocked, with a round in the breech where appropriate, and the safety catch at safe."

9.6.3.6 A large number of soldiers choose to ignore this requirement demonstrating a willingness and eagerness to fire live rounds on Bloody Sunday. A willingness, which undoubtedly led to innocent civilians being shot. That willingness to open fire is shown in the evidence of: Soldier B, **B43.016 E** "I cocked my weapon in response to stone throwing", INQ 564, **C564.3 paragraph 15** "I probably had my weapon cocked in anticipation", Soldier 112, **B1732.006 paragraph 26** "My rifle was cocked and I was looking around to identify gunmen" Soldier 202, **B2111.013 paragraph 86** "It was at this stage, as we got into our

vehicles, that I saw a soldier who I thought was Corporal P from Mortar platoon cocking his weapon before entering the pig" Sergeant O, **B468 paragraph 10** "I had my own weapon cocked and ready from the time we left Little James Street." Soldier P's evidence is that, "We moved forward from Little James Street towards William Street in an armoured humber... I had an SLR loaded with a magazine of 20 rounds. The rifle was cocked with a round in the breech. **B623.005** This is not just an isolated breakdown in the enforcement of the rules of engagement, it is a wholesale disregard for them.

9.6.3.7 Soldier U's evidence is that, "As we reached the junction of Eden Place/Rossville Street, I jumped out of the vehicle. As I did so I cocked my SLR putting one round in the breech with the safety catch on safe." Soldier U then claims to have gone forward and arrested a stone thrower, Mr Charles Collins. **B748** Soldier L claims that he would not breach the Yellow Card, **Day 341/29/4 to Day 341/29/12** however on his evidence at **B320** he "cocked" his weapon in order to persuade a civilian, Mr Lynn to come down from the rafters of a derelict building.

Soldier A's evidence is that he cocked his weapon "in readiness" because a man, aged about 50, told him to be careful as there were some 'bad buggers' around the corner" **B908.008 paragraph 25.**

9.6.3.8 INQ 1918's evidence on **Day 342/107/13 to Day 342/107/12** was that his weapon may have been cocked when he pointed his rifle at an arrestee! Lt 119's evidence was "As we passed through ... I saw that the leading Platoon had come under fire. When hostile fire is observed it is the practice to cock weapons without further order. I was carrying an SLR and cocked it. I assume my men did the same. The sound of cocking weapons is clearly audible and when the commander cocks his weapon his men will do the same." **B1752.043 paragraph 5** The decision of Lieutenant 119 and the men of his Platoon to cock their rifles, even prior to debussing his further evidence that among the ranked soldiers there was habitual disregard for the Yellow Card. It also demonstrates a willingness and eagerness to engage in lethal force. Soldier F's evidence is particularly

illuminating in that he revealed that the standard practice in the Para Regiment was to cock your weapon in advance before you had been fired on. **Day 376/63**

Q. Are you telling the Inquiry that the account that you gave there of deploying with your weapon already cocked with one round in the breech prior to your ever having been fired upon, that that was consistent with the yellow card?

A. That was standard procedure in the Parachute Regiment, to cock your weapon automatically.

Q. Before you were fired on?

A. That is correct.

Q. With one in the breech?

A. That is correct.

Q. Are you sure about that?

A. Yes.

9.6.3.9 Corporal P and Lieutenant N claim to have fired "warning shots" over the heads of a hostile crowd. Even if this is true, it is a Breach of the Yellow Card for the reasons that have set out by Christopher Clarke QC on **Day 04/88/1 to Day 04/89/9**. Mr Clarke referred to **G130A.865.018**. This is a portion of a document, which begins at **G130A.865.003** and was a question and answer brief prepared by an official at the Ministry of Defence on 17th April 1972, with a view to enabling questions to be answered from the media following the publication of the Widgery report. One of the questions anticipated was:

> "Why may soldiers not fire warning shots over heads?" The answer that was given was: "Lord Widgery records (paragraph 93) advantage would be taken of the regular firing of shots meant to pass harmlessly by, which would mean that the carrying of firearms would cease to deter.
>
> "There are other reasons. A warning shot may be misinterpreted, and may thus provoke fire. There is the possibility that a warning shot may hit some completely innocent person at a distance.

Finally, to permit soldiers to fire other than aimed shots would be to relax control over their actions in some degree."

9.6.3.10 It is clear from the question and answer paper prepared by the Ministry of Defence that the code did not permit "Warning Shots", the firing of shots in the air. We accept that it is in that respect stricter than the common law, which is absolutely necessary given that soldiers are trained to kill. We accept that firing shots into the air might seem in some circumstances a reasonable, almost classic method of restoring order or averting a dangerous situation without bloodshed. However we contend that soldiers require greater restrictions because they are trained to use maximum force to destroy the enemy. What is important is that Corporal P and Lieutenant N were well aware of this restriction in the Yellow Card and yet they choose to completely disregard it. Their actions are further evidence that, the Yellow Card carried little weight among the ranked soldiers as well as the regular soldiers.

9.6.3.11 From the evidence of Mr Lynn, Captain 200 **B1983** and **B1983**, and Lance Corporal 229 **Day 341/39/3 to Day 341/39/18**, it is clear that Soldier L disregarded the Yellow Card by firing shots in a reckless manner into the rafters of a building and this was a fact that was well known within Composite Platoon. It must have been known by his superiors that he was lying to the RMP, the Treasury Solicitor and Lord Widgery.

9.6.3.12 Three soldiers, K, L and M, admitted to firing at persons who were not about to use a firearm for offensive purposes. On their evidence, they shot at one or two people who were crawling along the east side of Rossville Street towards the door of block 1 of the flats. On their evidence the person or persons whom they shot at, was either holding a rifle or passing it forward. In this scenario the evidence that the soldiers have advanced is not that the "targets" were about to use a firearm but on the contrary were crawling away from the barricade, towards the door of block one of the flats. **B290, B291, B312, B313, B348** This scenario is quite clearly in Breach of Section 13b of the Yellow Card.

9.6.3.13 In addition the firing by Soldier V at a 'Petrol bomber' without a warning, was a clear breach of the Yellow Card, as a petrol bomb is not a firearm as defined by paragraph 13 of the Yellow Card, therefore soldier V was not entitled to fire at a petrol bomber without warning. In addition the firing by soldier T, at an acid bomber on the authority of Sergeant O was completely contrary to the Yellow Card as an acid bomb is not a firearm as defined by paragraph 13 of the Yellow Card and Sergeant O did not have the authority to override this.

9.6.3.14 In addition it is expressly stated that soldiers should only fire aimed shots as a last resort using the minimum number of rounds necessary to achieve their aim. It is submitted that all the soldiers, who fired on the day failed to do this. The most glaring examples of soldiers firing large quantities of ammunition into target areas are Soldiers F, who on his evidence fired three rounds at a window in Rossville Flats on the basis that he had been told that there was a gunman there and he observed a "movement" at the window. Soldier H, claims to have fired 19 rounds at a window and Soldier S claims to have fired 12 shots at a gunman between blocks two and three of the Rossville Flats. If this did occur, it is precisely the type of shooting described by Sergeant O in a praxis interview namely, "putting ammunition into an area where you know something is happening, just trying to keep people's heads down". **B575.20** . Again, on their evidence these soldiers have quite clearly disregarded the Yellow Card, and showed scant regard for human life.

9.6.3.15 The shots fired by A and B are not analogous to the rest of the shooting on Bloody Sunday. They fired from a fixed location, they were with their Platoon Commander and they were no more than 30 metres from their target. The evidence of INQ 441 shows quite clearly that he was in control of what occurred in the Abbey Taxis building by placing Corporal A at a position at the second floor window and Private B at a position on the ground floor. **C441.4 paragraph 18**. The fact that 441 was in control of this situation is strengthened by the evidence of Soldier A who claims that

he informed his Platoon Commander about nail bombs. Soldier A does not claim that he identified a nail bomber. Soldier B did not inform his Commander of the nail bombs or that he was going to shoot a nail bomber. INQ 441 has attempted to distance himself from the shooting by Soldiers A and B by suggesting that he was not in control because he was assisting INQ 455 and was outside the Abbey Taxis building with the rest of the Platoon. INQ 441 knew this was inaccurate. The sole purpose for this assertion was to enable the Platoon Commander to avoid responsibility. **Day 303/82/10** and **Day 303/92/24 to Day 303/93/4** It is inaccurate because it does not correspond with the other evidence from the members of the Machine Gun Platoon that the Platoon were inside the building and it does not correspond with 441's evidence that he "heard the hard extractions whilst we were in the derelict building when A and B fired at nail bombers."

9.6.3.16 On Bloody Sunday, it is submitted that the troops were acting collectively, therefore they did not have the authority to open fire. This was a collective arrest operation led by the officers and certainly in 1972 the Army were keen to propagate the notion that they were in complete control of this operation. Captain 200 was clear in his evidence that the soldiers were acting collectively, "All rounds fired except for one by soldier L in the ruin, were controlled by Senior NCO's." **B1983**

In the alternative, if the Tribunal comes to the conclusion that the soldiers were acting individually we submit that, all the soldiers who fired on the day, failed to comply with the Yellow Card. They failed to use minimum force, they did not try to handle the situation by other means other than opening fire and they failed to give a warning before opening fire. They used maximum force.

9.6.4 Lack of disciplinary action in respect of the breaches

9.6.4.1 It is now being suggested that in the ensuing noise and confusion it was impracticable for the officers to exercise control. We do not accept that it was not practicable for officers or NCO's to control soldiers on the ground. What occurred on the ground was that senior officers such as Major Loden abdicated responsibility and allowed soldiers to fire without regard to the Yellow Card and human life.

9.6.4.2 A substantial body of soldiers showed a contemptuous disregard for the yellow card and yet no soldier was disciplined. It is simply inconceivable that the officers of 1 Para, both commissioned and non-commissioned, were unaware of this. It simply confirms that Operation Forecast was not in any meaningful sense planned or controlled to minimize the risk to human life from the use of lethal force.

9.6.4.3 It demonstrates that the attitude of the members of 1 Para was to disregard the mechanisms interposed namely the limited time for assessment between events and the soldier's reaction. It also tends to confirm that 1 Para had arrived at the conclusion, long before General Ford, that the minimum force required to restore law and order in Derry was to shoot to kill those whom they saw as defying the law.

9.6.5 Incompatibility of the Yellow Card with Common Law Principles

9.6.5.1 The Law on the use of force in self-defence, or in the prevention of crime or disorder applies in the same measure to a soldier as to any other citizen. He may use such force as is reasonable in all the circumstances, but not more than is necessary. Paratroopers on Bloody Sunday used SLR Rifles loaded with 7.62mm bullets. The 7.62mm bullet could travel up to 3,000 meters per second, could pass through plated steel, could pass through a

railway line, was accurate up to 300 yards and had a possible travelling distance of 3 miles.

9.6.5.2 When a soldier opens fire he is trained to shoot only to kill. The foreseeable and intended consequence of a soldier opening fire is, therefore, the death of his target. How can that ever comply with the common law and international obligations to use no more force than absolutely necessary in all the circumstances? There may be occasions when, as a matter of law, a soldier is entitled to open fire on a target with the intention of wounding, this being sufficient to eliminate the threat or danger posed. Yet the Yellow Card strictly prohibits this even though this may also be the minimum force required to for self defence or the preservation of life. The soldier has the obligation to follow the Yellow Card. The alternative course is to claim to adhere to the Yellow Card, while ignoring it, and use its strict terms as justification for unlawful action, including murder.

9.6.6 Government Role in respect of the drafting/approving of the Yellow

9.6.6.1 The fact that the Yellow Card was specifically approved at a Cabinet Committee is illustrative of the fact that the issues engaged, while within the immediate province of the military, have enormous implications for Government given its responsibility for the use of lethal force by its agents.

9.6.6.2 The Yellow Card recognises that soldiers are not policemen, and they are being asked to fulfil a role for which they are unsuited. To discharge its duties to the troops and the community they are being asked to police the Government and the Army High Command had a duty to devise and enforce a program of instruction and training, so that each soldier, when acting in support of the Civil Power, understood his legal obligations to his fellow citizens. The Yellow Card is an inadequate alternative to such a program.

9.6.6.3 If it was to be a genuinely meaningful document, the Government, the Ministry of Defence and the Military Commanders had to take all necessary steps to ensure that the Yellow Card was adhered to. Military operations which have the potential for the use of lethal force, had to be strictly planned and controlled to limit recourse to its use and thereby minimise the danger to the civil population. This is evident when the primary demands on a soldier are so radically different to those on a police officer, namely to retain an aggressive spirit. Future Military Policy For Londonderry dated 14 December 1971 at **G41.266** paragraph 12.c.

9.6.6.4 Further confusion is created by such assertions by General Ford as:

"We should not hesitate to fire whenever events demand it and the law permits."

Commander Land Forces Directive dated 26 October 1971 **G23.167** paragraph 15

Such a statement confuses the law with the Yellow Card and fails to address the central question that soldiers are only permitted by the rules of military engagement to shoot to kill.

9.6.6.5 Sir Edward Heath's attitude towards breaches of the Yellow Card as displayed in 1972 by the inaction of his government was confirmed before the Tribunal on **Day 285/134/4 to Day 285//142/25**. Sir Edward's evidence was abundantly clear. Breaches of the yellow card were a matter of military discipline and the Government had no responsibility to ensure compliance. The military authorities were entirely aware of the unsatisfactory position that its soldiers would be placed in if strict adherence to the provisions of the Yellow Card were properly enforced. If a soldier complied with the terms of the Yellow Card it was probable that he would be acting within the law. If he acted outside its terms then he might still be acting within the law but be in breach of military discipline, or he might be in breach of both.

9.6.6.6 To create a situation in which a soldier armed with a lethal weapon could only use it to kill when lesser action would suffice, was not only an abrogation of the basic and fundamental obligations of the Government and the Military Authorities, but one which was likely to produce a contemptuous disregard for the terms of the Yellow Card. The conduct of a soldier could be produced before an uncritical and sympathetic investigator and the terms of the Yellow Card would be relied upon to justify that which it was supposedly designed to prevent, the murder of innocent people as on Bloody Sunday.

9.7 Reputation of the Paras

"Question: Do you see yourself as an elite force?
Answer: Oh yes, yes, definitely, definitely. When you come home on leave, when you first pass out, before you go into the battalion or anything like that, you get out of Station or wherever you be and you feel it, you feel super trooper. Comprendez?
Question: Yes, sure. But do you see yourself as sort of head and shoulders above other troops?
Answer: Oh yes, oh yes.
Question: A tougher force?
Answer: Very much so.
Question: Does that lead you to be sort of arrogant?
Answer: Yes.
Question: Aggressive?
Answer: Well you wouldn't last in the Para or Green Jackets if you weren't basically aggressive," **O37.12**

9.7.1 Introduction

9.7.1.1 There is before the Tribunal a large amount of evidence from both military and civilian sources relating to the Reputation of the Parachute Regiment. In summary, the Paras regarded themselves as mentally, physically and militarily superior to other soldiers. They were regarded by other sections of the British Army as effective in some quarters whilst

brutal, thuggish and counter productive in others. They were both resented and feared by the Nationalist population in Belfast by 30th January 1972. In the months before Bloody Sunday in Belfast they earned a reputation for involvement in acts of violence and indiscipline.

9.7.2 How They Viewed Themselves

9.7.2.1 Ivan Cooper then a Stormont MP recalled:

> "Magilligan was the first time that I had become conscious of the role of paras, who seemed to me to be a different breed of soldier, a different species, to that which I was used to seeing in Northern Ireland. The paras struck me as very 'soldierly' men who took a pride in their fitness and their belligerence. The paras at Magilligan were very belligerent, and the impression I had gained was that this Regiment had been brought in to 'clean up' the civil unrest in Northern Ireland ***and that the paras saw themselves in this role***. The paras at Magilligan engaged themselves in confrontations with the marchers, readily using batons to thrash the marchers with impunity. The paras had none of the reservations which other regiments of the military had had in the past. The march at Magilligan gave me a taste of the nature of a paratrooper." (emphasis added) **KC12.15 paragraph 6**

9.7.2.2 Underlying all, were the attitudes of superiority and invulnerability that were instilled into Paras through their training. This is particularly evident in the responses of a Mortar Platoon soldier, to whom Para training was:

> "Toughest training of any in the army. 30 per cent survive. Only take the toughest in the Paras. People have died during training. Got to be a psycho to get in Paras. Aggro bound. Assault troops.

Maximum violence in minimum time. React. Nearest thing to Kamikaze in the British Army. Go go go...
Seen as the hardest, toughest baddest. Hard Paras are hard. Give em stick, they know and we know. See Beret and they know what's coming, what it's all about...
Northern Ireland, sorted out. Politicians shit themselves.
Why send us in if they want social workers" **O28.1**

9.7.2.3 They shunned the use of riot shields and CS gas that were employed by other Regiments **O22.26**. When on duty, their pattern of activity was to be called into an area where 'trouble was already running, quieten it down within 20-30 minutes, hand it back to the unit and go away.' It would appear to have been a role they relished. They saw themselves sorting out the messes other regiments got themselves into. The normal containment roles engaged in by other regiments were seen as "passive" **022.26** For the individual Para, regimental training emphasizes aggression, 'taking the fight to the enemy,' capturing a piece of ground and holding it, were all of the essence. 'You can't do that with non-fit, non-aggressive men.' **O22.32** and **O22.33**

9.7.2.4 They felt they were feared by the enemy and respected by fellow soldiers because if there was trouble in an area, 'it would be cleared.' They felt that other units were seen as 'not doing their job properly.' They had to remain in their designated areas, while the Paras were free to cross boundaries 'in hot pursuit.' **O19.15**

9.7.2.5 For them it meant coming in to restore order. That has nothing to do with law; it is for others to take care of law when order has been restored. **O22.34** One soldier, who arrived in Ireland in August 1969, recalls with an air of bewilderment being told that they had to '*play* hearts and minds.' (Emphasis added) **O23.4**

9.7.2.6 In relation to Bloody Sunday, 1 Para Adjutant Captain Mike Jackson was reported to have said that it was necessary for the battalion to 'go in hard'

to demonstrate what they had already proved in 39th Brigade that no areas were closed to them.

Ever since the aborted Operation Hailstone in Derry 17th July 1971 it was said, the first Battalion had 'wanted to sweep through the 'no-go' areas of Derry,' **CJ1.16**

9.7.2.7 It could go anywhere in Belfast, it had now proved it could go anywhere in Derry. **CJ1.16.** Jackson was reported as saying, in the aftermath of Bloody Sunday that the battalion had 'made amends for the 17 July fiasco.' **CJ1.16**

Other regiments were referred to by members of the Regiment as 'crap-hats' because Para's sense of superiority and pride of their beret **Day 297/144/8 to Day 297/144/15**

9.7.2.8 Capt Mike Jackson was reported in the same interview as saying that the regimental policy had been 'to inflict casualties, never to receive them.' **CJ1.16**, **CJ1.18**

9.7.2.9 Certain senior officers could always be depended upon to defend the Paras when it was perceived that their reputation was under attack. According to General Sir Frank Kitson:

> "(e) From my perspective 1Para's overall reputation was a for a high level of efficiency and effectiveness. It was an experienced and professional battalion in which I had great confidence. It operated with a high degree of discipline and on several occasions I was impressed with the willingness of the battalion to take on difficult tasks at short notice... If some people in Northern Ireland associated 1Para with a reputation for toughness and brutality, I think they were mistaken." **CK1.7 paragraph 2**

9.7.3 How They Were Viewed By Others

9.7.3.1 There is a danger in creating elitism within forces, which are assigned to tackling the everyday complexities of a community at war. This perceived elitism concerning the Parachute Regiment was widely acknowledged by a wide variety of informed military sources. In the period before Bloody Sunday, the Parachute Regiment had confirmed its reputation as the military force that got results. In the aftermath of Internment, the security situation in Belfast was recognised by HQNI as being of primary importance.

9.7.3.2 The Paras were credited with ensuring that no nationalist area was closed to military control. Their achievement was extolled in the British media and by British Army public relations. In this regard, it is clear that, from the viewpoint of army command, it was an excellent tactic to enhance the reputation of the Paras as an elite, aggressive force that could sweep aside any opposition and go anywhere in Belfast. It meant that their very deployment would represent a deterrent to all who might contemplate resistance. General Ford's assessment was that "one platoon of 1 Para could do what one company of any other battalion could do in Belfast," **B1208.003.015**.

9.7.3.3 He credits one officer in particular with this achievement:

> "1Para would not be frightened. They had this tremendous confidence... 1Para had been deliberately trained by Frank Kitson to develop this reputation – as a stabiliser – in his brigade area. So that when things went wrong they came and were tough." **B1208.003.016**

It was this reasoning that led to the Paras being considered for deployment in Derry on 30 January 1972 following General Ford's visit.

9.7.3.4 According to Ford, their reputation was such that in Belfast the Paras 'only had to be there and everyone went to ground' **B1208.003.019** In his interview with Des Hamill, General Ford claimed that he chose 1 Para for use in Derry because he 'had in mind that their reputation in Belfast must have spread to Londonderry.' **B1208.003.015**

9.7.3.5 He illustrates their effectiveness with an instance from Belfast, where, stuck in crossfire, he and his group were saved when 1 Para arrived, 'tumbled out of their vehicles, went down the street and everything stopped.' Moreover '(t)he terrorists were frightened of 1 Para.' **B1208.003.015** In a contemporary document, Ford recorded:

> "For instance, the deployment of one platoon of 1Para will stop a large riot, because they are aware that in the past this unit has gone in fearlessly with its batons and, as always in Ireland, their effect has been exaggerated in the telling. Never was this more so than during the period 9-12 August when 1Para took down barricades on three successive nights..." **B1155.020**

9.7.3.6 In fact during the three days from 9th to 11th August 1971 between them 1Para and 2Para were responsible for shooting dead thirteen civilians in West Belfast. **OS3.11** and **OS7.61**.

1Paras' reputation for brutality in Belfast was earned because of their involvement in a number of controversial incidents[26]. Incidents like these represented the realities for civilians unlucky enough to have the Paras deployed in their districts.

---

[26] **L1.1** "SOLDIERS ACCUSED OF BRUTALITY ON FALLS", **L1.2** "MILITARY "TRYING TO DISCREDIT COMPLAINTS"", **L1.3** "TROOPS ARE WARNED ON CONDUCT"; **L1.4** "FATHER IN HOSPITAL AFTER ARMY CAMP HORROR"; **L1.5** "HUSBAND BEATEN UNCONSCIOUS BY PARAS: WIFE"; **L1.6** "PARAS CONDUCT SPARKS PROTEST FROM ARDOYNE"; **L1.7** "PARAS' BEHAVIOUR SPARKS PROTEST BY WOMEN, CHILDREN"; **L1.8** "SOLDIERS GAVE HIM SMILE THEN BATONED HIM, MAN SAYS"; **L2.1** "TREATED IN RVH AFTER ENCOUNTER WITH THE ARMY"
L2.2 "TROOPS ACCUSED OF VICIOUS ATTACKS ON BELFAST WOMEN"

9.7.3.7 Emma Groves was blinded by a rubber bullet fired by a paratrooper following a relatively peaceful search of the Andersonstown area in Belfast in November 1971. A senior officer of the Northern Ireland Headquarters said after the incident that whatever the woman had been doing, (she had been playing republican songs in her home with the window open), she had got much more than she could have deserved **L.007**.

9.7.3.8 By the week prior to Bloody Sunday, stories concerning their reputation had made their way to the London broadsheet newspapers. In "The Guardian" 25th January 1972 Simon Hoggart wrote the following:

> "At least two British Army units in Belfast have made informal requests to Brigade headquarters for the Parachute Regiment to be kept out of their areas.
>
> "Senior officers in these units regard the paratroops tactics as too rough and on occasions brutal. One officer whose Commanding Officer has made a request to headquarters said: 'The paratroops undid in ten minutes the community relations which it had taken us four weeks to build up'.... Undoubtedly the regiment is the one most hated by Catholics in troubled areas where among local people, at any rate, it has a reputation for unnecessary brutality. More strikingly, however, many officers in other regiments in the city are now prepared to voice their own considerable doubts about the paratroops' role. A captain in one regiment, whose Commanding Officer has not made a request said 'they are frankly disliked by many officers here, who regard some of their men as little better than thugs. I have seen them arrive on the scene, thump up a few people who might be doing nothing more than shouting and jeering and roar off again, he said. They seem to think that they can get away with whatever they like. The captain added that the paratroops were undoubtedly one of the finest fighting units in the Army and that in many situations their

training and expertise were invaluable. But wading into people as if this were jungle warfare simply is not on in Belfast' he said." **L7**

9.7.3.9 Lieutenant Colonels Ferguson, Steele and R L Jackson of 8 Brigade all acknowledge the tough reputation of the Parachute Regiment at **B1122.10 paragraph 52**, **B1315.004 paragraph 18** and **C1347.8 paragraph 37** respectively.

In reality these were front line combat troops trained to display an aggression and firmness more consistent with traditional concepts of warfare rather than the patient and tolerant approach required upon the occasion of a civil disturbance.

Just a week before Bloody Sunday, 1Para consolidated their reputation for tough tactics by attacking marchers on Magilligan Strand. Daniel McGuiness recalled on first seeing them, reflecting that it was an odd use of such tough troops trained for war situations:

> "When I actually saw the paratroopers in action at Magilligan, my opinion of what was happening in Northern Ireland changed dramatically. I saw the paratroopers shooting rubber bullets into the crowd and using their batons to beat civilians. One incident in particular shocked me. I saw a young man throw all caution to the wind and leap on to the back of a paratrooper to prevent him batoning another marcher. I saw the paratrooper turn around and lift his rubber bullet gun and discharge it. I saw the discharge of the shot coming out under the flap of the young man's jacket. If the discharge had gone off in the young man's stomach, he would surely have killed him at such close range. Immediately afterwards, I saw that soldier's superior give him a blistering reprimand and striking him with a baton.
>
> "Seeing the paratroopers deployed for such vigorous crowd control did not to me reflect the actions of a civilised regime. I began to

question the way that London was handling the Irish situation. I now realised that the news coverage I had heard did not give a full story of what was going on. I began to think that there was some justice in the course of action taken by the nationalists." **AM277.1 paragraphs 4 to 6**

9.7.3.10 Nigel Wage, a reporter for the Daily Telegraph, recalled how at Magilligan drove the marchers into the sea, fired baton rounds at very close range and how the Regiment's NCOs had to use riot sticks to control their own soldiers **M79.13 paragraph 2**.

A Lance Corporal from the Royal Green Jackets who had witnessed the Paras in action at Magilligan described them as thugs who were used as aggressive shock troops. **C1231.4 paragraph 23**.

In his evidence Lieutenant Colonel Roy Jackson is much more acute in his judgment of the reasons for deploying 1Para in Derry on Bloody Sunday. He immediately thought that it signalled a change of policy and that 'the citizens and hooligans of Londonderry would be greatly surprised if Belfast arrest procedures were carried out on them.' **C1347.8 paragraph 37**.

9.7.3.11 Not even the senior officers in 8 Brigade in Derry however could predict just how much of an impact they were to make.

Appendix 1

FS 1. 623

APPENDIX 1

Reputation of the Paras

Evidence of 1 Para Soldiers re Attitude to Derry

The following is a series of references to the attitude of the 1Para to the situation in Derry.

Quotes from a number of soldiers are included:

General Jackson
Soldier J
Soldier H
Dave Longstaff
Soldier 147
INQ 1581
INQ 1237
Soldier 018
INQ 131
INQ 1093
INQ 1544
INQ 1574
Sergeant O

General Jackson

General Mike Jackson said, during an interview with Mr Moynahan in 1972, that he "felt that the 1st Battalion had helped to ensure that there were no-go areas in Belfast, and that a certain contempt was felt for such areas existing elsewhere in the province." **CJ1.15**. When asked whether these were sentiments that he genuinely held on 4th February 1972, General Jackson answered:

A. Your second point there, yes. I mean, during internment Belfast became a pretty lawless place; there was widespread violence and disorder. At the end of about 10 to 14 days, as I recall, of fairly hectic operations, many of which 1 Para had taken part in as a battalion, that position had been changed. That is what that is getting at there.

Q. Is it also indicating that the method that was used by the Parachute Regiment to ensure the maximum protection for its soldiers was to seize the initiative in an aggressive and a positive way?

A. Yes, I think that is -- that is a fair statement, that

where we had a problem, where we were given a task to restore order, that is what we intended to do. I think that is perfectly fair to say that.

Q. I think the next sentence really speaks for itself.

Day 318/57/20 to 318/59/6

Soldier J

Soldier J was returning from Cyprus the night before Bloody Sunday and was not therefore at any briefing given by Lieutenant 119. Nonetheless as with all of the soldiers in Anti-Tank Platoon who have given evidence he rejects the suggestion that soldiers from Anti-Tank Platoon were briefed to "get some kills" or the suggestion that they "this might be an occasion upon which 1 Para might be able to engage with the IRA and get some kills". **Day 370/6/7 to Day 370/6/11**

He claims that his current recollection was simply that they were there to police an illegal march at which trouble was expected. **B289.002 paragraph 11** When questioned by Lord Gifford, Soldier J rejected the suggestion that his attitude in going to Derry was that he would like to get at the rioters and people in no-go areas, and deal with them as fully and strenuously as possible. **Day 370/144/10 to Day 370/144/12**

However, even in his statement to this Tribunal it is clear that when he went to Derry it was his view, and a view shared by his colleagues that the situation in Derry, was out of control:

"Bombings and shootings seemed to have become a nightly occurrence in Londonderry. Subsequently, just before Bloody Sunday, two policemen had been killed there. We had never been to Londonderry but we all saw the news reels on the television about it and wondered why it was going so badly there." **B289.001 paragraph 6**

His interview with Toby Harnden is more instructive about his approach of Soldier J and that of Anti-Tank Platoon both in terms of their attitude to the persons on the civil rights march and their expectations as to the operation in Derry.

"Q. "Soldier X, of the Support Company, said he had been told by officers that IRA activity was likely." Then there is the passage in quotes:

A. "We were briefed that it was an illegal march and that the civil rights movement had been completely infiltrated by Republican elements."

Q. Is that what you said and what you were briefed?

A I think so, sir, yes.

Q You are then recorded as saying:

a "Two policemen had been killed in Londonderry a few days earlier [we know that is true] and we were told that the IRA wanted to cause as much mayhem as possible; we were ready for the worst-case scenario."

A Is that what you told Mr Harnden and what you yourself were told?

Q I think so, sir, yes. **Day 370/89/24 to Day 370/90/14**

Unusually, Soldier J accepted, both that this was what he had said to Toby Harnden and that it was true. In our submission this lends support to the view that at the very minimum the soldiers of 1 Para were dangerously hyped-up when they arrived in Derry, that they substantially over-estimated the risk posed to them by unarmed Civil Rights marchers, and that this attitude was encouraged, rather than suppressed by their officers.

Soldier H

"I felt this was confirmation of our expectation that the IRA were prepared for us and that they had deployed their snipers around the Bogside. We knew we were going into a hostile environment and when the shot was fired at us we realised that the IRA had got their weapons out as soon as we had arrived. They didn't want us going in to the Bogside which had been their territory for two years. However, they were used to dealing with les well-trained troops. Coming under fire like that would get you keyed up." **B262 paragraph 5**

Dave Longstaff

"You knew that if a riot started, someone would be waiting for you with a rifle." **C23.2 paragraph 8**

Re going to Derry "I do remember thinking that it was a whole new ball game for me because we were leaving our own territory which we knew well. I didn't know much about Londonderry but I had heard about it in the media, It sounded like a strange place for us outsiders but going into a strange place was a normal operational experience." **C23.2 paragraph 11**

A "I knew that the whole of Free Derry was a problem area; some sort of self-governing area. The army did not go in. It was a no go area. I did not know how or why it had been decided that the army did not go in. I was only a young private and did not bother about all that. I did what I was told, followed my NCO and looked after my mates. Sometimes we were not sure what was going on until we were out on an operation." **C23.2 paragraph 12**

Soldier 147

"Some of the boys talked about it after the event, saying that the other regiments had not been able to do their job, that we pulled them out of a hole again and that we were only meant to be giving them a hand but we ended up sorting things out for them." **B1891.004 paragraph 22**

INQ 1581

A "One thing I do remember is there being a general feeling that everyone wanted to go into the no go areas of the Bogside to break them. I have a recollection of us having to wait where we were parked up for some time for permission to go in to be sought up the chain of command, I remember someone saying: "We've had to seek permission from PM", which I assumed meant the UK Prime Minister. As we did not end up going into the no go area, I presume no permission was ever received." **C1581.2 paragraph 11**

INQ 1237

"The first thing you look out for in a riot situation is the risk of gunmen. It was IRA practice to entice soldiers into a riot situation and then shoot them." **C1237.2 paragraph 34**

Re briefing or orders "If asked what I thought I was going to do my answer is that I assumed we were going to control the riot. I suppose the way we would do this was the way we had done it before – debus and react to the situation."

contd. "Methods depends on the type of riot it is. Sometimes we would run into a crowd of rioters and arrest the ringleaders, sometimes we would advance slowly towards a crowd using a Pig as cover. Basically we found that if you ran at a rioting crowd they tended to disperse. I don't specifically to arrest rioters." **C1237.5 paragraph 36**

"I do remember that Soldier 027 kept a daily diary while he was in the regiment to write his memoirs from. I can also add that we were aware that Londonderry was an IRA stronghold. We were aware that a "no go" area existed and the IRA openly patrolled with weapons. However, no areas were treated as "no go" by the paras. I think that is why we were sent there." **C1237.12 paragraph 77**

Soldier 018

"4. "Being a resident battalion based in Belfast, we knew very little about Londonderry. We would have seen reports on the television news about street riots, barricades and shootings. We understood that one difference between Belfast and Londonderry was that, in Londonderry, the IRA were allowed to maintain barricades and create "no-go" areas within the City. That did not happen in Belfast where we were quickly sent in to remove any barricades that were set up. We thought it was diabolical that people could set up barricades and block off roads in a place like Londonderry, which was part of the UK."

"5. re briefing – going to "act as a back up force" and that "there was going to be rather a large march on the Sunday, led by Bernadette Devlin. I don't think we were told much more than that." Second briefing by the Platoon Commander "simply

repeated what we had already been told by the Company Commander, but we were given an indication that further specific orders would be given when we arrived in Londonderry."

INQ 131

INQ 131, a Private in C Company of 1 Para, felt that the Paras had "smashed the no go areas and put the patrols back in." **C131.6 paragraph 33**

INQ 1093

INQ 1093, of C Company, 1 Para, stated: "There was no part of Belfast which was considered a "no go" area for the army. Occasionally an army unit would loose control but the area would only remain a no go area until 1 Para and the units on the ground arrived and helped. I was therefore unfamiliar with the situation in the Bogside in Londonderry at the time apart from what I heard from the media ie the news." **C1093.1 paragraph 7**

INQ 1544

INQ 1544 of Machinegun Platoon, 1 Para, states that he knew that there were no go areas in the city where the soldiers and the police tended to leave the civilians alone to get on with it rather than anyone doing anything about the situation and that the Rossville Flats were considered troublesome. **C1544.1 to C1544.2 paragraph 7**.

INQ 1574

INQ 1574, a member of C Company, 1 Para, believes the following:

At that time, Londonderry was a no-go area. The military and the police were all in hideouts. The other regiments who were stationed in Londonderry obviously hadn't a clue how to handle the situation. We had helped out other regiments efore, so going to Londonderry to help out the troops there was not unusual. Had

Londonderry been our turf, anyone could have walked down the streets, It was they who declared the Bogside a no-go area; any amount of news footage shots them on the streets armed (they are the ones in balaclavas). **C1574.2 paragraph 9**

There had been a lot of posturing before 30 January. The Republicans had thrown down the gauntlet to the military, saying that if the military came to Londonderry that day, the streets would run red with the blood of the British army. It was they who had told the hard-liners to be there that Sunday as the City was theirs. We knew because we watched the TV and read newspapers where 75% of our intelligence was gathered which included names and areas. **C1574.2 paragraph 10**

I think the idea must have been for us to go to Londonderry to sort it out. Forces in Londonderry could not do the job but the bigwigs decided to put the dogs of war in Londonderry for the day. I do not know who decided this, as I only heard it as a rumour. The troops in Londonderry needed backup. Had the troops and the Police there done their job it would never have become a no-go. I believe we were there to break it, hardliners would have been a plus, but anyone who had half a brain knew after their publicity the march was no place to be if you were an upright citizen. They had let the lunatics take over the asylum. . . My understanding was that we would be ordered to move in to plug holes, if the forces there could not handle it. The soldiers on the ground in Londonderry would be reading the Yellow Card, instead of the situation. Most did not want to be there, whereas we would just do our job. **C1574.2 paragraph 12**

Sergeant O

Sergeant O objected to the No Go area in Derry **Day 335/154/12 to Day 335/154/13** and he described how "generally, the men's view seemed to be that this [going to Derry on Bloody Sunday] was a chance to sort out the Londonderry hooligans, who we had all seen on TV." **B575.108 paragraph 12**

10. BACKGROUND TO BLOODY SUNDAY

10.1 Introduction and Summary of Submissions

10.1.1 The Civil Rights March, which took place in Derry in January 1972, took place against a background in which the use of lethal force by the security forces against unarmed civilians was becoming increasingly inevitable.

10.1.2 In our submissions the security background which laid the foundations for the use of lethal force by the security forces can be summarised as follows:

i) The military, although brought into Northern Ireland 'in support of the civil power' had, by January 1972, effectively supplanted the police as the dominant partner in all security operations.

ii) The military brought military training and military thinking to bear on policing issues. The Army's approach to policing was one in which notions of martial law rather than civil law were applied to law enforcement.

iii) Military thinking categorised those whom they policed, as the enemy, leading to an unnecessarily confrontational and inflexible approach to policing. Securing victory, rather than achieving public order was the primary objective.

iv) In particular, the military were quick to have recourse to the use of maximal force and were slow to consider alternatives.

v) Within both the military and political establishment there was a lack of respect for human life. The use of lethal force against unarmed civilians was an option considered and discussed with increasing frequency as a legitimate method of law enforcement.

vi) The military and political establishment also regarded certain categories of their citizens as enemies of the state, including; Nationalists, Civil Rights activists, the people of the Bogside and Creggan, and rioters. The use of lethal force against these people was increasingly perceived as not only legitimate, but necessary.

10.1.3 Against that background the timing of the Civil Rights march was of immense significance.

i) The ban on marches had just been renewed.

ii) NICRA had begun to organise a series of rallies and marches in opposition to Internment and in defiance of the ban.

iii) The renewal of the ban had met with significant opposition from Unionists and Loyalists.

iv) Unionists were particularly incensed by the apparent ability of NICRA to flout the ban with impunity and threatened that if the ban was not effectively policed they too would defy the ban.

v) Enforcement of the ban, in the context of an increasing willingness on the parts of both communities to defy the ban, placed a huge strain on the army's resources, thus the army had to be seen on 30 January 1972 to effectively police the ban on marches.

10.1.4 The location of the march however caused unique difficulties:

i) The Creggan and the Bogside in Derry were effectively No Go areas, although this was not officially acknowledged. In consequence a march in Derry would pass through the Bogside and the Creggan without meeting security force opposition. This would inevitably lead to the perception that the ban on marches was not being enforced.

ii) The pressure to be seen to enforce the ban, meant that at the point at which the security forces did come into contact with the marchers the military needed to be seen to take tough action.

iii) Meanwhile there was increasing dissatisfaction by the military at Headquarters Northern Ireland level with the continued existence of No Go areas, because they regarded them as a safe haven for the IRA.

iv) There was also an increasing trend, in the months after the introduction of Internment towards an intensification of military action, particularly in Derry.

v) By the time of the NICRA march, the military at Headquarters Northern Ireland had formed the view that the local security forces had effectively lost control of the situation in Derry.

vi) They had also come to the view that the problem of rioting in Derry had reached proportions which necessitated drastic action if they were not going to lose control of Derry city centre. The use of lethal force was perceived as the minimum force necessary to deal with the 'hooligan' problem.

10.1.5 The NICRA march in Derry risked exposing the military's inability to impose law and order in two key areas; the enforcement of the ban on marches and policing the No Go areas of the Bogside and the Creggan.

i) The march was thus seen as a test of the military's effectiveness and the military responded in a way designed to demonstrate their strength and to secure victory over the protestors.

ii) Headquarters Northern Ireland in particular saw the march as an opportunity to 'break the stalemate' in Derry, resulting in a change of tactics and policy in Derry which had as its ultimate consequence the killing of 13 unarmed civilians and the wounding of 14 more.

10.2 Subversion of the Role of the Police by the Military

Introduction

10.2.1 Crucial to an understanding of why lethal force was used by the security forces against unarmed civilians on the streets of Derry in January 1972 was the erosion of the role of the police in security matters and the illegal transfer of control over the policing of security situations from the police to the military.

10.2.2 Within military circles, both before and after Internment, there was clear dissatisfaction with the RUC and its ability to carry out its functions and maintain law and order within Northern Ireland. By the time of Internment the RUC had neither the manpower nor the resources to deal effectively with security issues and were in reality completely dependent

upon the military. As former Superintendent McCullagh stated "the Army were . . . in charge of security at the time. The police actually could not do anything of a major nature without the full consent of the Army because we had neither the men nor the equipment." **Day 232/137/18 to Day 232/137/22** [1]

10.2.3 Since the army had been sent to Northern Ireland in August 1969, there had been confusion as to the precise relationship and demarcation of roles and responsibilities as between the military and the police. The army were brought in to support the civil power, however, their status relative to the RUC was never clarified.

> "The problem with Northern Ireland at the time was that political affairs were directed by the Northern Ireland Government, the GOC having to deal with the Prime Minister to whom the RUC reports. The army came under the Prime Minister in London, to whom the CGS reports. Operations were directed from Belfast/Lisburn. Resources were controlled from London. The CGS acted as intermediary. The situation was not resolved until after direct rule. The confusion in Northern Ireland was that you had a situation where the army had been sent in, although it was not clear how they fitted into the picture and who they were properly subordinate to." **Sir David Ramsbotham, KR2.2 paragraph 7**

10.2.4 Certainly the military view, as articulated by General Ford, was that "if law and order was effectively to be maintained the main burden of this would be taken by the Army as the morale of most members of the RUC was low. . . I was supported by General Tuzo in this assessment. This added to the difficulties of maintaining law and order." **B1208.021 paragraph 2.12**

[1] In his Eversheds statement former Superintendent McCullagh stated: "there was very little we could do in terms of public order if the army did not agree with us." **JM17.2 paragraph 5**

10.2.5 On the 4 October 1971 in an Appreciation of the Security Situation prepared for the British Prime Minister by the Chief of General Staff, General Carver put the matter in the following terms:

> "There remains the problem of the RUC. The general state of police morale is very low, and the Force is under strength. There is some confusion of aim, a lack of will and leadership . . . and a tendency to rely too much on the Army. **Its attitude is passive and its contribution to the security situation is minimal. . . Meanwhile the Army must continue to bear the brunt of the security burden until the RUC can play a more effective part, which may not be for some years."** [Emphasis added] **G14B.86.11 paragraph 9**

10.2.6 The paper concluded that the military's current low intensity policy should be maintained while removing "**those restrictions on the operations GOC Northern Ireland wishes to carry out" G14B.86.15**

10.2.7 Following that paper, on the 15 October 1971, General Ford issued an Internal Security Instruction, which as he acknowledged, in an interview with Desmond Hamill in 1984, provided for the police to become "**for all practical purposes, under command of the Army." B1208.3.6** According to General Ford **"the deterioration in . . . the condition of . . . many of the senior police officers . . . [meant that] in certain cases we certainly had to take over command." Day 258/82/19 to Day 258/82/23**[2]

10.2.8 Internal Security Instruction 1/71 prepared by General Ford was approved by the GOC and the Chief Constable and General Ford's evidence is that it also had the approval of Stormont and Whitehall **Day 258/81/24 to Day**

[2] General Ford in the course of his evidence made much of the fact that he had given this interview on very short notice and without the benefit of documents. He did not however suggest that: the interviewer had inaccurately reported his comments; or, that he had been dishonest with the interviewer. Moreover when questioned he accepted that many of the views recorded in the interview reflect the views he held at the time and still holds. It is our submission that the interview was a frank account of General Ford's time in Northern Ireland, albeit 12 years after the event and significant weight should be attached to the interview notes as an accurate reflection of his views.

258/82/2. In view of its timing it seems likely that the Internal Security Instruction was designed to implement the recommendations made by General Carver to the Prime Minister of the 4 October 1971 and accordingly had, as a policy, received the approval of Whitehall.

10.2.9 The Instruction states under the heading Security Operations that:

> "The General Officer Commanding NORTHERN IRELAND is the Director of Operations in NORTHERN IRELAND. **As such, he is responsible for the control, tasks and deployment of all security forces in NORTHERN IRELAND.** The control and tasking of the RUC is vested in the Chief Constable, **although variations may be made when the situation dictates that the RUC come under the direct command of a military commander in certain areas.**" [Emphasis added] **G20.142 paragraph 5a**

10.2.10 In his interview with Desmond Hamill General Ford acknowledged that the situation whereby the RUC became, for all practical purposes, under command of the Army was "**absolutely wrong. The Army should never have been in charge. Never. But unless it was there would not have been any action taken at all. It was frightful but we really were in command - - not at internment, but afterwards.**" **B1208.3.6**

10.2.11 Thus by Bloody Sunday, while the police ostensibly retained operational control, and the army purported to act in support of the civil power and under the direction of the police, the reality was very different **"because of the nature of the problem in Northern Ireland it had to operate, on occasions, the other way round. This was well-known in Whitehall and well-known at Stormont."** **Day 258/85/2 to Day 258/85/6**

10.2.12 That the army had *de facto* control has been expressly acknowledged by the most senior police officer of the day to have given oral evidence to this Inquiry. Superintendent McCullagh in both his Eversheds statement and in oral testimony stated as follows:

"12. It should be noted that we never directed the army, we merely advised them as in effect they were acting as a police force." JM17.3 and during his oral testimony Superintendent McCullagh made it clear that "I think it should be said that the Army were in charge of all security arrangements in Northern Ireland at that time." Day 231/154/6 to Day 231/154/8

10.2.13 In reality the *de facto* control by the military was entirely illegal. The Chief Constable had no legal power or entitlement to delegate policing decisions to the military. Moreover in the absence of legislation neither Stormont nor Westminster had any such authority. This was in effect acknowledged by the Home Secretary at a meeting with senior military personnel in December 1971. At that meeting the GOC, General Tuzo described the difficulties with the RUC:

> **"while it was not for the army to deal with such political questions as whether responsibility for security should be transferred from Westminster to Stormont, it might be helpful to provide a military assessment of the effect of such an action if it were to be contemplated. He had to say that the RUC high command was flabby and morale was low. . . . The Home Secretary said that any change of the kind discussed would involve legislation and would be seen as direct rule by a side door. It was then suggested that reversion to the position which existed between August and October 1969, in which the G.O.C. had operational control of the R.U.C. rather than mere responsibility for co-ordination, might go some way to meeting the need."** G40.260

10.2.14 There was recognition within the military that while they had *de facto* control, there needed to be legal clarification of their position. General Carver in a Report made to the Secretary of State dated the 20 December 1971 suggested that "Law and order become the responsibility of Westminster. Until terrorism is finally eliminated,

and in order to hasten its elimination, the GOC resumes full responsibility for the direction of all security operations, Army and Police designed to restore normal processes of law and order." **KS3.160 paragraph 5a**

10.2.15 General Carver proposed that "**we [the MOD] appoint a Deputy Director of Operations (Police),** who should be selected as a potential successor to the present Chief Constable . . . He could be a Major General, if no suitable English, Scottish or Welsh police officer is available for this post. **He would be responsible to the GOC for security operations, but in all other respects be subordinate to the Chief Constable.**" **KS3.161 paragraph 7a.** Thus it was envisaged by General Carver that the Ministry of Defence would appoint the person designed to become the next Chief Constable in the RUC, subject to the proviso that he was not Irish. This proposal was further advanced by General Carver at the Ministry of Defence Northern Ireland Policy Group on the 22 December 1971. **G44B.282.4 paragraph 2**.

10.2.16 In the period following Internment, by means of the Internal Security Instruction and with the collaboration of the RUC, the military demanded, and obtained, dominance over the police in security matters achieving *de facto* control. Nonetheless General Carver's proposals demonstrate an acknowledgement that while the military had operational control, there was a question-mark over the legality of this position, something also recognised by the Home Secretary. The concerns about the legal status of the military in Northern Ireland, implicit in General Carver's proposals before Bloody Sunday, were articulated more clearly afterwards:

> "CGS also explained that there was a conflict as to the status of the soldiers taking part.
>
> (a) Were they acting on behalf of the civil power?
>
> (b) Were they acting in defence of the realm against the Queen's enemies?

(c) Were they acting in self-defence?

These legal questions are being examined this instant as a matter of urgency." **KR2.7 paragraph 4**

10.2.17 In our submission the confusion about the status of the military was deliberately obfuscated, with control vested in Westminster, albeit, both the military and Westminster were responsive to the concerns of Stormont and in particular the concerns of Brian Faulkner. The obfuscation of control enabled the military to take effective operational control of all security operations, while ostensibly acting in support of the civil power.

Military do not make good Police Officers

10.2.18 It is our primary submission that soldiers do not make good police officers.[3] A soldier's approach is premised on the notion that he is engaged in a military conflict, his method of dealing with the 'enemy' is confrontational and his training is to shoot to kill. In our submission the training and ethos of the military is such that their approach to the policing of civil disobedience created a significantly higher risk of the use of lethal force in circumstances where it was unjustified. As demonstrated by the following excerpt from the evidence of General Ford:

"Q. One of the questions in relation to soldiers is that soldiers are not policemen, they are soldiers; that is correct?

A. That is absolutely correct, yes.

Q. They are trained to kill?

A. They are.

Q. They are trained in terms that they enemy they will engage are likely to be in a warfare situation where there is no such thing as beyond maximum force, **you are there to destroy, annihilate?**

A. That is true." **Day 258/42/13 to Day 258/42/23**

10.2.19 The approach of police officers is in our submission vastly different, they are not engaged in a military conflict with an 'enemy', rather they are

trained to serve their community in circumstances where the use of force, whether lethal or non-lethal, ought to be option of last resort. A police officer's "first duty is to co-operate with others maintaining 'the normal state of society'" his second duty is **"without endangering normality, to enforce the law."** Report of an Inquiry by the Right Honourable the Lord Scarman, OBE **Day 231/124/18 to Day 231/125/2**

10.2.20 As has been noted by Fionnuala Ní Aoláin, when dealing with the use of lethal force in public order contexts:

> "the systemic problem which arises from an examination of [deaths caused by the use of lethal force in public order situations] is the mundane and habitual recourse to the exercise of potentially lethal force as a means to control crowd situations to the exclusion of other, less severe, responses. . . .
> since 1969 the distinctive policing culture of Northern Ireland has been inexorably linked to the deployment of the British army to undertake regular policing duties. Notably, the regular army holds a disproportionately high responsibility for deaths by the use of lethal force since 1969 in public order situations. Of the 350 deaths by the use of lethal force under review here, the regular army holds causal responsibility for 240." **The Politics of Force: Conflict Management and State Violence in Northern Ireland** page 86-7

10.2.21 It is our further submission that in the specific context of Derry in 1972 the pre-eminence of the military over the police in the planning and control over the security operation at the NICRA march is crucial to an understanding of why unarmed civilians were killed. In Derry there was not merely a difference in approach between Chief Superintendent Lagan and General Ford there was also considerable personal hostility on the part of both General Tuzo and General Ford to Chief Superintendent Lagan, which led to the complete disregard of the experience and guidance of the

[3] Something acknowledged by military witnesses, see for example Sir David Ramsbotham's statement,

local police. It is moreover our submission that this hostility was substantially informed by religious bigotry.

10.2.22 For the Civil Rights marchers marching against Internment on the 30 January 1972, the contrast between the approach of the police and the military to policing security situations, meant the difference between life and death.

Differences between Police and Army to the NICRA March

10.2.23 The Widgery Inquiry exposed the conflict in the approach of the police and army to the planning and control of the security operation for the policing of the NICRA march on the 30 January 1972, specifically with regard to the decision to stop the NICRA march at William Street. This topic will be addressed in the Section 12.2 below. In this section it is proposed to address what could be described as the cultural differences between the respective approaches of the police and the military to policing the security operation.

10.2.24 Our submissions on this issue can be summarised as follows:

i) The military approached the march and NICRA marchers in a confrontational manner. The military regarded the decision to march as a direct challenge to the security forces, and a challenge which had to be met and defeated at all costs. By way of contrast the approach of senior officers of the RUC in Derry was one where the primary objective was the maintenance of public order. While the law had to be enforced there were methods of enforcing the law which did not necessitate dealing with marchers in a confrontational manner.

ii) The approach of the military and the police in Derry to the problem of hooliganism was markedly different. The military, and in particular General Ford, equated unarmed teenage rioters with IRA gunmen and bombers and considered that the same military tactics

could be applied to dealing with them. Senior officers in the RUC in Derry on the other hand appeared to understand and acknowledge that the problem of hooliganism was more complex given the socio-economic status of most rioters and the poverty of Derry city.

iii) The approach by the military and the police to the use of lethal force was also markedly different with senior police officers in Derry subscribing to the doctrine of minimum force. This is an issue which will be developed further in relation to the section addressing the prevailing culture within military and political establishment about the use of force in 1972.

Issue of Discretion in Policing Matters

10.2.24.1 The clearest contrast between the approach of the military and the police to the issue of policing relates to the exercise of police discretion in law enforcement.

10.2.24.2 The importance of the exercise of discretion as a tool in the enforcement of law and order and in particular in the context of public disorder was a topic addressed in "The Report of an Inquiry by the Right Honourable the Lord Scarman, OBE" November 1981 in the context of the Brixton riots. The Report states as follows:

> "Inevitably there will be situations in which the public interest requires [the police officer] to test the wisdom of law enforcement by its likely effect on public order. Law enforcement, involving as it must the possibility that force may have to be used, can cause acute friction and division in the community – particularly if the community is tense and the cause of the law breaker not without support.
>
> . . .
>
> 4.58 The conflict which can arise between the duty of the police to maintain order and their duty to enforce the law, and the priority which must be given to the former, have long been recognised by the police themselves . . . The successful solution of the conflict lies first in the priority to be given in the last

resort to the maintenance of public order, and secondly in the constant and common-sense exercise of police discretion. Indeed the exercise of discretion lies at the heart of the policing function. It is undeniable that there is only one law for all: and it is right that this should be so. But it is equally well-recognised that successful policing depends on the exercise of discretion and how the law is enforced. The good reputation of the police as a force depends upon the skill and judgment which policemen display in particular circumstances of the cases and incidents which they are required to handle. Discretion is the art of suiting action to particular circumstances. It is the policeman's daily task." **Day 231/125/3 to Day 231/126/10**

10.2.24.3 In the specific context of the NICRA march the police approach can perhaps be best encapsulated by the evidence of former Superintendent McCullagh when questioned about the meeting he attended between Brigadier MacLellan and Chief Superintendent Lagan as to whether "it was academic to ask whether the march should or should not be stopped" given the ban on marches:

"Oh no, it did not have to be stopped, oh no. The law had to be enforced, that was the tone of the meeting. The law had to be enforced. The manner in which it would be enforced was another matter." Day 231/142/5 to Day 231/142/16

10.2.24.4 By way of contrast it is our submission that the military saw the march as a challenge to the security forces, a challenge which had to be met and defeated, because otherwise the credibility of the Security Forces would be lost, which from a military perspective was the paramount concern. It was accepted by General Ford in evidence that "in military terms the march was seen as a direct confrontation to the capacity of the Army to actually enforce the ban." **Day 259/3/13 to Day 259/3/16**

10.2.24.5 It is our further submission that as suggested to General Ford, he believed that "**this parade was to be stopped simply because it was your view**

that it was a challenge to the Security Forces, not because of any public order considerations; not because of any genuine policing considerations; that **it was, quite simply a challenge which had to be met?"** **Day 259/3/24 to Day 259/7/6**

10.2.24.6 In our submission the prevailing military analysis was that the motivation of the marchers was to challenge the security forces and contrary to General Ford's oral testimony[4] this is reflected in a number of contemporaneous military documents.

10.2.24.7 The Operation Order prepared by General Ford's ADC states:

> "The Catholics of the Bogside and Creggan areas of Londonderry are proposing to march illegally from their homes to Shipquay Place in the centre of Londonderry and hold a vast anti-internment rally/meeting. **They want to succeed and thereby show the weaknesses of the Security Forces."** **G82A.521.001 paragraph 1a**[5]

10.2.24.8 In his letter to General Ford, following the oral testimony of Chief Superintendent Lagan at the Widgery Inquiry, Brigadier MacLellan described as the main aim of the march

> **"to demonstrate that it was impossible for Stormont to impose the ban in Londonderry . . ."** **G128.849 paragraph b**

10.2.24.9 In a similar vein Col. Dalzell-Payne in his memorandum on marches stated that:

> **"Our ability to impose the ban is tested now and will certainly be exposed on Sunday 30 Jan 72 when the Civil Rights Association plans to hold a massive anti-internment rally in Londonderry."** **G82.518 paragraph 11**

---

[4] See **Day 259/2/23 to Day 259/4/25** where General Ford appears to suggest that the Operations Order drafted by his ADC did not reflect his analysis.

[5] In his initial testimony in relation to this topic General Ford stated that he would not have seen the Operations Order prepared by his ADC document **Day 259/5/15 to Day259/5/16** however when he was

10.2.24.10 It is our further submission that the military response to this perceived challenge was that decreed by General Ford **"the marchers must be stopped at all costs."** **G82A.521.001 paragraph 1d** The reason being that to do otherwise would be to damage the credibility of the Security Forces, something which General Ford regarded, albeit in a different context, as "the most important thing". **Day 258/50/17 to Day 258/52/2** and **Day 258/95/10 to Day 258/95/23**

10.2.24.11 The military approach to policing the march was one where the idea of allowing the march to proceed could not be countenanced because from a military perspective to do so would be to fail in their "duty to restore law and order". The approach was inflexible allowing no room for the exercise of discretion or for exploring methods of law enforcement which did not result in complete victory over the marchers. The cross-examination of Chief Superintendent Lagan by MOD counsel Mr. Gibbens, exemplifies this approach:

> "Did it occur to you that by saying that the march should go through owing to these considerations, you were in fact saying that the ban against marches in Northern Ireland should only apply in parts where people are prepared peacefully to accept the ban, but shall not apply if they are going to defy it?" **WT17.34A** [6]

10.2.24.12 Significantly and in contrast to the police approach this was the case even where military personnel were aware that a confrontational approach on their part might result in either an increase in the numbers breaking the law or an increased risk of violence.

---

shown the distribution-list and the fact that the Order was addressed directly to him he accepted that "it is very likely he may have shown it to me."

[6] The suggestion that allowing the march to proceed to the Guildhall was an abdication of his responsibility to enforce law and order is a persistent theme of Mr. Gibbens cross-examination of Chief Superintendent Lagan. **WT17.28A to 17.35G**

10.2.24.13 Brigadier MacLellan had advised General Ford by way of a signal on 24 January 1972 that Chief Superintendent Lagan's assessment was that stopping the march would led to a "massive confrontation with Security Forces" which would "shatter such peace as is left in the city, create intense violence, and remove the last vestiges of moderate goodwill." **G70A.441.01** There is no suggestion that the military did not accept his assessment of the probable consequences of stopping the march. It is moreover evident from the Operation Order prepared by Major Steele on the 10 January 1972 that Chief Superintendent Lagan's views about the likely impact of stopping the march were reflected in military thinking:

> "The strength of the march could be in proportion to our attitude to stopping it. If ignored the Association might muster 1000; if we stop the march dead in its tracks, and previously publicise this intention, we can expect 2-3000 marchers or more." **G49.302**

10.2.24.14 Similarly, in the context of the marching ban General Tuzo acknowledged when proposing in January 1972 that the military take a tougher approach to the ban on marches that, a consequence of the implementation of the firmer line was that **"violence may be precipitated in an otherwise non-violent situation."** **G53.318 paragraph 5**

10.2.24.15 These documents demonstrate a military mindset which, when it came to law enforcement, saw the priority as achieving military victory, the march was to be stopped not because of any public order considerations; not because of any genuine policing considerations; that **it was, quite simply a challenge which had to be met?"** **Day 259/3/24 to Day 259/7/6** Reducing the numbers involved in breaking the law or reducing the numbers involved in violent confrontation with the Security Forces, was not the military priority, regardless of the risks of the use of force.

10.2.24.16 By way of contrast:

> **"In policing terms . . . at all costs emits of too many serious probabilities or possibilities. I think what we should be**

searching for here – you know, in policing it is sometimes . . . necessary to appear to lose to win. You may lose a battle, but you have won the war, and the war here was for peace, total peace. It did not seem to me it was going to hurt anybody very, very much, although to allow that march to proceed anyway . . . but as far as stopping it was concerned, the cost, the cost was immense. I think history has shown it to be." Superintendent McCullagh Day 232/80/18 to Day 232/81/4

Hooliganism in Derry

10.2.24.17 There was also a clear distinction between the approach of the military and the police to the problem of hooliganism in Derry. By the time of Bloody Sunday the military were addressing the problem of dealing with unarmed teenage rioters as a threat commensurate with that of dealing with the IRA, an armed paramilitary organisation.

10.2.24.18 The military approach was most graphically illustrated in General Ford's memo to General Tuzo of the 10th January 1972 when he stated:

"the Londonderry situation is further complicated by one additional ingredient. This is **the Derry Young Hooligans (DYH). Gangs of tough, teenaged youths permanently unemployed, have developed sophisticated tactics of brick and stone throwing, destruction and arson.** Under cover of nearby buildings, they operate just beyond the hard core areas and extend the radius of anarchy by degrees into additional streets and areas. **Against the DYH . . . the Army in Londonderry is for the moment virtually incapable. This incapacity undermines our ability to deal with the gunmen and bombers and threatens what is left of law and order on the West bank of the River Foyle."** G48.300

10.2.24.19 General Ford's views were not unique. As far back as October 1971 on the direct request of the Prime Minister Mr. Heath, a paper was produced

by the Chief of the General Staff to meet the "**Prime Minister's wish for a full exploration of the scope for intensifying military action at whatever inconvenience to the civilian population**". KS3.126

10.2.24.20 That military appreciation of the security situation, prepared by the General Staff at the British Prime Minister's behest identified tactics including "**less restriction on the use of** non-lethal devices . . . **and firearms, to permit tougher action with a view to deterring riots and hooliganism.**" G14B.86.12 paragraph 18a

10.2.24.21 Significantly given the role of 1 Para on Bloody Sunday, General Ford's views are also mirrored by Col. Wilford the Commanding Officer of 1 Para. Col. Wilford described the rioters on Bloody Sunday to Deirdre Dean in the following terms:

> "**[The March] was a great opportunity now, of course, to throw more stones and throw more lethal missiles at the soldiers,** because it was a great opportunity and there were lots, lots more people there. And of course, that's exactly what happened, and there was a large core of – I won't call them hooligans, **they were not hooligans; they were marshals, they were organised. It was like a mini army that had been organised to take on the troops at that corner**" and they attacked the troops at the barrier . ." X1.35.21 – X1.35.22
>
> and in his Eversheds statement he stated
>
> "Through training and experience the soldiers were able to deal with large and extremely violent riots. . . . **These crowds were very different from ordinary civil disturbances. The rioters in Northern Ireland used sophisticated tactics, operated in conjunction with gunmen and armed themselves with weapons that were designed to cause serious injury. Their objective was to attack, injure and kill members of the security forces.**" B1110.026, paragraph 51

10.2.24.22 Col. Wilford's conflation of the objectives of the rioters with the objectives of armed gunmen and bombers had implications for all marchers on Bloody Sunday, as is reflected in his Eversheds statement, when asked about whether his view was that all marchers were troublemakers. **"In my view, they were all potential rioters."** **B1110.028 paragraph 60**

10.2.24.23 In sharp contrast to the military conflation of unarmed rioters with gunmen and bombers, the approach of the RUC in Derry to the problem of hooliganism was quite different.

10.2.24.24 Primarily there was a recognition by the RUC in Derry that rioters were not the threat to the security forces "extending the radius of anarchy" that was perceived by the military. Senior RUC officers in Derry acknowledged that "there was more problems in the Bogside than stone-throwing". They also recognised that there were more ways of addressing the difficulties of hooliganism than outright confrontation.

> **"hooliganism is not always dealt with which [sic] confrontation, sometimes it is obviously necessary to do so, but there are other ways. It is a social malaise and you have to deal with these things in a series of ways, social work, education, housing, employment, there are many things."** **Superintendent McCullagh Day 232/70/7 to Day 232/70/12**

10.2.24.25 The elevation of the hooliganism problem to the status of a military problem requiring a military solution was one which resulted from the military's pre-eminence in security matters and which significantly contributed to the use of lethal force by members of the Parachute regiment on Bloody Sunday.

Minimum Force

10.2.24.26 Finally and crucially it is submitted that, at least among senior officers in Derry the prevailing culture was not one which regarded recourse to the use of lethal force against unarmed civilians as a legitimate option.[7]

10.2.24.27 The prevailing military and political culture is dealt with in more detail at 9.3 below, at this point we simply seek to demonstrate that the approach of senior officers of the RUC in Derry to the policing of the NICRA march was informed by the philosophy that minimum force should be used in the policing of the situation. A fact reflected in Superintendent McCullagh's evidence to this Inquiry where he states that:

> "The force that you use at any time should be proportionate and appropriate to the task you are faced with. I do not think that the use of deadly force is appropriate in those circumstances.[the problem of stone-throwing and rioting]" **Day 232/75/5 to Day 232/75/12**

10.2.24.28 It is our submission that this outlook, markedly different from the approach of the military, was also reflected in the strategies used by the RUC in Derry prior to Bloody Sunday, in dealing with armed opposition from the IRA:

> "I remember Mr. Lagan's stratagem in that respect. He felt the longer the police – previous to that we have been unarmed. Armed activity is beginning to take place and Mr. Lagan hoped that by not responding in kind and keeping guns away from his officers. And hoping that that itself would be taken as an example of – or an intention of goodwill on the part of the police" **Superintendent McCullagh Day 232/86/2 to Day 232/86/15**

10.2.24.29 This approach contrasts sharply with the approach of the military, which involved recourse to maximal force even where dealing with unarmed

[7] This submission is made subject to the proviso that members of the RUC had been involved in the unlawful assault of Samuel Devenney in April 1969 resulting in his death, which led the Chief Constable of the RUC to criticise the "conspiracy of silence" within his own force. Nonetheless that behaviour does not appear to be reflected in the policing philosophy outlined by Superintendent McCullagh and Chief Superintendent Lagan.

civilians. The approach is exemplified in General Ford's paper where he regards the situation in Derry as one in where he was **"coming to the conclusion that the minimum force necessary to achieve a restoration of law and order is to shoot selected ring leaders amongst the DYH, after clear warnings had been issued."** **G48.300 paragraph 6** Although it will be seen in the section below that General Ford's views were by no means those of a maverick within either the military or political establishment.

10.2.24.30 It is noteworthy in this respect that "the regular army holds a disproportionately high responsibility for deaths by the use of lethal force since 1969 in public order situations."[8] Of 350 deaths caused in public order situations by the use of lethal force, the regular army is responsible for 240.

10.3 Military and Political Culture

August 1971 – December 1971

10.3.1 It is our submission that the prevailing culture within the military and within Westminster and Stormont, created the environment within which soldiers felt able to use lethal force against unarmed civilians. It was:

i) A culture within which those involved in civil disobedience were regarded as the enemies of the State and against whom lethal force was regarded as a legitimate tactic; and,

ii) A culture within which there was no respect for the rule of law as it applied to the people of Northern Ireland. In this respect we refer the Tribunal to our detailed submissions on this issue at **Section 7.11**

Lethal Force against Unarmed Civilians

[8] Fionnuala Ni Aoláin , 'The Politics of Force: Conflict Management and State Violence in Northern Ireland', page 87

10.3.2 Internment had been introduced by Westminster under pressure from Stormont with the objective of improving the security situation in circumstances where the military did not regard it as the best method of defeating the IRA. It had been made clear by Edward Heath that "if internment was tried and did not succeed in improving matters, the only further option could be direct rule." **G5.51 paragraph 2**

10.3.3 In fact the security situation deteriorated following the introduction of Internment, and in the months that followed both the military and the Westminster Government were engaged in a process of seeking to improve the security situation in ways which would not necessitate the imposition of direct rule.

10.3.4 Over the period August 1971 until December 1971 there was in consequence extensive debate within the military and political establishments about ways of improving the security situation. It will be our submission that within the British army and the Westminster establishment in 1971-1972 the prevailing culture was one where, in the context of Northern Ireland, there was a willingness to countenance operations and measures in which the use of lethal force against unarmed civilians was possible. It was moreover the case that as those unarmed civilians passed from the category of Nationalist, to civil rights protestor to hooligan the threat of the use of unlawful lethal force by state agents increased. It was within this context that lethal force was used by 1 Para against unarmed marchers from the Bogside and Creggan.

10.3.5 In our submission a number of documents, produced over the relevant period, illustrate a view within the political and military establishments that:

i) large sections of the Catholic community, with particular emphasis on: residents of the Bogside and Creggan; NICRA members and its supporters; and; rioters, were regarded as enemies of the state; and,

ii) there was an increasing willingness on the part of the military and political establishment to contemplate the use of lethal force as a means of improving the security situation.

A Military Appreciation of the Security situation in Northern Ireland

10.3.6 In October 1971 at the behest of the Prime Minister, a paper was produced by the Chief of the General Staff to meet the "**Prime Minister's wish for a full exploration of the scope for intensifying military action at whatever inconvenience to the civilian population**". KS3.126 This reflects the evidence of Sir Arthur Hockaday that by October 1971 there was a sense of frustration in Westminster with the deteriorating security situation[9] and that consideration was being given to getting tougher in Northern Ireland.[10] The involvement of the Prime Minister illustrates that this view was held at the highest level of Government.

10.3.7 The military appreciation of the security situation prepared for the Prime Minister identifies tactics including "**less restriction on the use of** non-lethal devices . . . **and firearms, to permit tougher action with a view to deterring riots and hooliganism.**" G14B.86.12 paragraph 18a The paper also contemplates, in the context of border areas closing the border with a view to mobile patrols shooting "intruders".

10.3.8 The paper concludes that the current low intensity policy should be maintained while removing "those restrictions on the operations GOC Northern Ireland wishes to carry out". G14B.86.15 The paper evidences a view among senior politicians within Westminster and senior military figures that in order to resolve the security situation consideration must be given to more repressive measures for policing Northern Ireland. More repressive that is than the introduction of detention without trial and the inhuman and degrading treatment of detainees. One of the tactics under consideration was the use of lethal force against unarmed civilians. Meanwhile despite the protestations of all the Westminster politicians and

[9] Sir Arthur Hockaday KH9.74 paragraph 30

senior civil servants who have given evidence to this Inquiry there is **no contemporaneous documentary evidence** to suggest that anyone within the political or military establishment regarded the tactic of shooting unarmed civilians as unconscionable.

CLF Directive for Future Security Operations

10.3.9 Arising directly from the Prime Minister's request General Ford produced a Directive for Internal Security Operations. General Ford acknowledged in the course of his evidence that this operational directive "represented in effect a deliberate change of gear . . . in relation to the new instructions which had come down from above." **Day 253/35/6 to Day 253/35/15**

10.3.10 Significantly the Conclusion of the Directive states that "We should not hesitate to fire whenever events demand and the law permits." **G23.167 paragraph 15** Thus a senior officer in charge of operational matters in Northern Ireland produced a Directive which suggests that soldiers have shown a reluctance for the use lethal force in the past and such reluctance should not be shown in the future. Albeit the sentence is qualified by the suggestion that there should be no use of lethal force outside the law.

10.3.11 When questioned by Christopher Clarke QC about why he felt it necessary or desirable to tell people that they should not hesitate to fire whenever events demand and the law permits, General Ford was unable to explain why he wrote it. **Day 253/35/19 to Day 253/36/19** However in his interview with Desmond Hamill in 1984 he stated as follows:

> "There were constraints not just of the Yellow Card, but of using minimum force compatible with the task. Any form of over-reaction was immediately seized by the media – even if it was only an over-reaction in one corner of what was going on. . . . **So the soldiers on the ground very often operated below the level they could have done and be justified within the law."** **B1208.003.012**

---

[10] **KH9.76 paragraph 34**

10.3.12 General Ford clearly formed the view that soldiers needed to be encouraged to use lethal force. This, on the 14 December 1971, by which time a significant number of civilians had been killed by the army in disputed circumstances since the introduction of Internment, and on the same day as Martin McShane a 16 year old Catholic was shot and killed by soldiers in Coalisland.[11]

10.3.13 The views communicated by General Ford to Desmond Hamill are a clear demonstration of a culture or mindset which advocated the use of lethal force as a military necessity rather than an option of last resort, despite the fact that the army's role was that of policing a civilian population and acting in support of the civil power. It is moreover a direct response to the Prime Minister's request **"for a full exploration of the scope for intensifying military action at whatever inconvenience to the civilian population"**. **KS3.126**

10.3.14 What is evident is that it was not part of General Ford's "mental furniture" that "the amount of force should be the minimum necessary and should not be disproportionate to the offences being committed. In particular, firearms should be regarded as very much a last resort". **KH9.98 paragraph 111**

Visit of Home Secretary – December 1971

10.3.15 The Home Secretary paid a visit to HQNI in December 1971. In preparation for the visit General Ford prepared a paper advising the Home Secretary of the general operational situation. The assessment at the conclusion of the paper was that "overall the position is good with the one exception of Derry and here a major decision will have to be taken shortly." **B1155.019**

[11] Lost Lives p.131-132

10.3.16 At that meeting General Tuzo, the GOC, advised the Home Secretary that the situation in Derry had reached a point where a choice had to be made **"between accepting that Creggan and Bogside were areas where the army were not able to go, except on specific information, or to mount a major operation, which would take ten days and require seven battalions and which would involve, at some stage, shooting at unarmed civilians."** **G40.261**

10.3.17 General Tuzo's suggestion that an operation in Derry would at some stage involve shooting at unarmed civilians, flows from General Ford's analysis that a major decision would have to be taken shortly. It is a clear demonstration of the extent to which the views of General Ford and General Tuzo coalesced on the approach to be taken to the security situation in general and in Derry in particular.

10.3.18 There is no suggestion, anywhere in the minute that either Mr. Maudling, or any of the senior officers involved in briefing the Home Secretary balked at the suggestion that shooting of unarmed civilians.

10.3.19 At least one witness who gave evidence to this Inquiry has suggested that the wording of these minutes, where the GOC suggests the shooting at unarmed civilians as an option, are inaccurate.[12] However no witness has been able to demonstrate a single document, or refer to a single meeting at which senior politicians within Westminster or senior military figures made it clear that the shooting of unarmed civilians was not an option which could be contemplated.

10.3.20 While the military preference in December 1971 was for maintaining the current low key military approach, the military were clearly alerting their political masters to the fact that such a course would inevitably entail accepting criticism of allowing "No Go" areas which was an issue of particular concern for Stormont and the Unionist community. Even prior

[12] See for example, Sir Arthur Hockaday, **Day 271/45/1 to Day 271/45/6**

to the introduction of Internment in July 1971 General Tuzo had experienced heavy criticism at the Joint Security Committee in respect of the "Army's apparent reluctance to move in and "mop up" militant elements in the Bogside area of Londonderry". **G2.20**

10.3.21 Again the document demonstrates that the use of lethal force against unarmed civilians was considered a legitimate military strategy for discussion, albeit under certain conditions.

CLF Appreciation on Future Military Policy for Londonderry

10.3.22 Also on the 14 December 1971 General Ford prepared a paper on future military policy for Derry which discussed the options open to the military in light of the failure of the policy of containment then in operation. The three options aimed at establishing control and stability considered were:

"a. Course 1. To revert to the previous policy of containment of the Creggan and Bogside from their periphery but adopt a much more offensive attitude than in previous months.

b. Course 2. To continue the present policy of undertaking major operations within the Creggan and Bogside but without providing a permanent presence in those areas.

c. Course 3. To establish, on a permanent basis, a full scale military presence in the Creggan and Bogside." **G41.265 paragraph 9**

10.3.23 Both Courses 2 and 3 entailed an acknowledged risk of the shooting of unarmed civilians. One of the disadvantages identified by General Ford to Course 2 was that "the use of ball ammunition becomes more likely, particularly when units of platoon strength are assaulted by organised mobs numbered in hundreds. **This in turn raises the question of opening fire on "unarmed" mobs, whose strength lies not in firepower, but in numbers and brick power.**" [Emphasis added] **G41.268 paragraph 15b** While if Course 3 was adopted **the "risk of casualties is high and apart from gunmen and bombers, so called unarmed rioters, possibly teenagers, are certain to be shoot in the initial phase. Much will be made of the invasion of Derry and the**

slaughter of the innocent." **G41.270 paragraph 18c** The references to " "unarmed" mobs" and "so called unarmed rioters" are clear examples of a mindset within the military which categorised unarmed rioters as a military problem of the same magnitude as gunmen and bombers and necessitating the same military solution.

10.3.24 By December 1971 therefore the military envisaged and had communicated to politicians in Westminster that the undertaking of major military operations within the Creggan and Bogside entailed a risk of opening fire on unarmed civilians, with teenage rioters identified as those most at risk of being the victims of the use of lethal force.

10.3.25 While Courses 2 and 3 were rejected at that point in time, it is noteworthy that the rationale behind their rejection was not the fact that in a western democracy the shooting of unarmed civilians, albeit engaged in unlawful activity, was unconscionable. Course 2 was rejected because there was little "military value" in continuing a policy which did not lead to the restoration of law and order while arousing antagonism within the Nationalist community and it therefore served no useful military purpose unless the implementation of Course 3 was imminent. **G41.272 paragraph 22** Course 3, regarded as the "correct military solution to the problem", was rejected because of the public relations implications and the lack of sufficient manpower within Northern Ireland to implement this option. **G41.271 paragraph 20** and **G41.272 paragraph 24** That the lack of military resources was the primary motivating factor for the rejection of Course 3 is supported by the evidence given to this Inquiry by Sir Arthur Hockaday who stated that:

> "my general impression, reinforced by papers that I have seen in recent weeks is that the re-establishment of a permanent military presence, which in some ways a desirable objective, would involve the importation into Northern Ireland of such extensive military reinforcements that, given the general overstretch on the Army, it probably was not on." **Day 271/8/4 to Day 271/8/10**

10.3.26 Eventually General Ford recommends Course 1½ (to distinguish it from the "defensive and defeatist" course adopted in August 1972, **G41.272 paragraph 24**) at least until such time as there is a cessation of hostilities elsewhere in Northern Ireland and at the price of **"a community of some 33,000 citizens of the UK . . . in a state of anarchy and revolt."** **G41.272 paragraph 23** Again the Nationalist community of the Bogside and the Creggan are depicted as 'enemies of the State'.

10.3.27 In the period after Internment and up until December 1971, the debate about the enforcement of law and order in Derry had been removed entirely from the remit of the police or the civil power. Security initiatives and policy development lay in the hands of the military under the supervision of Westminster. While the use of a shoot to kill policy against unarmed civilians was not adopted during this period, it was regarded as a legitimate tactic for discussion and consideration within senior military or political circles. At no stage was the use of lethal force against unarmed civilians rejected as a legitimate tactic whether for legal or moral reasons. It is certainly not the case, as Sir Arthur Hockaday stated in the course of his evidence that the prevailing culture was one of "respect for the law and the doctrine of minimum force." **Day 271/23/24 to Day 271/24/2** and **KH9.97 to KH9.98 paragraph 111**

January 1972

10.3.28 In the months preceding Bloody Sunday the use of a shoot to kill policy against unarmed civilians, although a legitimate tactic for discussion and consideration, was expressly rejected. It is submitted that by January 1972 there had been a seismic change in both the tone and content of the discussion about lethal force, and specifically:

i) There was a build-up in the frequency with which a shoot to kill policy was discussed;

ii) There was an increasing intolerance, both for those categorised by Brian Faulkner as "civil disobedients" (**G81.510**) and of rioters; and,

iii) The manner in which the use of lethal force was discussed had shifted from its use as a possible tactic which was ultimately rejected, to a military tactic necessary to enforce law and order.

10.3.29 In the weeks prior to Bloody Sunday there are 4 documents which to varying degrees illustrate this shift and demonstrate both a hardening of attitudes with respect to Nationalists who break the law and an increasing willingness to contemplate the use of lethal force.

i) On the 10 January General Ford's memo to General Tuzo stated that "**the minimum force necessary to achieve a restoration of law and order is to shoot selected ring leaders**, among the DYH, after clear warnings have been issued." **(G48.299)**

ii) On the 24 January, General Tuzo described an increasing hostility by all Catholics to the military and conflated those involved in NICRA and the civil rights movement with an armed paramilitary organisation. He advised the Chief of Defence Staff that hostility towards the Army on the part of Catholics was being "encouraged particularly by some Roman Catholic priests and behind it all stands **NICRA, the active ally of the IRA**." **(G70.437 paragraph 2a)**

iii) On the 27 January, the Joint Security Committee were advised of and accepted that the NICRA march in Derry might develop into a "shooting war". **G76.465 paragraph 4**

iv) Also on the 27 January, Col. Dalzell-Payne, the head of MO4 drafted a memorandum on Marches and which stated that in order to impose the ban on marches it was necessary to consider additional measures for the physical control of **"crowds which threaten to march".** He went on to acknowledge that the **"only additional measure left for physical control is the use of firearms i.e. "Disperse or we fire". Inevitably it would not be gunmen who would be killed but "innocent members of the crowd."** **G82.519 paragraphs 14 to 15**

10.3.30 These documents, demonstrate not merely a significant shift in favour of the use of lethal force but do so in a context where there is a focus on:

Derry; the ban on marches; and the difficulties in policing rioting, a focus, which in our submission resulted in a significant shift in military policy applied in Derry addressed at Section 9.5 below.

Ford-Tuzo Memo

10.3.31 This memorandum is important in terms of the prevailing military culture in two respects: firstly, because of the assertion that the use of lethal force against unarmed rioters was the minimum force necessary to enforce law and order; and, secondly because of the equation of, not only hooligans, but the people of the Bogside and the Creggan, with armed gunmen.

10.3.32 A large number of senior military and political figures have sought to downplay the significance of this memo, giving evidence to the effect that they had not read the memo and were unaware of its contents, and that its views were not endorsed within Whitehall or Westminster. It is our submission that the memo represented a significant shift in thinking with respect to the use of lethal force and that its significance cannot be under-estimated. The memo was exchanged between the two most senior military officers in Northern Ireland, who worked together extremely closely, and had operational control over all security operations in Northern Ireland. Moreover, the views were obviously receiving serious consideration on the part of General Tuzo as evidenced by the record of the meeting of the Joint Security Committee on the 13 January, just 3 days after the memo was sent. The minute records General Tuzo as having indicated that "following a meeting with businessmen in Londonderry[13] certain measures were in mind with a view to putting down the troublesome hooligan element there. **It was a very difficult problem to solve within the law."** **G52.316 paragraph 2**

10.3.33 It also mirrors the Dalzell-Payne paper on marches, dealt with in more detail below, which demonstrates that General Ford was not a maverick within the military establishment in 1972.

[13] The meeting attended by General Ford on the 7 January 1972 which gave rise to the memo.

10.3.34 General Ford sought to downplay the significance of his proposal that the minimum force necessary to enforce law and order involved the shooting to kill of unarmed teenage rioters, giving evidence that .22 ammunition was "marginally lethal" and that he "saw the weapon being used to incapacitate and cause less casualties". **Day 253/55/11 to Day 253/55/14** and **Day 253/56/2 to Day 253/56/8**

10.3.35 In our submission the suggestion by General Ford that by modifying SLR rifles for the use of .22 rounds, the proposal did not amount to a proposal to shoot to kill unarmed rioters, was patently dishonest.[14] The reason for the proposed modification of the SLR rifle was because it was "less lethal in terms of producing collateral death to unintended targets."[15] However as General Ford eventually accepted, "**a high velocity .22 bullet shot to kill, which soldiers are trained to do, if it hits where it is intended to hit will kill the person concerned.**" **Day 258/49/13 to Day 258/49/17**

10.3.36 This interpretation is also consistent with a reading of the memo which acknowledges that if General Ford's proposal was implemented "we would be reverting to the methods of IS found successful on many other occasions overseas". **G48.301 paragraph 7** Those methods were described by General Kitson in the course of his evidence:

> "it was the general system for dealing with riots up to a certain time. . . in the colonies they would say "over now to the military Commander" and a banner would be extended in whatever language you were in, saying "disperse or we fire" **and then a fellow would say to one of the riflemen "you see that man dancing round out there, fire one round and hit him"**, and then there would be pictures taken. That was all the formal system of internal security and duties in aid of the civil

[14] **Day 253/55/11 to Day 253/57/17** When questioned by Christopher Clarke QC about the adoption of SLR rifles for the use of .22 rifles General Ford refused to accept that it was still a lethal weapon for the intended target, persisting in using the term "marginally lethal" a term he was unable to explain.

power that had at one time existed." **Day 237/12/7 to Day 237/13/10**

As is clear from General Kitson's description, the IS methods, found successful overseas, involved the use of lethal force against unarmed civilians, which had as its clear objective, killing, and not incapacitation of, the intended target.

10.3.37 Moreover, General Ford appears to expressly acknowledge that, what was envisaged, was a lethal weapon in a paper he prepared for the MOD in the aftermath of Bloody Sunday.

> "I had prepared a paper on this subject in the preceding week. . . . The paper was based on the assumption that there was a gap in our armoury which could only be met with a **lethal weapon**; and that it would be necessary to revert to the hard concept used in other counter-insurgency campaigns of warning ring leaders that they would be shot if it was necessary doing so." **G121.805**

10.3.38 General Ford also sought to minimise the importance of the memo by suggesting that it was only a preliminary document which would have necessitated: discussion papers; more detailed consideration within the MOD; and an amendment of the Yellow Card before it could have been adopted.[16]

10.3.39 In our submission this is contradicted by the evidence before this Tribunal. The wording of the memo describes the use of lethal force against the rioters as "the minimum force necessary", suggesting in effect, that such a course would be lawful under the doctrine of minimum force. Moreover under questioning General Ford never accepted that the implementation of this proposal would be unlawful and went on to

---

[15] **Day 258/47/5 to Day 258/49/20** This suggestion was not expressly accepted by General Ford, although it appears to follow from his concession to Lord Saville quoted at 9.3.35. **Day 258/49/13 to Day 258/49/17**

[16] **Day 253/57/18 to Day 253/59/2** re need to change the Yellow Card and **Day 253/60/14 to Day 253/60/17** "Are you saying that paragraph 6 was simply an idea, the details and confines of which would have been worked out later if it was to be put into effect? A. Absolutely. It is purely an idea, a first suggestion."

demonstrate circumstances where it would be lawful.[17] It is also the case, as the memo makes it clear and as has been confirmed by other evidence, that in taking steps to implement this suggestion, 30 modified SLRs were sent to Derry on or after the 10 January.

10.3.40 The memo is also significant because of the way in which it depicts hooligans, described in terms more consistent with the description of a guerrilla army than unarmed teenage rioters; as gangs who have "developed sophisticated tactics of brick and stone-throwing, destruction and arson. Under cover of snipers . . . they operate just beyond the hard core areas and extend the radius of anarchy by degrees into additional streets and areas. Against the DYH . . . the Army in Londonderry is for the moment virtually incapable. This incapacity undermines our ability to deal with the gunmen and bombers and threatens what is left of law and order on the West bank of the River Foyle." **G48.300**

10.3.41 This characterisation of the hooligan problem in January 1972 marks a shift in General Ford's analysis. In October 1971 the problem of rioting was described as a "fringe activity", albeit to be vigorously countered **G23.166 paragraph 11a** and while hooligans are identified as a problem in December 1971 **G41.264 paragraph 6** it is not until January 1972 that they take on the significance accorded to them by this memorandum.

10.3.42 Of equal significance in terms of General Ford's perception of the people of Derry is his description of armed gunmen "dominating the Creggan and Bogside backed and protected by the vast majority of the population in these two areas." **G48.300** This view, which is entirely consistent with the views previously expressed by General Ford[18] amounts to the characterisation of an entire community as 'enemies of the State' actively backing and providing support to persons engaged in armed insurrection.

[17] **Day 253/57/20 to Day 253/60/13**

Visit of Chief of Defence Staff

10.3.43 The minutes of this meeting are significant in that, at this meeting, General Tuzo expresses views which mirror those previously expressed by General Ford about the Catholic population of the Bogside and Creggan. The GOC when briefing the Chief of Defence Staff about the problem of hostility towards the army on the part of Catholics, described:

> **"implacable and growing Roman Catholic hostility, not only to the Protestants but to the Army. This hostility is tending to spread upwards through the middle class, encouraged particularly by some Roman Catholic priests and behind it all stands NICRA, the active ally of the IRA."** **G70.437**

10.3.44 This demonstrates that General Ford's views were mirrored to a large extent by General Tuzo, and that as General Ford himself put it "we were in each other's minds totally." **Day 253/31/15 to Day 253/31/23**

10.3.45 It is a further demonstration of a culture within the military which categorised the NICRA march in Derry and those participating in it as enemies of the State.

JSC Meeting

10.3.46 On the 27 January, at the meeting of the Joint Security Committee which approved the military plan to stop the march, it was noted that the "operation might well develop into rioting and even a shooting war". **G76.465 paragraph 4**

10.3.47 According to Sir David Ramsbotham:

i) General Carver was aware of the risk and "everyone knew it was a risk", and **Day 254/191/18 to Day 254/193/17**

ii) He was "quite certain that General Carver would have alerted the Prime Minister as to the possibility. He certainly alerted the

---

[18] See for example **G41.263 paragraph 3** where General Ford describes the security forces as facing "an entirely hostile Catholic population" and at **G41.272 paragraph 23** "a community of some 33,000 citizens of the UK . . . in a state of anarchy and revolt."

Secretary of State for Defence". **Day 254/193/18 to Day 254/194/18**

10.3.48 While, unlike the other documents referred to, the minute does not advocate the use of lethal force. There is no questioning, at JSC level, or in Westminster, of a military strategy which poses the risk of a shooting war, in circumstances where thousands of unarmed civilians were going to be on the streets of Derry. No consideration is apparently given to the question of whether an alternative military strategy would pose less risk of a 'shooting war' and no consideration is given to taking steps to minimise the risk to civilian life.

10.3.49 It is submitted that the document is consistent with the culture evidenced by the other documents referred to, in which military and political priorities take precedence over safeguarding human life.

Col. Dalzell-Payne Paper

10.3.50 Col. Dalzell-Payne was Colonel with responsibility for Military Operations Branch 4 in the MOD, (MO4) working on the General Staff. MO4 had responsibility for co-ordinating MOD policy in Northern Ireland. While Col. Dalzell-Payne states that "he had no strategic role; I reacted to orders received and disseminated information" **CD1.1 paragraph 3**

10.3.51 It is submitted that the evidence before this Inquiry suggests a more influential role than that which he ascribes to himself. He liaised closely with Sir Anthony Hockaday, then the Civil Servant member of the General Staff and according to Sir Arthur Hockaday he played a crucial role and "most of the running on the military side was made by him". **Day 271/112/16 to Day 271/113/1** Moreover his involvement in drafting the paper on Marches in Northern Ireland, which included recommendations about strategic direction for the future, demonstrates that he was someone who initiated debate and discussion on areas of

policy within the MOD rather than someone who had no strategic role, reacting to orders received and disseminating information.

10.3.52 The minute is particularly important in understanding the culture within Whitehall and Westminster because:

i) It recommends, in the days leading up to Bloody Sunday, a policy of shooting to kill unarmed marchers;

ii) The reason, it recommends 'shoot to kill', is because of concerns about the implications of the NICRA march in circumstances where marchers were going to be seen breaking the ban and the security forces were going to be seen to be unable to police either the ban or the Creggan or Bogside;

iii) It gives the lie to the suggestion that General Ford's memo was unique and not reflective of thinking in 1972. It was circulated extensively within Whitehall and there is no evidence that there was any criticism of the recommendations contained therein. Moreover, even when giving evidence to this Inquiry, the recipients make no criticism of the paper, with Anthony Stephens suggesting that it would be "negligent if "think-pieces" of this kind had not been produced." **KS3.105 paragraph 52**

10.3.53 The aim of this minute is described within the body of the document as "to outline the situation about marches today, and to make recommendations." **G82.514 paragraph 4**

10.3.54 Col. Dalzell-Payne in his statement to this Inquiry stated that he probably prepared this paper "having seen the note prepared by Stephens. I probably thought that I should expand on his note for the benefit of my working group although I did this without HQNI clearance." The note to which he is referring is entitled 'Proposed March in Londonderry' G74.457 and was prepared for the Secretary of State for Defence and drafted by Anthony Stephens, the head of DS10 on the 26 January 1972.

10.3.55 The paper's covering-note refers to trying to anticipate some of the problems we may face on Monday 31 Jan 72 "if events on Sunday prove our worst fears." Col. Dalzell-Payne in the course of his evidence stated that the reference to "worst fears" was primarily, a reference to the march leaving the no-go areas and provoking a strong Protestant reaction, and also a reference to the risk of violent rioting and confrontation with the security forces. **Day 245/16/4 to Day 245/16/17**

10.5.56 However, neither the paper drafted by Anthony Stephens **G74.457**, nor the paper drafted by Col. Dalzell-Payne make any reference to the possibility of sectarian confrontation in the context of the march in Derry. The Stephens paper does contain a reference to "at least some hooliganism" on the fringe of the march. The focus of the Stephens paper however is on handling public relations in the aftermath, if marchers are seen to break the ban and the Bogside and Creggan are seen to be No Go areas.

10.3.57 There is in consequence no explanation in oral evidence before this Inquiry for the reference to "our worst fears". It is our submission that if, as Col. Dalzell-Payne stated, the paper was a follow-on from the Stephens paper, the reference is a reference to the likely Protestant/Unionist backlash to the marchers being seen to defy the ban with the consequent implications for policing the ban in the future.

10.3.58 Col. Dalzell-Payne's paper reviews the history of the ban on marches in Northern Ireland and identifies a number of problems in relation to enforcing the ban:

i) The fact that "the Force Levels to control urban situations of this sort created by illegal marches are prohibitively high." And that the security forces were unable to police marches 'effectively' without a substantial increase in force levels. "[I]t is not possible to enforce the ban rigidly with the force levels available and we can only hope to deal with two or three large scale demonstrations at any one time." **G82.516 paragraph 6** and **G82.518-9 paragraph 13**

ii) The fact that "It could well be claimed that the activities of IRA gunmen/bombers are easier to control than mass civil disobedience of the sort involved in the defiance of the ban on marches." **G82.516 paragraph 6** Thus civil rights marchers were characterised as posing a greater threat than IRA gunmen and bombers. A theme which resonates with General Ford's analysis which categorised the 'Derry Young Hooligans' as a serious military threat.

iii) The fact that a failure to clamp down on the Civil Rights March was likely to result in a hostile Unionist/Loyalist reaction, leading to significantly greater problems in the policing of Loyalist marches in the future. The paper makes it clear that in terms of addressing future difficulties, it as essential to be seen to police the NICRA march in a manner acceptable to Unionism. **G82.517 paragraphs 8 to 9**

10.3.59 Having identified the difficulties for the security forces, and against that background the paper refers to:

i) The need for "stronger military measures which will inevitably lead to further accusations of "brutality or ill-treatment of non-violent demonstrators."" (paragraph 13) and

ii) The need for "**additional measures for the physical control of crowds which threaten to march.**"

10.3.60 When questioned about what was meant by "additional measures" Col. Dalzell-Payne stated that what was envisaged was a more aggressive arrest policy directed at hooligans. **Day 245/18/10 to Day 245/18/19**

10.3.61 In the first instance, it is clear that contrary to Col. Dalzell-Payne's evidence, his paper is nowhere concerned with addressing the hooligan problem and that the additional measures, are directed at people who "threaten to march." **G82.519 paragraph 14b**[19]

[19] See also the evidence of Col. Dalzell-Payne on this topic **Day 245/47/1 to Day 245/57/15**

10.3.62 Secondly, it is clear from a reading of the paper, as stated in paragraph 15 that the only "additional measure left for physical control is the use of firearms i.e. "Disperse or we fire." Inevitably it would not be the gunmen who would be killed but "innocent members of the crowd." **G82.519 paragraph 15**

10.3.63 Thus the paper recommends that, in the event that the military are shown to be ineffective in policing the NICRA march on Bloody Sunday, and given that they cannot increase force levels to police the ban on marches,[20] that, in order to enforce the ban the military should shoot to kill unarmed marchers.

> "in enforcing the ban, if you have troops who are present on the ground who cannot actually use overwhelming physical force themselves, to disperse those who have gathered to march, then the only alternative would be to shoot them." **Day 245/56/22 to Day 245/57/2**

10.3.64 The paper is more extreme than the proposals made by General Ford, who was at least discussing the use of lethal force against persons who were engaged in violent, albeit unarmed, confrontation with the military. Nonetheless there is a clear resonance between this paper and the paper prepared by General Ford, both contemplating recourse to "Disperse or we fire" methods against unarmed civilians as a means of enforcing law and order. As General Ford said in his statement "It is perhaps significant that such ideas were being ventilated within the Ministry of Defence." **B1208.041**

10.3.65 Yet when dealing with this document in his supplementary statement to this Inquiry, Anthony Stephens stated that "the references to the possible use of firearms are **unexceptional**, in that they only pose the use of such

[20] **G82.519, paragraph 14** "We must accept that the current force levels cannot be appreciably increased merely to impose a ban on marches. If the ban must continue, we are left with two possible courses of action, besides speeding up legal proceedings." See also **Day 245/54/18 to Day 245/54/23** "In other words, what you cannot do is introduce more battalions into Northern Ireland simply for the

force as is reasonable in the particular circumstances." **KS3.105 paragraph 52** When questioned about the paper Anthony Stephens describes it as "a curious piece of writing". In our submission it is only "curious" because of the strained interpretation Mr. Stephens sought to place on a document which clearly contemplates the shooting of unarmed civilians. **Day 273/21/18 to Day 273/24/20** Moreover when a straightforward reading of the paper makes it clear that what is in contemplation is the shooting of unarmed marchers, that such a paper could ever be described as "unexceptional", demonstrates in stark terms the mindset which operated within Whitehall and Westminster.

10.3.66 It is our submission that the prevailing culture within Whitehall, Westminster and Headquarters Northern Ireland was one which contemplated as legitimate, the use of lethal force against unarmed civilians, in order to achieve military objectives. The use of lethal force gained increasing acceptance as the persons against whom it was directed came to be regarded as enemies of the State. By January 1972: rioters in Derry; NICRA; and the population of the Bogside and Creggan had all been categorised as active allies of the IRA. The prevailing culture was such that by Bloody Sunday the military operated in an environment in which the use of lethal force was acceptable for the achievement of military or political objectives.

10.4 The Ban on Marches

10.4.1 The Ban on Marches posed significant policing difficulties for the military. The ban, although a ban on all marches, was directed primarily at Orange Order marches and had been imposed by Westminster on Stormont with the aim of appeasing Nationalists in the context of the introduction of Internment. It is noteworthy that at the time the ban was introduced the military did not regard the ban as militarily necessary. **G4.49**

---

purpose of physically having such massive numbers available on the streets of troops to physically

10.4.2 The ban met opposition from Stormont from the outset. It is acknowledged that although the British Prime Minister's objective had been to impose a total ban for an indefinite period, he had agreed "in the face of strong representations from Mr. Faulkner that the ban be expressed as lasting "until further notice" and might be initially for a period of 6 months" **G46a.288.1 paragraph 2**

10.4.3 In the period immediately preceding its proposed renewal the enforcement of the ban had run into difficulties. At the end of December 1971 NICRA began organising anti-internment marches and rallies in breach of the ban. The security forces had been unable to prevent the marches at source and this resulted in a perception that the security forces were unable or unwilling to police effectively Civil Rights marches. There were also difficulties in securing prosecutions, with the RUC referring cases to the Attorney General, which resulted in delays and led to a perception among Unionists that civil rights protestors were able to flout the law with impunity. **G46A.288.2 paragraph 6**

10.4.4. The ban fell within the remit of the Northern Ireland Parliament and thus needed to be renewed by the Stormont Government. Whether it would be renewed by Stormont was a matter of concern in Westminster, as is evidenced by a paper on the Control of Marches prepared for the Secretary of State for Defence. The paper advised the Secretary of State that the GOC had raised the matter with Mr. Faulkner and had been advised that Mr. Faulkner intended to place the matter before his Cabinet with a view to securing its renewal for a further 12 months. Nonetheless the Secretary of State was alerted to the possibility that **"intervention from London might yet become necessary"**, in the event that Mr. Faulkner was not able to persuade his Cabinet colleagues to renew the ban. **G46A.288.1 paragraphs 2 to 5** It is thus clear that renewal of the ban was an issue of concern for Westminster, it follows that effective policing of the ban would also be a concern.

---

prevent marches starting or beginning; is that not right? A. Correct"

10.4.5 The matter was placed formally before a meeting of the Joint Security Committee by the GOC. A paper was submitted to the JSC by the military proposing the extension of the ban while acknowledging that **"the continuance of the ban has undoubted drawbacks, including problems of enforcement".** **G53.318**

10.4.6 During the JSC meeting, the issue of opposition from the Orange Order was raised in the context of the dissatisfaction by Unionists with the ability of Nationalists to flout the law without apparent sanction. The minutes of the meeting reflect the fact that, in order to secure the renewal of the ban, the military were under pressure from Unionists to fully implement the ban, in the context of civil rights marches, and to arrest those who broke the law. This is reflected in the minutes which note that opposition from the Orange Order "**could be met to some extent by ensuring that there was no defiance of the ban by anyone. Loyalist opinion had been disturbed by the failure to completely stop the CRA march on 2 January."** **G52.315**

10.4.7 To meet this concern the military policy placed before the Joint Security Committee proposed the strengthening of existing enforcement procedures, involving departure from previous practice. It appears from the paper prepared for the Secretary of State for Defence that the previous practice implemented by the security forces in respect of the anti-internment marches on 25 December and 2 January was "to avoid outright confrontation with the marchers but to make it difficult for them to form a column – and to identify the leaders, with a view to their being prosecuted subsequently." **KS3.191 paragraph 6**

10.4.8 The military now proposed the following "firmer measures"

> **"a. The security forces will normally exercise the option of closing a march route entirely and will not normally permit marchers to continue on the pavements as has been done recently.**

b. On the spot arrests of ringleaders, including perhaps well known citizens may be made; . . .

c. The route closing policy described above may result, particularly in the case of multiple converging marches, in the closing of all routes leading to the place of assembly, thus in effect cordoning it off and preventing the assembly from taking place at all." **G53.318 paragraph 4**

The paper expressly acknowledged that a consequence of the implementation of the firmer line was that **"violence may be precipitated in an otherwise non-violent situation."** **G53.318 paragraph 5** Thus the army proposed, with the express approval of Stormont and Westminster, to take a more confrontational approach to the policing of illegal marches, even where to do so would provoke a violent situation which would not otherwise occur.

10.4.9 By way of implementation of the 'firmer measures' it was agreed that the current RUC Force Order be amended to "include the change of emphasis in control measures and define the military powers of arrest" and that the Force Order be reissued as a joint RUC/Army instruction. **G53.318 paragraph 7**

10.4.10 The joint RUC/Army instruction issued on the 19 January 1972 provided that a "detailed joint Police/Army plan will be made in respect of each procession" and clearly envisages that as a norm the march would be prevented from setting off. **G82.520 paragraph 2**

10.4.11 The amendment of the RUC Force Order on the proposal of the military to be replaced by a joint RUC/Army instruction is yet another example, this time in the context of the Ban on Marches, of military encroachment in areas which came under the remit of the civil power.

10.4.12 The proposals for stricter enforcement failed entirely to satisfy Unionist opinion

"The extension of the ban has upset the Rev Ian Paisley and his followers who see it as a final surrender to the IRA. The immediate reaction to the announcement in Stormont was that the Loyalist section of the community was going to be outraged and that victory had been given to the IRA who had said that they would put Orangemen off the streets and would certainly prevent the Twelfth of July marches. Even one of the most liberal-minded Stormont MPs, Mrs Anne Dickson, made a strong and reasoned plea to the Government to "rethink" the whole question. She said that the suppression of the normally well-disciplined Loyalist parades, and the continued failure to control the IRA and to prevent the Civil Rights movement from demonstrating publicly, will invite a Protestant backlash." G82.517-8 paragraph 8

10.4.13 The Orange Order also expressed its opposition and stated that "in the absence of a clear demonstration of the effectiveness of the ban – a reference to the Civil Rights marches on Christmas Day and 2 Jan 72, and the anti-internment demonstrations on 22/23 Jan 72 – the Government could not expect Loyalists to observe it. . . . It has also been said by Loyalists that **it is an impossible task to enforce such a ban as there are over 100,000 Orangeman." G82.518 paragraph 9**

10.4.14 That the failure of the military to stop the march in Derry could have a knock-on effect throughout Northern Ireland is clearly evidenced by Mr. Gibbens, MOD counsel at the Widgery Inquiry, when he asked Chief Superintendent Lagan "In how many other parts of Northern Ireland were you prepared to see the consequential demand for marches?" **WT17.31D**

10.4.15 Dalzell-Payne's memorandum on Marches in Northern Ireland also pointed out that "the Force Levels to control urban situations of the sort created by illegal marches are prohibitively high" involving a significant

drain on military resources with little benefit in terms of either policing or military objectives. **G82.516 paragraph 6**

10.4.16 Against this background the march planned for Derry posed unique difficulties for the military. Its timing was crucial because it occurred in the immediate aftermath of the renewal of the ban and at a time when the military had publicly announced their firmer measures of stopping marches at source. Its location in Derry meant that there was no realistic prospect of stopping the march at source and in reality the march would proceed for a significant period without being stopped and would attract a significant level of publicity, both national and international.

10.4.17 In the week preceding Bloody Sunday the difficulty in enforcing the ban on marches was expressly acknowledged by General Tuzo, when briefing the Chief of Defence Staff, to be "**the major current problem**" "The Security Forces regard a march as prevented (by stopping it on ground and at a time of their own choice) it is aim is frustrated. The trouble as usual is the local news media, particularly BBC TV, who did not fairly report the march and the Security Force measures of prevention on Sun 23 Jan 72. Too much was made of the attempts to defy the law. . . . (The COS [Brigadier Tickell] subsequently gave it as his opinion, and D Int agreed, that **the Protestants have got used to the Roman Catholic bomber/gunmen (whom they don't see) and are more likely to react increasingly aggressively to the sight of NICRA supporters defying the law.**"[21] **G70.437 paragraph e** It was acknowledged by General Ford in the same meeting that the NICRA march proposed for Derry "can only be effectively halted on the line of William Street, but by the time they arrive there they will have been seen on (invited) TV to have marched." **G70.439 paragraph 3(c)(1)**

[21] Brigadier Tickell gave evidence that on **Day 244/123/14 to Day 244/124/4** to the effect that he believed that the reference to COS was a misprint for CLF. Col. Dalzell-Payne on **Day 245/7/12 to Day 245/7/20** gave evidence that he did not believe that it was a misprint.

10.4.18 The Derry march was seen by the military as a significant test of the military and their ability to enforce law and order against the background of their increasing prominence in policing.

> **"Our ability to impose the ban is tested now and will certainly be exposed on Sunday 30 Jan 72 when the Civil Rights Association plans to hold a massive anti-internment rally in Londonderry."** **G82.518 paragraph 11**

10.4.19 The Derry march was also regarded as a significant political problem within Westminster. On the 26 January, Anthony Stephens, the Head of DS10 prepared a minute for the Secretary of State for Defence in relation to the NICRA march planned for the 30 January. The concerns identified by Anthony Stephens can be summarised as follows:

i) The march would effectively advertise the existence of the No Go areas in the Bogside and Creggan; **G74.457 paragraph 4**

ii) No statement should issue from the military which would appear to concede the right to march within 'communal' areas (whether the Bogside or the Shankill), as to do so would defeat the whole point of the ban politically speaking, thus the concept of 'stopping marches at points of the security forces choosing' was developed; **G74.457 paragraphs 4 to 5**

iii) There was concern about critical reaction from Protestants if arrests were not seen to be made quickly; **G74.458 paragraph 6**

10.4.20 Thus the problems faced by the military in dealing with the proposed NICRA march in Derry were acute:

i) In the face of criticism of the manner in which the security forces had policed civil rights marches, the military had publicly announced the implementation of a tougher policy for the enforcement of the ban on marches in the context of its renewal. The NICRA march in Derry was therefore going to be seen as a test of the new get tough policy on the part of both civil rights marchers and Unionists.

ii) Unionists regarded the ban as a sop to the IRA who had threatened to prevent Orange Order marches. The Orange Order and Loyalists organisations took the view that if Nationalists could break the ban so could they, a threat which involved significantly greater numbers and would demonstrate the security forces complete ineffectiveness in the face of disorder from both sections of the community.

iii) The force levels required to enforce the ban were prohibitive, the security forces needed to demonstrate that they were effective in policing marches as a means of deterring future marches. To be seen to fail to police the march effectively increased the risk of future illegal marches.

10.4.21 It was against this backdrop that the NICRA march in Derry led to a change in military policy in Derry in January 1972.

10. Military Policy in Derry

10.5.1 There was a significant difference in the approach of the military to policing Belfast and Derry. This difference arose because of the acknowledgement in military circles that Derry, as a predominantly Catholic city, needed to be policed in a different way and a recognition that there needed to be co-operation between the military and the majority community, if policing was to be effective.

10.5.2 This has been almost universally acknowledged and was described by one witness in the following terms:

> "When I assumed my appointment on 27th December [1970], my predecessor and the then Brigade Commander both briefed me on the need, because of the sectarian make-up of the population in Londonderry for the operation of 8 Brigade to be less physical and forceful than perhaps was being used elsewhere in the Province, and that did not just include Londonderry because we had country areas as well for our responsibility, and we played

our operations as discreetly as we could, with less physical, obvious action than was elsewhere in the Province.

We spent a great deal of time. Certainly the Brigade Commander did and I did also, talking to representatives of the people, the local MP for instance; I got out and about because of my job and often found myself speaking to priests and members of the public. . . . and this was, from my understanding of visits to Headquarters Northern Ireland and from my understanding of talking to people who were serving outside 8 Brigade, this was a quieter and a different approach to trying to contain the violence that went on within Londonderry compared to the way that containment took place elsewhere in the Province." **INQ 1900 Day 241/6/14 to Day 241/7/13**

10.5.3 It is moreover apparent that this policy did not meet with universal approval elsewhere in Northern Ireland.

"Part of my duties were to go to Headquarters Northern Ireland fairly regularly, on some occasions about once a week for several months . . . I often met and talked with friends who, in a friendly way, would make it clear that they thought we were a bit cissy-ish and rather - - I do not want to use the word "stupid", but that our approach was being ridiculed by those in Belfast who believed that a firmer form of action should be taken. It was a general view within the Province, and particularly within the young staff officers at headquarters of Northern Ireland." **INQ 1900 Day 241/47/9 to Day 241/48/4**

10.5.4 Nonetheless until July 1971 the policy appeared to be working and the military perception was that "very significant progress towards normality had been made in Londonderry." **G41.263 paragraph 1**

10.5.5 The situation changed dramatically with the killings of Seamus Cusack and Desmond Beattie which "turned the Catholic community from benevolent support to complete alienation." **G27.197 paragraph 1(a)(3)**

10.5.6 These killings by the military were followed by the introduction of Internment which, leading as it did to a deterioration in the security situation throughout Northern Ireland, did nothing to alleviate the tensions which had arisen between the military and the Nationalist population of Derry.

10.5.7 To similar effect, on the 19 August 1971, 8 Brigade launched Operation Huntsman. The operation was designed to lure gunmen into the open in order to shoot them, and thereafter to remove the barricades which had gone up in the Bogside and the Creggan. The operation spearheaded by 2 Royal Green Jackets, while initially perceived as a success "It is disappointing to note that by the following morning most of the barricades had been rebuilt." **G3C** Operation Huntsman was described by General Ford as "a failure and there was major Catholic reaction." **B1208.023 paragraph 3.9**

Appeasement[22]

10.5.8 On the 20 August 1971, following a meeting between the GOC, the UK Rep and the "Committee of 30", it was decided "in a last attempt to maintain the hitherto unsuccessful policy of minimum pressure, the military profile should be lowered in Londonderry in the hope that moderate opinion would win the day." **G41.263 paragraph 2** also **G27.198 paragraph 1(a)(4)** The meeting between the GOC and the "Committee of 30" thus took place against a background in which, the low-key approach adopted by 8 Brigade had apparently been relatively successful, while, the use of 'firmer measures' in the form of lethal force, Internment, and removal of the Barricades had only served to alienate the Catholic population without improving the situation.

10.5.9 This initiative is crucial to an understanding of the military mindset when dealing with the NICRA march. Firstly, because the policy was regarded

by both General Ford and General Tuzo as a failure which had strengthened the IRA within the Bogside and Creggan. This clearly had a bearing on the decision to adopt a tougher military approach on Bloody Sunday. Also, because they placed the blame for that failure squarely on the shoulders of Chief Superintendent Lagan, in consequence of which Headquarters Northern Ireland were unwilling to take advice from him in relation to the NICRA march.

10.5.10 In the interview given by General Ford to Desmond Hamill in 1984 it appears that he opposed this policy from the outset:

> **"while you could dominate Belfast you could never dominate Londonderry. You had to operate in cooperation. So we had to allow the No Go areas. We had to bring the RUC very much into our confidence – bring the Catholic leaders into our confidence, getting things done with their support and cooperation in so far as we could. Harry Tuzo tried it and it all went wrong. I never really agreed with it. There were differences of opinion on Londonderry all the way down the line."** **B1208.003.010**

10.5.11 It moreover appears to have been accepted by General Ford in the course of his evidence that the interview accurately represents his views on this issue. **Day 253/26/2 to Day 253/6/8**

10.5.12 General Ford made it clear in the course of his evidence that the decision to embark on this policy was a unilateral decision by General Tuzo[23] and a decision which General Tuzo subsequently attributed to the fact that Chief Superintendent Lagan had been a particularly persuasive advocate of this course:

> "he told me later . . . that it was not just the strong views of the middle class Catholics who appealed to him to give them a chance

---

[22] The description of the Policy of Containment as an appeasement policy comes from Mr. Gibbens, Counsel for the MOD, when cross-examining Chief Superintendent Lagan. **WT17.30A-B**

[23] **Day 253/24/16 to Day 253/24/17**

to stop the rioting in the city, **but that he was particularly and especially persuaded by Chief Superintendent Lagan. And indeed it was Lagan who finally made up his mind that this totally low profile approach was worth a go."** **Day 253/24/18 to Day 253/25/1**

10.5.13 In an interview held in May 1998 General Tuzo described the decision as his major mistake in Northern Ireland:

> "His most memorable experience was making an effort to respond to the attitude adopted by middle-class Catholics in Londonderry who said the British army was being brutal and over-bearing and if it would only desist, this group of professional men would be able to put the situation under control. The General offered to withdraw the troops for a month or so to see what they could do.
>
> "I spoke very rashly and, as it turned out, quite wrongly and I need hardly say the situation went from bad to worse," he recalled. "This has always stuck in my mind as the major mistake for me. It was a gesture which was quite futile – like so many gestures." **L279.1**

10.5.14 It is also apparent that this was a view he held prior to Bloody Sunday, according to General Ford who stated that General Tuzo regarded the decision as **"the biggest mistake he made in the whole of his time in Northern Ireland."** **Day 253/52/14 to Day 253/52/16** The reason for this assessment was apparently because in the "**succeeding months . . . the situation in the Creggan and in most of the Bogside got pretty well out of control and law and order was not enforced."** **Day 258/28/15 to Day 258/28/25** This view led him to have "**a very low opinion of [Chief Superintendent Lagan]"** **Day 253/52/2 to Day 253/52/16** and which

clearly had a significant influence on General Ford's assessment of Chief Superintendent Lagan.[24]

10.5.15 General Tuzo's view was shared by General Ford, and he appears to attribute to this policy, the situation whereby in December 1971 the security forces faced "an entirely hostile Catholic community". **G41.263**

10.5.16 Thus after a career in Northern Ireland during which he presided over: the introduction of Internment, now an acknowledged military disaster; and Bloody Sunday, General Tuzo regarded the decision to adopt a military policy in Derry, which would allow a space within which moderate Catholic opinion might have some influence, as the decision which caused him most regret. This analysis impacted decisively on decisions which resulted in the use of lethal force on Bloody Sunday.

10.5.17 The hostility of the military to the policy of containment which had been advocated by Chief Superintendent Lagan is evident from the tone of the questioning of Chief Superintendent Lagan by MOD Counsel Mr. Gibbons, who characterised the policy as one of appeasement

"Q. A policy of appeasement had twice been rejected and defeated by the terrorists?

A. Yes, my Lord.

Q. As recently as November 1971?

A. Yes, my Lord.

Q. Your advice was appeasement in the extreme, was it not, on the question of the march?" **WT17.30A-B**

10.5.18 The deep personal hostility and distrust exhibited by General Ford towards Chief Superintendent Lagan and which, by his own account, was based in large part upon what he had been told by General Tuzo, is

[24] By way of example when General Ford was questioned about whether or not he would have sought information from the RUC in Derry about the likely strength of the march he stated that he did not go to the RUC because "I would not wish to deal direct with Chief Superintendent Lagan, particularly in the light of the circumstances about him of which I was well aware, well aware." **Day 253/77/20 to Day/253/77/23**

mirrored by the Rev. Ian Paisley's description of the attitude of the "vast majority of the loyalist policemen of Londonderry" who apparently felt as Generals Tuzo and Ford felt that "they [could] have no confidence in this gentleman". **OS1.508** and **Day 232/86/1 to Day 232/86/25**

10.5.19 That hostility, which in our submission was in no small part informed by the distrust held by those within the military establishment for a Catholic holding a senior post within the RUC,[25] significantly influenced the decision to completely marginalise Chief Superintendent Lagan in the planning and control of the NICRA march in Derry in January 1972.

10.5.20 There appears to have been no recognition on the parts of Generals Tuzo or Ford that they had little option but to adopt a low key approach by the 20 August 1971. Military policy over the previous month had led to the complete alienation of the Catholic population. Moreover the security forces did not have the force levels required to effectively police the Bogside and Creggan. The shooting of Cusack and Beattie, the introduction of Internment, and Operation Huntsman, had not only failed to prevent hooliganism and to remove the barricades, they had resulted in a deterioration of the security situation. Given that tougher tactics worsened the security situation and in the absence of the force levels to engage in more repressive policies there was only one security option. That it had the backing and support of moderate Catholic opinion and the RUC could only be to the advantage of the military.

10.5.21 While there was no apparent recognition on the part of Generals Ford and Tuzo that tougher tactics worsened the security situation, 8 Brigade appeared to have a somewhat different analysis of the situation. See Section 9.5.35-36 below.

---

[25] A fact reflected in the correspondence from Brigadier MacLellan to General Ford where he describes Chief Superintendent Lagan in the following terms: "he is an RC who was brought up in Derry. He and his family still live, by choice, West of the Foyle. 2 His sympathies, not unnaturally, lie entirely with the Catholic community and he makes no secret of his contempt for Stormont policies." General Ford in his statement to this Inquiry states about Chief Superintendent Lagan "I would have been aware that he was a Londonderry Catholic, and my recollection now is that there was a feeling that he was closely identified with the Bogside community." **B1208.028**

October 1971 – A Firmer Line

10.5.22 The arrival of Brigadier MacLellan to Northern Ireland coincided with a shift in policy, implemented by General Ford's Directive for Internal Security Operations, which had the approval of the GOC. **B1208.024** General Ford acknowledged that his directive represented "in effect a deliberate change of gear . . . in relation to the new instructions which had come down from above." **Day 253/34/23 to Day 253/35/15** [26]

10.5.23 This is also confirmed by Lt. Col. Steele in his statement to this Inquiry "Having followed a policy of containment under the command of Brigadier Cowan until July 1971, it became clear in the second half of 1971 that that policy had to change since the conditions on the ground had changed." **B1315.001 paragraph 3**

10.5.24 When Brigadier MacLellan assumed command of 8 Brigade ". . . it became clear that he had instructions to take a firmer line." **C1900.1 paragraph 6** and **Day 241/7/18 to Day 241/7/25**

10.5.25 Brigadier MacLellan, also confirms that the October 1971 Directive involved a "fresh concept of operations for Londonderry". **B1279.004**

10.5.26 The "change of gear" in October 1971 resulted in a decision that "there should be a full-scale coverage of the area and three battalions were ear-marked to be set out to do this. But at the last moment they were diverted to Belfast due to pressure from Protestant businessmen." **B1279.003.009** and **Day 261/11/10 to Day 261/12/23** Brigadier MacLellan was to have arrived with the three extra battalions.

10.5.27 The concept of operations was thus that, by October 1971 there was to be an increase in the force levels in Derry to enable an intensification of military operations. While the policy, in the form of the Directive

remained extant, the force levels required to implement the policy were not made available.

10.5.28 In November 1971 however, an additional Battalion was made available to 8 Brigade, as a result of which there was an intensification of operations. 5 battalion strength operations were mounted in the City over the month of December. The last of these on the 28 December 1971.

10.5.29 There is some confusion in the evidence on this issue. Brigadier MacLellan's draft statement, prepared for the Widgery Inquiry in 1972 and written by Lt. Col. Steele, makes reference to 5 battalion strength operations. **B1279.004, B1279.005** This is also confirmed by Brigadier MacLellan in the interview conducted by Desmond Hamill **B1279.003.001** and by Brigadier MacLellan in his statement to this Inquiry. **B1279.029 paragraphs 13 to 15** To similar effect reference is made to these operations in General Ford's Military Appreciation of December 1971 **G41.263 paragraph 5**

10.5.30 In the course of his oral evidence to this Inquiry however, Lt. Col. Steele rejected the proposition that there had been 5 battalion strength operations stating that this was totally wrong. **Day 266/22/18 to Day 266/24/1** He continued to reject the suggestion even when Brigadier MacLellan's draft statement, which he had written, was shown to him. **Day 268/66/14 to Day 268/68/12**

10.5.31 In our submission Lt. Col. Steele's evidence on this issue is inaccurate. We state this primarily because it is inconsistent with the contemporaneous documents, all of which refer to "battalion strength operations". It is also the case that the basis for Lt. Col. Steele's rejection of the possibility, was that 8 Brigade did not have the force levels. This ignores the fact that the force levels had just increased by 1 battalion.

---

[26] The reference in instructions from above, is a reference to the demand for firmer measures to meet

10.5.32 Col. Ferguson has also given evidence on this issue which is somewhat at variance with the other evidence. His evidence was that as a result of the increase in 8 Brigade by 1 battalion it was decided to launch 5 in-depth battalion size operations, within the Bogside and Creggan. According to Col. Ferguson's evidence, however this was as part of the implementation of Course 1½ following General Ford's paper "Future Military Policy for Londonderry: An Appreciation of the Situation by CLF" **G41** drafted in December 1971. This analysis is consistent with his contemporaneous notes. **Day 281/11/3 to Day 281/12/25**

10.5.33 Col. Ferguson stated that two of these operations were postponed and the first such operation "consisted of two companies of 2 RGJ, assisted by one from 1 Coldsm Gds, searching some garages in the Bogside starting early in the morning. They were meet by an extremely hostile crowd, which quickly assembled, serious rioting continued throughout the day. I recall the CO 2RGJ telling me that he had never seen such hostility in the City before and that he feared for the lives of his soldiers had they been seized by the mob." **B1122.5 paragraph 25** The search operation described by Col. Ferguson in our submission is the same operation as that referred to in Brigadier MacLellan's draft statement. **B1279.004**[27]

10.5.34 There is an inconsistency as to whether the operation on the 28 December flowed from the October 1971 directive or the December 1971 Military Appreciation. However both Col. Ferguson and Brigadier MacLellan are clear that the operation on the 28 December 1971 was the final battalion strength operation, and that "after this aggressive operation, and presumably because of the very hostile and violent reaction which occurred, the further planned two/three company operations did not take place." **B1122.5 paragraph 27**

---

the security situation coming from Westminster, see Section 9.3.6 above

[27] "28 Dec – Arrest & search op in Stanleys Walk (conducted in daylight)" **B1279.004** In Brigadier MacLellan's statement to this Inquiry he confirms that some of the operations were conducted by the 2 RGJ which is also consistent with the account given by Col. Ferguson.

10.5.35 As Brigadier MacLellan stated:

> "I came to the not very original conclusion that the more drastic our action the more drastic the reaction. . . . It became apparent therefore that our more intense activities were not only making the general security situation worse and aggravating an already tense state of affairs but also playing into the hands of the IRA's efficient propaganda machine with the result that Catholic newspapers became extremely hostile.
>
> It thus became abundantly clear that instead of isolating the IRA from the community, as directed by the CLF, we were welding them to it." **B1279.029 paragraphs 14 to 15**

Future Military Policy in Derry

10.5.36 In December 1971 General Ford prepared a paper "Future Military Policy for Londonderry: An Appreciation of the Situation by CLF". **G41** In that paper following a consideration of three options, General Ford proposes continuing with the policy of containment, albeit the course adopted was described as Course 1½, to distinguish it from the "defensive and defeatist" course adopted in August 1971. **G41.272 paragraph 24**

10.5.37 It is evident from the Appreciation, prepared by General Ford, that the policy eventually adopted is not one which he endorses from a military perspective. Rather the policy is one which he is effectively forced to adopt:

> "The best that can be said of Course 1 is that it does not stir the pot unduly in Creggan and Bogside, **but it most be recognised that the price to be paid is that a community of some 33,000 citizens of the UK will be allowed to remain in a state of anarchy and revolt.** The containment aspect of this policy can certainly be achieved and the temptation to adopt this course until a cessation of hostilities elsewhere in Ulster is strong and certainly attractive from a political point of view. **Some limited military benefit will also accrue in that some pressure is**

brought to bear on the IRA provided that the offensive part is given sufficient emphasis." G41.272 paragraph 22

10.5.38 It is clear that General Ford was aware of the battalion strength operations mounted by 8 Brigade, **G41.263 paragraph 5** it appears however that the analysis of Brigadier MacLellan and 8 Brigade that they should revert to "low level activity to allow tempers to cool" **B1279.003.001** had not been communicated to General Ford at that stage.[28] Certainly no reference is made to it in the appreciation, which amounts to an intensification of offensive action rather than a reversion to a more low key approach.

Breaking the Stalemate [29]

10.5.39 Over the period July to December 1971 the inability of 8 Brigade to exert military control in Derry, in the manner in which it had been imposed in Belfast, was an issue which had exercised military decision-makers in Headquarters Northern Ireland.

10.5.40 The period marked a trend towards increasingly firmer measures with the aim to "[p]rogressively impose the rule of law on the Creggan and the Bogside" **G23.166 paragraph 11(a)** and a recognition that "some new initiative is clearly necessary if the present stalemate is to be broken." **G41.271 paragraph 19**

10.5.41 There was therefore a build-up of pressure from Stormont, Westminster and from Headquarters Northern Ireland for some fresh military initiative to break the stalemate in Derry. This is reflected in General Ford's interview with Desmond Hamill in 1984 when he states:

> "There was a lot of pressure from Stormont to take tough action and I agreed with that. I wrote a paper on it. We had reached a

[28] Which is of course consistent with the timing of that decision, made sometime after the Operation on the 28 December 1971.

[29] General Ford when questioned about the fact that he had expressed himself as 'disturbed' by the attitude of Brigadier MacLellan and Col. Ferguson in his memo to General Tuzo stated "I was purely disturbed by the fact that there were no suggestions for breaking the stalemate. That was the crux of the thing: we had stalemate." **Day 253/51/6 to Day 253/51/9** The term is also to be found in **G41.271 paragraph 19**

critical moment in time. The damage was increasing. The youths were becoming more and more confident and unless we did something round about that time the whole thing was going to get out of control. The impression we were getting was that a lot of the local population was getting fed up with the youths. Their own way of life was being destroyed. So all that put together indicated that this was the time to show we were not prepared to allow those hooligans to go on any longer." **B1208.003.015**[30]

10.5.42 Throughout this period there was an unacknowledged tension between the analyses of Headquarters Northern Ireland and 8 Brigade. Headquarters Northern Ireland had come to the conclusion that the 'appeasement' policy was a necessary evil, pending the availability of additional force levels. In 8 Brigade there was some recognition that in Derry, with its 75% Catholic population, some accommodation had to be reached with the majority population, and that the consequences of intensification of military action were that "instead of isolating the IRA from the community, as directed by the CLF, we were welding them to it." **B1279.029 paragraph 15**

10.5.43 General Ford's visit to Derry on 7 January 1972, saw the underlying tensions exposed. General Ford professed himself "disturbed by the attitude of both the Brigade Commander and the Battalion Commander, and also, of course, by Chief Superintendent Lagan. All admitted that "The Front" was gradually moving Northwards and, in their view, not only would Great James Street go up in time but also Clarendon Street unless these was a change of policy." **G48.299 paragraph 1**

10.5.44 While this memo has been discussed previously in the context of its advocacy of the use of lethal force, the memo also marks:

i) A vote of no confidence in the leadership of 8 Brigade.

[30] It is submitted that General Ford in effect accepted that this account was accurate, see for example

ii) A significant change in military policy in Derry at an operational level.

10.5.45 It is our further submission that given the personalities involved, General Ford and General Tuzo, were in a position to effect a change at this level without requiring overt sanction from Whitehall or Westminster. We state that for the following reasons:

i) The memo was communicated to the General Officer Commanding who was the Director of Operations in Northern Ireland and as such, was "responsible for the control, tasks and deployment of all security forces in Northern Ireland." **G20.142 paragraph 5a**

ii) The close working relationship between the Commander of Land Forces and the General Officer Commanding[31] which means that there can be no question but that the contents of the memo were discussed by them prior to Bloody Sunday.

iii) The views represented the "considered" views of General Ford, the Commander of Land Forces in Northern Ireland and amounted to a definite proposal. We make this submission both in light of the evidence of General Ford to this Inquiry [32] and because in view of the nature of the working relationship between Generals Tuzo and Ford, the fact that General Ford chose to put his views in writing demonstrates that the memorandum amounted to a serious proposal.

iv) The views were obviously receiving serious consideration on the part of General Tuzo as evidenced by the record of the meeting of the Joint Security Committee meeting on the 13 January just 3 days after the memo was sent. The minute records General Tuzo as having indicated that "following a meeting with businessmen in

---

Day 253/26/2 to Day 253/26/8

[31] The working relationship between General Ford and General Tuzo was described by General Ford in the following terms: "our relationship was so close that as we met—I said earlier possibly three times a week entirely privately . . . and, as it were, let our hair down completely, we were in each other's minds totally." **Day 253/31/15 to Day 253/31/23**

[32] See transcript **Day 258/25/4 to Day 258/25/15** "General Ford, it is also a very important document in that it provides an insight into the general thinking that you were applying to the problem as it existed in Londonderry? A. That is correct, it is my first thoughts or part of it was. Q. It is not really your first thoughts, General Ford, because you had a handwritten document which did not include much of the

Londonderry[33] certain measures were in mind with a view to putting down the troublesome hooligan element there. **It was a very difficult problem to solve within the law."** **G52.316 paragraph 2**

v) The views were those of General Ford who took over effective operational control of the security operation in Derry on Bloody Sunday.

10.5.46 General Ford states in his memo that the prevailing wisdom of the security forces in Derry was to the effect that, **absent a change of policy**, ""The Front" was gradually moving Northwards and in their view, not only would Great James Street go up in time but also Clarendon Street . . . [which would mean] that this major shopping centre would . . . become extinct over the next few months". **G48.299 paragraph 1**

10.5.47 He attributes the movement of "The Front" to the Derry Young Hooligans "Gangs of tough, teenaged youths permanently unemployed, have developed sophisticated tactics of brick and stone throwing, destruction and arson. Under cover of nearby buildings, they operate just beyond the hard core areas and extend the radius of anarchy by degrees into additional streets and areas. Against the Derry Young Hooligans the Army in Londonderry is for the moment virtually incapable." **G48.300**

10.5.48 While General Ford attributes his appreciation of the situation in Derry to Brigadier MacLellan and Colonel Ferguson, the evidence would tend to suggest that this appreciation, is in large part, General Ford's own.

10.5.49 According to Col. Ferguson, Brigadier MacLellan was not at the meeting he attended with General Ford and Chief Superintendent Lagan, which took place at the conclusion of the meeting with the Strand Road Traders' Association. **Day 281/31/17 to Day 281/31/23** Brigadier MacLellan is also clear that he did not attend the meeting with the Strand Road Traders,

---

detail which is contained in this document. This document is a refined document which extends beyond your handwritten notes? A. oh yes"

[33] The meeting attended by General Ford on the 7 January 1972 which gave rise to the memo.

Day 261/22/5 to Day 261/22/8 which would tend to suggest he was not at the subsequent meeting, although it is accepted that it is probable that he met General Ford at some stage during the day.

10.5.50 General Ford's analysis of the Derry Young Hooligans as the core problem has been expressly rejected by Col. Ferguson.

"Q. Whether or not you expressed any view yourself, was it in fact your view that unless there was some sort of change of policy, the trouble was likely to spread further into the commercial area around the Strand Road?

A. Certainly as far as – there are two things: one is the containment of hooliganism along the so-called containment line. That was something we did and that was a problem; it caused us casualties; it was a difficulty; it was annoyance to everyone, including the people of Derry, but that was something that was under control in the sense it did not – we did not have hooliganism going into the shopping centres; it did not go into the very sensitive Protestant areas of Fountain Street and so that part of it was all right.

With regard to the problem of bombing shops, that was a problem which had not been solved in Belfast or, indeed in Londonderry. So there are two separate issues. I might have expressed a gloomy view about the problem of bombing, because unless one can get to the heart of where the explosives are and who was carrying the bombs, then it is very difficult to actually prevent the shops being bombed.

Q. When General Ford says in his memorandum that all at the meeting admitted that the front was gradually moving northwards and that not only would Great James Street go up in time, but also Clarendon Street unless there was a change in policy, should we understand that so far as you were concerned that would not completely reflect your view because it does not make a distinction sufficiently clear between the problem of hooliganism which was, in your view, contained, geographically

contained, and the problem of bombing which was more liable to spread into areas that were unaffected by hooliganism'?

A. I think that is correct and I think I would disagree that there had been agreement to anything. I do not think it was that kind of meeting." **Day 281/38/22 to Day 281/40/13**

10.5.51 Brigadier MacLellan is more equivocal:

"Q Should we suppose that that appreciation of the internal security situation in Londonderry was derived from his discussion with you and Colonel Ferguson?

A. I should think we very largely had contributed to it, but he was getting daily sit reps, he visited – I mean, he was supposed to be au fait with the situation and I think he was, but not necessarily – what I am trying to say is that I do not think he came with a blank mind, took this in and then". **Day 261/27/11 to Day 261/27/19**

10.5.52 What is clear is that General Ford came away from Derry with an extremely jaundiced view not only of the Derry Young Hooligans, and the people of the Creggan and the Bogside,[34] but also of the military leadership of 8 Brigade.

10.5.53 General Ford has sought in the course of his evidence, to minimise the extent of his criticism of Brigadier MacLellan and Colonel Ferguson, rejecting the suggestion that the memo was in effect a vote of no confidence in the military leadership within 8 Brigade:

"Q. In your evidence last week to the Tribunal you said . . . that you were disappointed that there were no suggestions for breaking the stalemate coming forward?

A. Yes, that was the limit of my dissatisfaction.

[34] "The IS situation in Londonderry is one of armed gunmen dominating the Creggan and Bogside backed and protected by the vast majority of the population in these two areas". **G48.300 paragraph 4**

Q. Would it be fair, therefore, to say that so far as . . . MacLellan and Ferguson were concerned, you had a lack of confidence in them, and, to some extent, their men?

A. No, I did not. Not a lack of confidence." **Day 256/14/1 to Day 256/14/10**

10.5.54 It is submitted that a reading of the memo itself, and General Ford's evidence to the Inquiry, it is evident that the memo of the 7 January 1972 communicated to General Tuzo General Ford's complete lack of confidence in the military judgment of senior officers in 8 Brigade. We say this for the following reasons:

i) The fact that General Ford describes himself as 'disturbed' by the attitude of the Brigadier and Battalion Commander and then goes on to state in the same sentence "and of course Chief Superintendent Lagan". The association by General Ford of Brigadier MacLellan and Colonel Ferguson's attitude, with that of Chief Superintendent Lagan, was designed to convey to General Tuzo a complete lack of confidence in their ability, given General Ford's knowledge of the low opinion with which General Tuzo held Chief Superintendent Lagan at that time.

ii) Throughout his evidence it is clear that he feels the blame for the problems lie, not with a lack of force levels or a difficult situation, but with a failure of leadership. For example in his statement, he states that "for my part, despite the difficulties, I would have expected a greater degree of initiative and enterprise." **B1208.027 paragraph 4.4** And in the course of his oral evidence he states "the attitude was one . . . of really feeling he had to accept the situation and that, I felt was really unacceptable; we had to try and find a way forward." **Day 258/26/7 to Day 258/26/10**

10.5.55 The memo also takes place against a background in which 8 Brigade had "undertaken more offensive operations against the IRA" **Day 281/15/8 to Day 281/15/19** in response to Directives from Headquarters Northern Ireland and had come to the conclusion that they should abandon this

approach because of the reaction it was provoking amongst the wider community. **Day 281/11/3 to Day 281/11/13** and **B1279.029 paragraph 15**

10.5.56 Significantly both Brigadier MacLellan and Lt. Col. Ferguson, of whom General Ford is critical, were of the view that this policy had to be abandoned.

10.5.57 It is submitted that following his visit of the 7 January General Ford's appreciation of the situation in Derry had shifted dramatically. He saw a need for an intensification of military operations and a military initiative aimed at breaking the stalemate. He also concluded that this initiative would not come from within 8 Brigade, resulting in a decision that Headquarters Northern Ireland would take effective operational control of the proposed Civil Rights march. **G48.301 paragraph 8** General Ford saw the NICRA march on Bloody Sunday as an opportunity to seize the initiative. However General Ford's appreciation of the situation in Derry had significant consequences for the form that initiative took:

i) General Ford regarded an offensive against hooligans as vital, if law and order was to be enforced in Derry;

ii) General Ford characterised rioters in Derry as synonymous with the IRA, he had come to regard the use of lethal force as the 'minimum force' necessary to deal with rioters and in consequence no weight was attached to the Article 2 rights of rioters.

iii) General Ford had no confidence in 8 Brigade to implement the type of initiative necessary, this informed both his lack of consultation with 8 Brigade in developing the concept of the military operation and his decision to use 1 Para.

10.5.58 In our submission, General Ford's memo to General Tuzo amounted to a significant change in the appreciation by Headquarters Northern Ireland of the security situation in Derry and a decisive move from the policy of containment as operated by 8 Brigade. The proposed Civil Rights March in Derry was the first opportunity to seize the initiative and to restore law

and order in Derry, with General Ford exercising effective operational control. It led to General Ford's direct involvement in the planning and control of the march in Derry and resulted in decisions which ultimately led to the deaths of innocent civilians at the hands of the Parachute Regiment.

FS1 . 697

11. CONCEPT OF MILITARY PLAN

"Where it all went wrong was at the arrest operation.
This was carried out by 1 Para. These were
General Ford's favourite 'shock troops' and he stood there
and urged them on 'Go and get them'.
The Paras cry anyway was Go, go . . ."
B1279.003.014

11.1 Introduction

11.1.1 The planning and control of the operation to police the NICRA march on the 30 January was ostensibly a matter for the local security forces. The joint Police/Army instructions clearly envisage that operational decisions are made primarily at local level and should involve the co-operation of the RUC and the military with the objective of preventing illegal marches. **G59.362**

11.1.2 Mr. Glasgow QC suggested, when questioning Superintendent McCullagh, that the decision whether or not to stop the march was not a matter for the local security forces, and that the decision to stop the NICRA march in Derry had in fact been made by the JSC, prior to the meeting between Chief Superintendent Lagan and Brigadier MacLellan on the 24 January 1972. **Day 232/115/20 to Day 232/116/20** In making that suggestion he specifically referred Superintendent McCullagh to the views attributed to his Chief Constable where he emphasised "the importance of stopping marches decisively, leaving no room for infiltration." **G52.315** However the JSC meeting to which he referred was the meeting of the 13 January 1972 at which the decision was made to renew the ban on marches. In fact the decision to stop, as distinct from the decision to ban, the NICRA march on the 30 January 1972, was not discussed by the JSC until their meeting of the 27 January 1972.

11.1.3 Moreover, the minutes of the next JSC meeting of the 20 January show that, while a civil rights march in Armagh was to be banned and stopped,

"An Ulster Protestant Volunteer Rally was also scheduled as a counter to the March. The Committee accepted the Police view, **based on tactical grounds**, that this should not be banned." **G63.378** The minutes demonstrate that: local police retained primary responsibility for tactical decisions on how to implement the ban in their area and that local circumstances were pertinent to the decision-making process.

11.1.4 In our submission, under normal circumstances, the local security forces decided on the concept of operations and made key decisions relating to the planning and control of the operation to police illegal marches.

11.1.5 The NICRA march in Derry on the 30 January was different. It was different in that from an early stage, control over the planning of the operation was removed: firstly from the local police; and, then from the local military; with effective operational control being exercised from within HQNI by General Ford, while seeking to maintain a veneer of local responsibility.

11.1.6 In the initial planning stages of Operation Forecast, a concept of operations was developed, and key decisions were made, which to a significant degree dictated the outcome of Bloody Sunday. The concept of operations involved:

i) The decision to prevent the march from reaching the Guildhall;

ii) The decision that the Army, as opposed to the RUC would police the march;

iii) The decision to provide for an arrest operation; and,

iv) The decision that 1 Para would be used in the arrest operation.

11.1.7 The concept of operations was developed, not by the local security forces in Derry, who ostensibly retained operational control, but by the Commander of Land Forces, General Ford. In our submission, each of these decisions finds its origins in General Ford's memo to General Tuzo, when he "told Commander 8 Brigade that he was to prepare a plan over this weekend based on the assumption that the march was to be stopped as

near to its starting point as was practical and taking into account **some form of battle** (therefore he must choose a place of tactical advantage) and also the fact that the minimum damage must be done to the shopping centre." **G48.301**

11.1.8 Our submissions on this issue can be summarised as follows:

i) Operational control for the Concept of the Military Operation was removed from N Division and 8 Brigade and decisions about tactics, strategy and even troop deployment were made at Headquarters Northern Ireland level.

ii) Crucial decisions on how the march was to be policed were dictated by factors, unrelated to the policing and security requirements for the NICRA march in Derry.

iii) Decisions were formulated with the objective of 'breaking the stalemate'[1] identified by General Ford in his memo to General Tuzo, and were specifically designed to: take on and defeat the Derry Young Hooligans; and to, demonstrate a 'tougher' policy on the streets of Derry, both to the citizens of Derry, and to 8 Brigade.

iv) The decisions made at Headquarters Northern Ireland level did not seek to minimise the risk of the use of lethal force by the security forces, and created the circumstances in which lethal force was more likely to be used against unarmed civilians.

11.2 Decision to Prevent the March reaching the Guildhall

11.2.1 The order made by the Minister of Home Affairs under Section 2(2) of the Public Order Act 1951 "prohibiting the holding of all public processions on any highway, road or street in Northern Ireland" was extended in January 1972 for a further 12 months.

11.2.2 For the reasons set out in Section 9.4 above, the military, at the level of General Ford and above, and, within the Ministry of Defence, regarded it

as imperative to be seen to stop the March, albeit, the march could not be stopped prior to leaving the Bogside and the Creggan.

11.2.3 While there is clear evidence that the local RUC took the view that the march should be allowed to proceed to the Guildhall, there is a conflict of evidence on the question of whether Brigadier MacLellan wanted the march to be allowed to proceed.

11.2.4 The determination of this issue is important in that it demonstrates the extent to which the decision to stop the march, and the decisions which flowed from it, identified at 11.2.1.1 above, were taken, not because it was the correct tactical approach to policing the march but in order to impose a change in military policy in Derry.

Lagan – MacLellan Dispute

11.2.5 It is common case that on the 24 January 1972, Brigadier MacLellan met Chief Superintendent Lagan and Superintendent McCullagh, to discuss the strategic approach of the security forces to the NICRA march scheduled for the 30 January. While Brigadier MacLellan appears to suggest that this meeting was unnecessary, **Day 261/43/18 to Day 261/43/25** such a meeting was consistent with the requirement under the Police/Army instruction that there must be prior "Police/Army planning" and a "detailed joint Police/Army plan" made in respect of each procession. **G59.362 paragraph 2**

11.2.6 Chief Superintendent Lagan's view was that the march should be allowed to proceed to the Guildhall, because:

> "I felt that by allowing the marchers to enter the Guildhall Square, the police and the army could identify many of the marchers by sight and through using photographs they could be prosecuted later. This would have had the added benefit of

[1] **Day 253/51/ to Day 253/51/9** "I think, to put it into context from what I can remember, I was purely disturbed by the fact that there were no suggestions for breaking the stalemate. That was the crux of the thing: we had stalemate." General Ford's oral testimony in relation to **G48.299-301**

minimising the risk of confrontation between the marchers and the security forces.

I believe that had the marches and the speeches been allowed to proceed as planned, events would have taken place as they had done in the past. That is, I expected that when the speeches had finished the majority of the marchers would return to their homes their buses or their cars and a limited amount of stone throwing would then occur by the hooligan element. At that time I did not believe that massive damage to property would result. The only injury or damage that I could see that would happen would be suffered by the security forces as the result of the stone throwing." **JL1.9 paragraphs 45 to 46**

11.2.7 The evidence of Superintendent McCullagh was to similar effect:

"if the march had been allowed to the Guildhall, then you would not have had a hooligan element in confrontation. You might have had it later, but you would not have had it at that point, the march would have proceeded, you would not have had hooligans misbehaving in William Street or Waterloo Street. You might have had a problem coming back from it, but that is another issue." **Day 231/129/13 to Day 231/129/20**

11.2.8 Chief Superintendent Lagan gave evidence at the Widgery Inquiry that after discussion, everyone at the meeting, including Brigadier MacLellan, agreed that the march should be allowed to proceed to the Guildhall. **WT17.18B-D**, **WT17.22E to 17.18D**, **WT17.34A**

11.2.9 His evidence did not allow for any ambiguity on the point, as can be seen from the following excerpt:

"Q. On the 24th did you get the impression that the Brigadier's advice was going to be on the same lines as yours?

A. I did ask the Brigadier in the course of the afternoon had he any instructions from his authorities what attitude should be adopted, and he told me that he had received no instructions.

Q. So far as his own attitude after the meeting is concerned, did you get the impression that if his advice was asked it would be on the same lines as your own?

A. Yes, and he was giving this advice in fact to General Ford.

Q. And did he tell you that?

A. He did indeed." **WT17.23A-B**

11.2.10 Brigadier MacLellan wrote to General Ford, the day after Chief Superintendent Lagan gave evidence, disputing this version of events and stating that Chief Superintendent Lagan's evidence was 'untrue'. He stated that the discussion on the 24 January had "centred around the probable consequences of stopping the march, in order that we could anticipate the steps that we should have to take. The question of whether the march should or should not be stopped was academic." He went on to suggest that Chief Superintendent Lagan's motivation for perjuring himself was because, as a Catholic, his sympathies, and those of his deputy Superintendent McCullagh, "lie entirely with the Catholic Community." **G128.849**

11.2.11 Chief Superintendent Lagan has made a statement to this Inquiry in which he continues to assert that, while he does not remember Brigadier MacLellan "expressly saying that he thought this was a good idea he did not object or suggest another course of action. There certainly was not any argument about it. . . . I understood that Brigadier MacLellan's report [to General Ford] would be along the same lines as mine. That is, that we would put forward our advice that the march ought to be allowed to proceed and that would be presented as a view that had been reached jointly by us ("our joint advice")." **JL1.10 paragraphs 48 to 50**

11.2.12 Evidence has been given to the same effect by Superintendent McCullagh, who confirmed his statement that "we all agreed on the philosophy that was to be adopted" and stated that:

"He definitely did not say no, but I was clearly under the impression that he had to receive superior instructions on the

matter and it may not, at the time, have been within his remit to give a whole-hearted agreement to it, but I do not remember that he showed any hostility to the suggestion." **Day 231/131/25 to Day 231/132/19**

11.2.13 Superintendent McCullagh specifically rejected the suggestion that:

"the respect that he expressed for the views that you and Chief Superintendent Lagan were putting forward led you to believe that he necessarily agreed with them just because he was listening sympathetically?

A. Not at all.

Q. You do not think that is a risk?

A. No, he was taking the case that we put to him and we did not expect an immediate response to it in the first place. We knew the matter was of such proportions that it was way above his level and indeed ours." **Day 232/120/5 to Day 232/120/25**

11.2.14 As against this, in his statement to this Inquiry, Brigadier MacLellan stated that he regarded the suggestion by the RUC that "you could allow the marchers to go through to the Guildhall to make their protest, to photograph them and then arrest and prosecute them later, [as] pie in the sky. . . the whole idea was impracticable. I did not agree with Mr. Lagan that the march should be allowed to proceed to the Guildhall." **B1279.032 paragraph 30**

11.2.15 It should be noted that in this correspondence to General Ford, **G128.849** Brigadier MacLellan never states that:

i) He had expressly advised Chief Superintendent Lagan at the meeting on the 24 January 1972 that the march had to be stopped.

ii) The idea that the march be allowed to proceed to the Guildhall was in his view 'pie in the sky' and that he had so advised Chief Superintendent Lagan.

11.2.16 Brigadier MacLellan did not suggest, as had been suggested to Superintendent McCullagh, that he might have given the impression to the RUC officers that he shared their view that the march should be allowed to proceed to the Guildhall. His evidence is that while he could not remember the detail of the discussion, that the march would have to be stopped was his "starting position". **Day 261/41/10 to Day 261/41/24**

11.2.17 There is thus a clear conflict of evidence in the account of the meeting given by Chief Superintendent Lagan and Superintendent McCullagh on the one hand and Brigadier MacLellan on the other.

11.2.18 Brigadier MacLellan's explanation for his disagreement with Chief Superintendent Lagan is that he regarded the question of allowing the march to proceed as 'academic', because of:

i) The impossibility of arresting people residing in the Bogside and Creggan subsequent to the march, a proposal which he regarded as 'pie in the sky';

ii) The fact that the Government and JSC would inevitably determine that the march be stopped, given that the aim of the marchers was to demonstrate that Stormont was unable to impose the ban on marches in Derry;

iii) The threat of marches elsewhere in Northern Ireland by Loyalists, if the march was not seen to be stopped. **G128.849**

11.2.19 He has also in his statement to this Inquiry advanced an additional reason for his opposition to Chief Superintendent Lagan's analysis:

> "Personally, I was concerned that if the march had been allowed to go to the Guildhall, the hooligans would have had a heyday, busting the place up and looting. This would have been followed by a sectarian flare up and I was therefore in no doubt that the march had to be contained." **B1179.032 paragraph 30**

11.2.20 In our submission, for the reasons set out in **Section 9.3** above and **Section 11.2.25 – 11.2.36** below, Superintendent Lagan was correct in

describing the exchange of views between himself and Chief Superintendent Lagan as 'academic', **G128.849** because it had become inevitable that the security forces in Derry would be ordered to stop the march.

11.2.21 It is nonetheless our submission that Brigadier MacLellan has lied to this Inquiry when he stated:

i) That he did not convey to Chief Superintendent Lagan and Superintendent McCullagh that he agreed with the proposal that the march should be allowed to proceed to the Guildhall; **Day 261/41/9 to Day 261/41/24**

ii) That he did not agree with Chief Superintendent Lagan's analysis that the best approach to policing the march was to allow it to proceed to the Guildhall; **Day 261/43/18 to Day 261/44/1**

iii) That he formed the view that Chief Superintendent Lagan's suggestion, that the march should be allowed to proceed to the Guildhall, and those breaking the ban photographed, and prosecuted subsequently, was absurd; **Day 261/39/14 to Day 261/39/24**

iv) That he conveyed to Chief Superintendent Lagan and Superintendent McCullagh that the proposal of identifying and photographing people to be followed by normal court proceedings was pie in the sky. **Day 261/239/25 to Day 261/40/2**

v) That he believed that the consequences of allowing the march to proceed would be: rioting; destruction of property in the city centre; and sectarian conflict. **B1279.032 paragraph 30**

11.2.21 Given our acceptance that the discussion between Chief Superintendent Lagan and Brigadier MacLellan was in fact 'academic', because of the agenda of the Commander of Land Forces, the Tribunal may take the view that it is unnecessary to resolve the dispute between Brigadier MacLellan and Chief Superintendent Lagan. It is our submission that this is a dispute which the Tribunal needs to resolve for the following reasons:

i) It goes to the credibility of Brigadier MacLellan, who is a crucial witness in this Inquiry in relation to a number of key issues: whether

an Order was given to 1 Para to go in to the Bogside; the nature of that Order; and, whether separation was a factor in launching the arrest operation.

ii) It is a specific example, of the willingness of military officers, at the highest level, to perjure themselves in this Inquiry, and to close ranks in order to protect themselves as individuals and the army as an institution. [See Section 5.2.2 of these submissions]

11.2.22 It is our contention that Brigadier MacLellan lied to this Inquiry, and we make this case for the following reasons, which are developed below:

i) There is a clear conflict between the evidence of Brigadier MacLellan on the one hand, and Chief Superintendent Lagan and Superintendent McCullagh on the other. In our submission the evidence of the RUC officers is to be preferred over that of Brigadier MacLellan.

ii) Brigadier MacLellan, now professes to have held strong views about the decision to stop the march in 1972, believing that the decision to allow the march to proceed to the Guildhall was absurd and that the security consequences of not stopping the march were extremely grave. Yet those views were not communicated to either Lt. Col. Steele or General Ford at the relevant time. These views have, in our submission, been manufactured, to protect both Brigadier MacLellan himself, and also the reputation of the military in the aftermath of Bloody Sunday.

iii) Chief Superintendent Lagan's proposal was not in fact absurd, it was rather, consistent with the containment policy operational at that time, and was the most effective way of achieving a peaceful outcome on the 30 January 1972.

Conflict between MacLellan and Lagan

11.2.22.1 There is a clear conflict of evidence between the 2 former RUC officers on the one hand and Brigadier MacLellan on the other. It is submitted that, in light of the evidence given under oath by each of them, the evidence does not allow for the possibility of a misunderstanding.

11.2.22.2 The suggestion that the RUC officers may have misunderstood Brigadier MacLellan's conduct at the meeting, believing that he was in agreement, when in fact he vehemently opposed the proposal that the march be allowed to proceed to the Guildhall, has been put in overt terms to both Brigadier MacLellan and Superintendent McCullagh. Both have rejected that proposition. Similarly, neither Chief Superintendent Lagan's evidence in 1972, nor his statement to this Inquiry appears to allow for that possibility.

11.2.22.3 In the circumstances the Inquiry is faced with a choice as to who it should believe. It is our submission that:

i) Superintendent McCullagh was a more credible witness than Brigadier MacLellan and his evidence is to be preferred.

ii) The RUC officers had no motive to lie, either to Widgery, or to this Inquiry. It was not suggested to Superintendent McCullagh by counsel acting on behalf of Brigadier MacLellan that he was lying. Moreover no motive has been advanced, by or on behalf of Brigadier MacLellan, to explain why Superintendent McCullagh would lie about this issue.

iii) The motivation advanced by Brigadier MacLellan for Chief Superintendent Lagan's dishonesty, the fact that he is a Catholic, should be expressly rejected.

iv) Brigadier MacLellan's evidence was, in common with the vast majority of military witnesses, informed throughout by the tendency on the part of the military to close ranks [See **Section 5.2.2**]. His motivation in lying was to prevent any personal responsibility attaching to him for the events of the day[2] and also to protect the Army as an institution from any liability for the events of the day.

[2] A feature of the evidence of Brigadier MacLellan, throughout this Inquiry, was his unwillingness to accept any responsibility for the events of Bloody Sunday. In response to questions about responsibility he attributed responsibility for failures in the planning and control of the operation, either above him, to General Ford, or below him to Lt. Col. Steele and Col. Wilford. This will be addressed in more detail in the Section entitled Operation Forecast.

For all of the above reasons, the evidence of Brigadier MacLellan should be rejected.

Failure to Communicate his Views at the time

11.2.23.1 Brigadier MacLellan now gives evidence that he held very strong views about the need to stop the march. He states that a decision not to stop the march would have been absurd, and he also now states that he had grave concerns for the security situation in the event the march was not stopped. **B1279.032 paragraph 30**

11.2.23.2 What is clear is that he did not see fit to express those views to General Ford to whom he sent a signal after the meeting of the 24 January. **G70A.441** While the signal sent to General Ford does not convey that Brigadier MacLellan supported the views expressed by Chief Superintendent Lagan, he voices no opposition to those views.

11.2.23.3 Moreover, in the statements he made for the purposes of the Widgery Tribunal in 1972, Brigadier MacLellan makes no reference to the strong views, which he now professes to have held, about the necessity of stopping the march.

11.2.23.4 Similarly, in the course of his evidence to Lord Widgery, Brigadier MacLellan conveyed Chief Superintendent Lagan's view about the need to allow the march to proceed. He never took the opportunity to advise Lord Widgery that he had come to a very different conclusion, believing that Chief Superintendent Lagan's views were 'absurd' and that the consequences of not stopping the march were very serious.

11.2.23.5 Had Brigadier MacLellan formed the professional judgment that to implement Chief Superintendent Lagan's suggestions was 'absurd', one would have expected that to form part of his briefing to General Ford, following his consultations with the RUC. Had he formed the view that the consequences of allowing the march to proceed would be: rioting; destruction of property in the city centre; and sectarian conflict;

B1279.032 paragraph 30 he would have been in gross dereliction of duty not to have advised General Ford of the dangers of following Chief Superintendent Lagan's advice.

11.2.23.6. It is also apparent, as will appear below that the Brigadier MacLellan failed to communicate these views to his Brigade Major, with whom he evidently had a close working relationship, and with whom he worked closely in planning the security operation for this march.

11.2.23.7 It is moreover noteworthy that Brigadier MacLellan's concerns about the security implications of allowing the march to proceed were articulated for the very first time in March 2000 when he came to make his Eversheds statement. Even in the interview conducted by Desmond Hamill with Brigadier MacLellan in 1984, and at which Brigadier MacLellan appears to have had access to his contemporaneous documents,[3] Brigadier MacLellan never spells out the reasons he believed the march had to be stopped.

11.2.23.8 In our submission Brigadier MacLellan's evidence that, prior to the NICRA march, he subscribed to the views to which he now lays claim, is patently untrue. His complete failure to communicate those views, either when briefing his commanding officer or speaking to his Brigade Major, render this account entirely implausible. It was only when pressed for an explanation for Chief Superintendent Lagan's evidence by the Chief of the General Staff that Brigadier MacLellan sought to distance himself from Chief Superintendent Lagan's views. G128.849 And it is only in the context of this Inquiry that Brigadier MacLellan has sought to advance concerns about the security implications of allowing the march to proceed. B1279.032 paragraph 30

Chief Superintendent Lagan's proposal 'Pie in the Sky'

[3] B1279.003.001 to B1279.003.021 The interview is replete with direct quotes from documents, for example on B1279.003.003, Brigadier MacLellan quotes from his letter to General Ford of the 15

11.2.24.1 In our submission, the strategy proposed by the RUC was not absurd, but had it been followed the NICRA march would in fact have proceeded "as they had done in the past. . ... The only injury or damage that I could see that would happen would be suffered by the security forces as the result of the stone throwing." **JL1.9 paragraphs 46** Those responsible for organising the march and breaking the ban "would have been amenable" to prosecution and the law would have been enforced, albeit not in the confrontational manner envisaged by the military. **Superintendent McCullagh Day 231/140/4 to Day 231/140/19**

11.2.24.2 While Lt. Col. Steele was not a party to the discussions which took place between the Brigadier and the RUC, he is someone with whom the Brigadier worked extremely closely in the planning of the security operation for the March.

11.2.24.3 Lt. Col. Steele has given evidence to this Inquiry that he shared the analysis that permitting the march to proceed to the Guildhall was the best strategy to adopt in policing the march. He believed it was the best way of avoiding confrontation, and that it achieved the twin objectives of keeping peace in the city, while retaining security. He moreover regarded this approach as consistent with the general approach to security operations in Derry at the time, as the following excerpt demonstrates:

"Q. The plan that Superintendent Lagan is said to be urging on Brigadier MacLellan is to avoid direct confrontation and in effect to deal with the ringleaders of the march on an occasion after the march had taken place?

A. Yes.

Q. Which fits in with case B that you had outlined in your memorandum 10th January 1972.

A. Yes

Q. Would you at the time have shared Mr. Lagan's view, that that was the line to take?

March. **G128.849** In the circumstances it is evident that Brigadier MacLellan had access to

A. Yes.

Q. Why was that?

A. Well, because what we were trying to do was to have peace in the city and yet to retain security.

. . .

Q. . . . assuming that at this stage your state of knowledge was that there was an intention for the marchers to go to the Guildhall, did you share Superintendent Lagan's view that they should be allowed to go there?

A. Yes, I think I did, and to go further on: you are quite right to say that it was, up until the day itself, that we were not quite sure whether they were going to ask to go to the Guildhall or not, and you will recall that there was a meeting held at barrier 14 between the leaders of the NICRA march and the RUC to determine that point.

So, I would have to say that I would agree with Superintendent Frank Lagan here, that the best way to avoid confrontation was to allow the march proceed, which in fact we did.[4]

Mr. Rawat: Was that a general view as to the way that marches should be handled in the city at that time, perhaps in a less confrontational, softly, softly approach,

A. Yes, I think it was in accordance with the way we were running our operations in the city at the time." **Day 266/39/13 to Day 266/42/1**

11.2.24.4 This analysis is also of course consistent with the Brigade Order itself which envisages at 7(b)(2) that "Where it is impracticable to make such arrests, photographs of ringleaders and participants are to be taken, for identification and arrest at a later stage." **G95.567**

11.2.24.5 This body of evidence suggests that:

---

contemporaneous notes when interviewed.

i) Chief Superintendent Lagan's analysis was consistent with the general approach, adopted by the military, to security operations in Derry at that time;

ii) The approach was not absurd, particularly in light of its eventual inclusion in the Brigade Operation Order for Bloody Sunday.

11.2.24.6 For the reasons set out above, it is submitted that the Inquiry should conclude that Brigadier MacLellan shared Chief Superintendent Lagan's view that the march should be allowed to proceed to the Guildhall. This approach reflected the prevailing wisdom within 8 Brigade as to the best approach to policing the ban on marches and was consistent with the military policy operational in Derry at that time.

Responsibility for the Decision to Stop the March

11.2.25 It is nonetheless apparent that Brigadier MacLellan is correct when he states that, the decision whether or not to stop the march "was not up to me or Mr. Lagan", **B1279.032 paragraph 31** and that any discussion between Brigadier MacLellan and Chief Superintendent Lagan was 'academic'. In reality the local security forces in Derry had no input into the decision about whether the march would be allowed to reach the Guildhall.

11.2.26 The decision to stop the march finds its origins in the memo sent by General Ford to General Tuzo on the 10 January. General Ford advised General Tuzo that he had "told Commander 8 Brigade that he was to prepare a plan over this weekend based on the assumption that the march was to be stopped as near to its starting point as was practical and taking into account some form of battle (therefore he must choose a place of tactical advantage) and also the fact that the minimum damage must be done to the shopping centre." **G48.301**

[4] In fact, while the march was allowed to proceed to its destination of Free Derry Coroner without interference, it is clear from the Operations Order for Operation Forecast that had NICRA decided that the march should proceed to the Guildhall it would have been prevented from doing so.

11.2.27 The views expressed in that memo, and in particular:

i) the contempt expressed by General Ford for Chief Superintendent Lagan;

ii) his dissatisfaction with 8th Brigade and Brigadier MacLellan; and,

iii) his desire to restore law and order in Derry; permitted of only one outcome.

Regardless of the views expressed by the local security forces, or the consequences of stopping the march, the NICRA march would be stopped "as near to its starting point as was practical and taking into account some form of battle". **G48.301**

11.2.28 While that memo related to the march scheduled for the 16 January 1972 it is clear that the approach outlined by General Ford on the 7 January 1972, was the approach eventually adopted in Operation Forecast.[5]

11.2.29 Brigadier MacLellan is also correct in suggesting that the "Government were bound to decide that the march should be stopped, and that the Joint Security Committee would share this view." **G128.849** On the 21 January 1972 Lt. Col. Ferguson met Brian Faulkner at a social function, where it was made clear to him, by both Mr. Faulkner and his wife, that the situation which had pertained on the 2 January when civil rights protestors marched along the M1 could not be repeated. It is evident that from an early stage, little weight would attach to the views of the local security forces in determining the policing strategy for the day. **Day 281/43/11 to Day 281/44/18**

11.2.30 As is clear from Section 9.3 General Ford's view that this march had to be stopped was not a minority opinion within HQNI. On the 24 January when Brigadier MacLellan was meeting Chief Superintendent Lagan and Superintendent McCullagh, the Chief of Defence Staff was meeting Generals Tuzo and Ford. **G70.437** It is evident from the notes of that

[5] See also General Ford's draft statement for the Widgery Inquiry at **B1141 paragraph 6**

meeting that there was no prospect of the march being allowed to proceed to the Guildhall.

11.2.31 General Ford's reaction to the signal from Brigadier MacLellan, communicating Chief Superintendent Lagan's views **G70A.441.001** is also revealing. General Ford's response was not to telephone Brigadier MacLellan to discuss the concerns of the local security forces about the potential consequence of stopping the march but rather to order him to prepare an outline plan by the following day, the 26 January. **G69.435, G69.436** This plan "to be based on the blocking of all approaches from the Bogside and the Creggan to the Guildhall, the blocking points to be held by teams of soldiers armed with federal riot guns covered by snipers in case the gunmen intervened. CLF also stressed that we had to prevent the hooligans and rioters from damaging Protestant shopping areas of the City, by saturating these areas with troops." **B1279.032 paragraph 32**

11.2.32 As soon as it was communicated to General Ford that the local security forces were of the view that the march should proceed he took steps to ensure that this would not happen.

Local security concerns not relevant to the Decision

11.2.33 In their evidence to this Inquiry Brigadier MacLellan and General Ford have sought to suggest that local security issues determined the decision to stop the march. In our submission these reasons are advanced because of the recognition that the underlying reason for the decision: the objective of demonstrating the military's strength and securing victory over the protestors, with the consequent change of military policy in Derry, is one which cannot be acknowledged. [See 9.1 above]

11.2.34 Brigadier MacLellan has stated that he was "concerned that if the march had been allowed to go to the Guildhall, the hooligans would have had a heyday, busting the place up and looting. This would have been followed by a sectarian flare up". **B1279.032 paragraph 30** General Ford, on the other hand, suggests that it was the fear that "it was inevitable at an early

stage the IRA and hooligans would take over control of this illegal march". **WT11.5D** and **B1143 paragraph 15**

11.2.35 The evidence of contemporaneous documents is that these factors amount to an *ex post facto* justification for the decision to stop the march, and had no bearing on the decision at the time. We say this for the following reasons:

i) Brigadier MacLellan has never advanced his explanation prior to the establishment of this Inquiry and it is inconsistent with his previous accounts for the reasons set out above.

ii) General Ford's explanation, based as it is upon a briefing apparently received from the senior commanding officers in Derry whom he met on the 7 January 1972, is inconsistent with the evidence of Brigadier MacLellan and Col. Ferguson on this issue. Col. Ferguson evidence about **G48.299-301** is to the effect that "I never had considered – or was asked to consider the option of stopping the march at its source . . . it was definitely a march that was going to take place and so my riding instructions, I think, were very different from what is in that letter." **Day 281/22/3 to Day 281/22/23** While Brigadier MacLellan's explanation for the necessity of stopping the march is at variance with the evidence of General Ford.

11.2.36 In reality the decision to stop the march and the decisions which flowed from it, resulted from a change in military strategy in Derry, heralded by General Ford's memo to General Tuzo. Contrary to the evidence of General Ford and Brigadier MacLellan, neither the security of the city of Derry or its population, nor the requirement that law and order be enforced, provided the justification for the decision to stop the NICRA march 200 yards from the Guildhall. The march was to be stopped in order to demonstrate that the army was able to police the ban on marches and the army was able to police Derry, regardless of the consequences.

11.3 Decision that the Military should Police the March

11.3.1 On the 10 January 1972 Lt. Col. Steele prepared, what he has described as, a memo setting out the concept of operations for the proposed march on the 16 January 1972. **G49.302** That memo was produced in response to General Ford's order, referred to in his memo to General Tuzo, **G48.300** and was thus prepared on the assumption that the march was to be stopped as near to its starting point as practicable.

11.3.2 The Operations Order for Operation Forecast produced some 2 weeks later **G96.581** amounted to a significant change in approach from that envisaged by Lt. Col. Steele in **G49.302**. In the original concept:

i) The RUC would play the prominent role in stopping the march, it was only in the event of marchers breaching the RUC cordon that the military would intervene.

ii) The force levels for 8 Brigade would be increased by 2 Companies to be held in reserve at Drumahoe barracks and to be deployed in the event of either: an angry reaction to stopping the march; or other incidents in the Brigade area. There was no provision for an arrest operation directed at hooligans. **G49.305**

11.3.3 In this section we propose to address the decision to remove operational control from the RUC and place it in the hands of the military, the decision to mount an arrest operation will be addressed in **Section 11.4** below.

11.3.4 The explanation advanced by Brigadier MacLellan and Lt. Col. Steele, for the change in approach between the 2 documents, is the difference in the estimated size of the 2 marches. A figure in the region of 10,000 was the estimate for the march of the 30 January 1972 while figures of 1,000 – 3,000 had been estimated for the earlier march. **Day 261/36/13 to Day 261/37/21** and **Day 266/35/1 to Day 266/36/6**

11.3.5 General Ford's explanation for the change is that: "it appears to be the case that the forecasts of the size of the later march **and its potential repercussions for law and order in Londonderry** were such that large numbers of troops would be required and military control would be necessary." **B1208.038 paragraph 7.25** In his evidence to the Inquiry he appears to suggest that the "potential repercussions for law and order in Londonderry" envisaged were "the indications of the extent of the rioting that was likely to take place". However, as was pointed out to General Ford, the prophesy of increased rioting was predicated upon the assumption that the march would be stopped. **Day 254/47/9 to Day 254/49/16** A prediction foretold also by Lt. Col. Steele's memo, which stated that the "strength of the march could be in proportion to our attitude to stopping it." **G49.302**

11.3.6 The decision to change the character of the operation, from an RUC controlled operation, to one controlled by the military, was the decision of General Ford, made in advance of any discussions with the Chief Constable, at the Director of Operations meeting held on the 26 January 1972. **G75.459**

11.3.7 Paragraph 8 of the first draft of the statement prepared by Brigadier MacLellan for the Widgery Inquiry makes it clear that

i) General Ford made the decision that soldiers would be used to man the blocking points, and that this was in direct response to brigadier MacLellan's signal to General Ford which communicated Chief Superintendent Lagan's views that the march should be allowed to proceed to the Guildhall. **B1279.015 paragraph 6**

ii) The decision that **"[t]he containment of the Creggan March would be a Military Operation with the RUC in support, and the military in command at all levels"** was also the decision of General Ford. **B1279.015 paragraph 8a** This decision followed General Ford's receipt of Brigadier MacLellan's outline plan, following which he ordered Brigadier MacLellan to come to HQNI and ordered him to include this, among other elements, in the plan.

11.3.8 This decision necessarily had the approval of General Tuzo given that:

i) General Tuzo as GOC was "responsible for the control, tasks and deployment of all security forces in Northern Ireland" and only the GOC could dictate that the "RUC come under the direct command of a military commander in certain areas." **G20.142 paragraph 5a**

ii) General Tuzo attended the Director of Operations meeting at which it was determined that this would be a military operation.

11.3.9 It is arguable that the size of the march necessitated a more prominent role for the military. It is however noteworthy that the joint Army/Police Instruction, introduced by way of implementation of the 'firmer measures' agreed at the JSC meeting of the 13 January 1972, envisaged that the RUC would be to the forefront in policing the ban on marches. It was only in "the event of the police cordon being forcibly broken by the procession, [that] Army action will follow in accordance with the [joint Police/Army plan]." **G59.363 paragraph 5** Thus the type of operation envisaged by the JSC, by the RUC and the military, following the renewal of the ban on the 18 January, was entirely consistent with the memo produced by Lt. Col. Steele, but a far remove from the Operations Order for Operation Forecast.

11.3.10 It is our submission that, following his visit to Derry on the 7 January 1972, General Ford had come to the conclusion that the policy of containment, as operated by 8 Brigade, was not working, and that a change of policy was necessary if law and order was to be enforced. The march offered General Ford an opportunity to break the stalemate but given his distrust of Chief Superintendent Lagan, it was vital that the operation by a military one. Thus it is submitted that, the primary motivation for the increased prominence of the military in the operation, was to give HQNI effective operational control over the security operation mounted in Derry on 30 January 1972.

11.4 Decision to Have an Arrest Operation

11.4.1 The second crucial change between the operation envisaged on the 16 January and Operation Forecast was the decision to include an arrest operation in the concept of operations.

11.4.2 Lt. Col. Steele's memo does not contemplate a major arrest operation. The memo envisages the arrest of ringleaders in the event that the march is stopped, or in the alternative, photographing those breaching the ban and arresting them at a later stage. **G49.303 paragraph 5**

11.4.3 In our submission the reasoning which informed the decision to have an arrest operation had a number of far-reaching consequences:

i) The launch of the arrest operation was rendered inevitable;

ii) Separation was never part of the concept of operations.

[This submission is developed in Section 11.4.21-11.4.34 below]

General Ford made the decision to have an Arrest Operation

11.4.4 In Brigadier MacLellan's statement to this Inquiry he said "I was given a direct order by General Ford to launch an arrest operation if the soldiers were attacked by hooligans and he specifically allotted 1 Para for the task. This was not a matter for debate and there was no discretion as far as I was concerned." **B1279.033**

11.4.5 The decision that there should be an arrest operation, involving 1 Para, was communicated to Brigadier MacLellan on the 25 January. In his notes of that conversation Brigadier MacLellan notes that the: "CLF sees 1 Para in reserve in City to "counter-attack" i.e. go round the back to arrest 300-400 rioters". **G69.435**

11.4.6 Moreover, it seems clear that an arrest operation had been in contemplation as far back as the 10 January, at which stage General Ford issued a warning order to 1 Para with respect to the planned march of the 16 January. While there is no express reference to an arrest operation in

the memo, General Ford ordered Brigadier MacLellan to draw up a plan "taking into account the likelihood of some form of battle." **G48.301**

11.4.7 At the meeting at HQNI in Lisburn, General Ford gave more detailed order:

> "he directed that Tactical Headquarters and 3 Companies of the 1st Parachute Regiment should be held centrally behind the blocking points in William Street area, and launched in a scoop-up operation to arrest as many rioters and hooligans as possible." **B1279.016 paragraph 8(k)**

11.4.8 It is evident from the statement of Lt. Col. Steele that the outline plan drafted by 8 Brigade, and sent to General Ford prior to the meeting in Lisburn, had not included an arrest operation:

> "Brigadier MacLellan's plan was to observe the march and contain it. I recall the CLF expressing a view at the meeting that this was an opportunity to arrest any hooligan element. Brigadier MacLellan and I expected there to be hooligans present, and that therefore there would be violence. Accordingly, the CLF said that if the hooligans were going to be there he would allot 1 Para to carry out an arrest operation and the CLF thought that this would be a chance for a major scoop up operation." **B1315.003 paragraph 14**

Reasons for an Arrest Operation

11.4.9 General Ford advances a number of reasons for the decision to include an arrest operation in the concept of operations.

11.4.10 In his supplementary statement to the Widgery Inquiry his explanation was as follows:

> "An arrest operation had been part of our contingency plans on all possible occasions. I have already described the damage that the hooligan element was doing to the William Street area.

We normally have insufficient troops in Londonderry to launch a major arrest operation. Secondly, it is difficult to achieve surprise. Thirdly, on an average afternoon only 20 to 50 of the hooligans operate.

I anticipated that the hooligans would turn out in something approaching their full strength on this occasion. One of my anxieties was that after the inevitable emotional speeches the hooligans would be reinforced by a thousand or more marchers and would bear down on Waterloo Place with the aim of swamping our troops and causing extensive damage to the shopping centre. Such a major riot would have been difficult to counter. It was for this reason that I moved up the 1 Kings Own Border Regiment as an additional reserve. I foresaw that if such an event happened the level of violence would be very high for anything up to three days after the march.

On the other hand, if an opportunity did occur before the end of the rally when the hooligans were separated from the main crowd and we could have arrest a large number of them, I hoped by this means we would have prevented a major escalation of violence later that evening." **B1152 paragraph 18**

11.4.11 Thus it appears that the arrest operation was part of the concept of the military operation for the following reasons:

i) There was a larger number of troops in Derry than normal;

ii) An arrest operation on the day of the march would have an element of surprise;

iii) There would be a larger number of hooligans to arrest;

iv) It would forestall major rioting later that day, and in subsequent days, by hooligans and marchers, following the speeches after the march.

11.4.12 Given the consequences which we submit flow from General Ford's reasoning [see section 11.4.3 above] it is important, in the first instance to

consider whether the analysis which led to the inclusion of an arrest operation as part of the concept of operations was justified.

11.4.13 The two key aspects of General Ford's analysis are:

i) The opportunity created by the NICRA march to launch a major arrest operation, resulting in the removal of a significant number of hooligans from the streets of Derry; and,

ii) The fact that it would forestall major rioting later that day, and in subsequent days, by hooligans and marchers, following the speeches after the march.

11.4.14 The suggestion that the presence of increased force levels in Derry, created a unique opportunity to launch a major arrest operation is somewhat deceptive. While there was an increase in force levels in Derry on the 30 January, the increase in force levels had been identified by Brigadier MacLellan as necessary to stop the march at a time when no arrest operation was envisaged. It was recognised by the military that enforcing the ban on marches "the Force Levels to control urban situations of this sort created by illegal marches are prohibitively high." **G82.516 paragraph 6** Moreover, since November 1971, 8 Brigade had had its force levels increased by 1 Battalion for the specific purpose of providing "the opportunity and the force level for the companies of the resident battalions to undertake specific operations" such as the launch of a major arrest operation directed at hooligans. **B1122.4 paragraph 17** (Statement Col. Ferguson)

11.4.15 The increase in force levels was not, it is submitted a real factor in determining the decision to include an arrest operation in the concept of operations, except inasmuch as it created the opportunity for General Ford to impose 1 Para on 8 Brigade to launch the arrest operation, rather than a Battalion from 8 Brigade. [This topic is addressed in section 11.5 below]

11.4.16 The first element of General Ford's analysis, is in our submission directly linked to General Ford's memo to General Tuzo and his analysis of the

problem of Derry Young Hooligans. General Ford has suggested in the course of his evidence that there is no link between the proposals contained in his memo to General Tuzo of the 10 January, which contemplate a shoot to kill policy aimed at rioters, and the NICRA march in Derry. He has in effect stated that paragraph 8, which deals with the forthcoming march, has no relationship with the rest of the document:

> "paragraphs 1 to 5 are dealing with the situation as I saw it. Paragraphs 6 and 7 are the suggestion. And then, separate from all that, entirely separate from all that . . . I would start informing him of what I have done about pre-planning for the march on Sunday, 16th January, nothing whatsoever to do with Bloody Sunday." **Day 253/66/9 to Day 253/66/22**

11.4.17 However, General Ford's explanation of the reason why an arrest operation was necessary demonstrates that the memo is the key to understanding the decisions made in relation to the NICRA march in Derry on Bloody Sunday.

11.4.18 In particular, it was General Ford's analysis of the Derry Young Hooligans in Derry, as a group against whom "the Army in Londonderry is virtually incapable", and the threat he perceived them as posing to Derry's commercial centre, which informed his decision to take advantage of the NICRA march to launch an operation to arrest a large number of hooligans.

11.4.19 The second key aspect of General Ford's reasoning is the risk that after the march, hooligans would join up with rioters and attack the security forces. He envisages that the consequences of such an attack were violent rioting which the security forces would be unable to control and which could continue for up to 3 days. General Ford attributes this anticipated attack to 'emotive speeches' after the march. **B1152, B1153**

11.4.20 It is significant that this analysis forms no part of the thinking of anyone within the RUC's N Division or within 8 Brigade. Chief Superintendent Lagan envisaged that stopping the march would result in

> "marchers marching on other occasions and at other places. This might have taken place on a working day and in mixed (Catholic/Protestant) population areas and it may have resulted in confrontation between the two populations. It might also have resulted in counter demonstrations from Protestant workplaces.
>
> 44. From experience, I expected that confrontations between the two populations would start with fighting leading onto stoning and petrol-bombing rather than large-scale destruction of property, serious bodily harm or death.
>
> . . .
>
> I refer to the matter raised at the Widgery hearings regarding whether there was a risk that of the meeting that was planned at the end of the march took place and if inflammatory speeches were made, hooligans would go into the shopping and business area and cause great damage with violence lasting up to three days (D 17 34C). I did not anticipate that speeches of that nature would have been made on that day." **JL1.9 paragraphs 43 to 44**

11.4.21 Neither Brigadier MacLellan, Lt. Col. Steele, nor any of the Commanding officers within 8 Brigade have given evidence that this was their expectation. There is no evidence from intelligence sources that this was predicted. The speculation that this was a consequence of the march originates exclusively from General Ford and can be attributed directly to his analysis of the security situation in Derry as set out in his memo to General Tuzo.

Launch of Arrest Operation Inevitable

11.4.22 General Ford's analysis meant that the launch of the arrest operation was inevitable for two reasons.

11.4.23 The NICRA march created an opportunity to arrest a large number of hooligans. On General Ford's analysis this opportunity did not exist under normal circumstances because of the force levels in Derry. Moreover the opportunity had to be taken because if it was not then "not only would the city commercial centre be destroyed, but experience had already shown us, in Londonderry, that once you reached that stage, that gradually the extremists took over control of the town." **Day 258/23/3 to Day 258/23/25**

11.4.24 More significantly, if the arrest operation was not launched then:

> "after the speeches were over last Sunday the hooligans, supported by quite a considerable element of the crowd would have descended on Waterloo Place and the Strand with the aim of doing the maximum damage. **I believe that we would have had the greatest difficulty in containing the situation without shooting into the crowd . . .**
>
> It was because of this situation and because of this possibility that we included in the plan for 8 Bde a quick snatch operation . . . to pick up a high proportion of the hooligans and in this was prevent major hooligan activity after the meeting." **G121.805**

11.4.25 In other words General Ford contemplated a situation where, if an arrest operation was not launched, then after the speeches, the hooligan element would join forces with a large section of the marchers and the only method of containing them would be **by shooting them**. **Day 258/49/22 to Day 258/51/10**

11.4.26 Launching the arrest operation was thus crucial to prevent the Doomsday scenario envisaged by General Ford. Significantly, the scenario was one which envisaged shooting into the crowd in order to prevent the security forces being over-run. General Ford has given evidence that in such an eventuality soldiers would be justified in shooting at unarmed civilians because "it is not just the matter that they are overrun which is so

important, it is the whole credibility of the Security Forces is then lost". **Day 258/51/17 to Day 258/52/2**

Separation not Part of the Concept of Operations

11.4.27 Moreover an arrest operation launched in order to prevent the outcome envisaged by General Ford's drew no necessary distinction between rioters and marcher, given that after the speeches, rioters would be backed up by, up to, a thousand marchers. **B1152, B1153**

11.4.28 In circumstances where the arrest operation had to be launched, and there was no necessary distinction drawn between marchers and rioters it is our submission that the concept of separation formed no part of the concept of operations. Separation is a complete fabrication, developed in the aftermath of Bloody Sunday to justify the army's actions in launching the arrest operation.

11.4.29 General Ford has stated in the course of his evidence that there was a clear distinction drawn between marchers and rioters, and that arresting marchers was not part of the concept of operations.

> "separation was an essential part – a prerequisite to the launching of the arrest operation; separation of the marchers and all those with them, well away from the hooligans and any civilians who cared to stay behind with the hooligans. . . . if there had not been [separation] there would not have been an arrest operation." **Day 254/56/4 to Day 254/57/3**

11.4.30 Yet in none of General Ford's orders to Brigadier MacLellan about the need for an arrest operation is there reference to the concept of separation. Moreover the orders received on the 26 January in Lisburn suggest that action against marchers was part of the concept of operations, rather than expressly excluded:

> "(1) troops were to take no action against Marchers until either an attempt was made to breach the blocking points or violence,

erupted, in the form of stone, bottle, and nail bomb attacks against the Security Forces. . . .

(3) Ringleaders of the March need not necessarily be arrested on the spot. . . ." **B1279.015-016 paragraph 8(d)**

11.4.31 These orders are repeated in the Operations Order itself at 7(b):

"(1) . . . The Security Forces are to take no action against the Marches until either:

(a) An attempt is made to breach the blocking points.

(b) Violence against the Security Forces, in the form of stone, bottle and nail bombing, takes place

(2) Illegal marches are to be halted and disperse on ground of our own choosing. **If possible ringleaders are to be arrested on the spot.** Where it is impracticable to make such arrests, photographs of ringleaders and participants are to be taken, for identification and arrest at a later stage." **G95.567 paragraph 7(b)**

11.4.32 When questioned by MOD counsel at the Widgery Inquiry General Ford was asked:

"Q. was part of the concept that the leaders of the marchers should be arrested?

A. Yes." **WT10.7D**

11.4.33 Although it does appear that this was not the answer that MOD counsel were looking for as Mr Gibbons went on to state:

"Q. Or not?

A. If possible. The directive issued to both the Army and the RUC for dealing with illegal marches was that if practicable the leaders would be arrested at the time, either by the RUC under the Public Order Act or by the Military under the Special Powers Act". **WT10.7E**

11.4.34 Maintaining the distinction between marchers and rioters is crucial to maintaining the myth of separation. Yet the evidence suggests that not only was separation not a factor in the arrest operation as conceived by General Ford, but was contra-indicated by his analysis. General Ford's analysis meant: the arrest operation had to be launched at the optimum time for catching the largest number of rioters; there was no distinction between rioters and marchers; and, the concept of separation was entirely irrelevant until 13 people had been killed and 14 wounded as a result of the decision to launch the arrest operation.

11.4.35 It is our further submission that the inevitability of the launch of the arrest operation is also key to addressing the following issues: whether General Ford put pressure on Brigadier MacLellan to launch the arrest operation; his role in launching the arrest operation; and, whether 1 Para went into the Bogside in breach of orders. These issues are addressed in 'Military Planning on the Day' below.

11.5 Decision to Use 1 Para

11.5.1 The decision to use 1 Para, was an integral part of the decision to include an arrest operation into the concept of operations. It is clear from the evidence, that the decision was General Ford's, and was a decision in respect of which Brigadier MacLellan was not consulted,[6] and about which he had no discretion.[7]

11.5.2 The decision to dictate troop deployment in an operation, ostensibly mounted by 8 Brigade, is a vivid example of the extent to which General Ford supplanted Brigadier MacLellan and took effective operational control in developing the concept of operations for Operation Forecast.

---

[6] "Q. . . Do you thing you would ever have asked either Brigadier MacLellan, or any of the commanding officers of the local regiments, who they thought should be used as the arrest force? A. I am certain I did not ask any of the commanding officers, and I am pretty certain I did not ask Brigadier MacLellan either."

[7] "I was given a direct order by General Ford to launch an arrest operation if the soldiers were attacked by hooligans and he specifically allotted 1 Para for the task. This was not a matter for debate and there was no discretion as far as I was concerned." **B1279.033**

11.5.3 In our submission 1 Para were allocated the task of mounting the arrest operation, for very specific reasons:

i) 1 Para had a reputation for being aggressive and going in 'hard'. Their reputation was the determining factor in their being selected as the arrest force.

ii) General Ford's dissatisfaction with 8 Brigade and Brigadier MacLellan meant that he wanted a Battalion which was not part of 8 Brigade.

iii) He also wanted a Battalion who did not operate the policy of containment, operational within 8 Brigade at that time. To achieve this he needed a Battalion from outside the area whose whole approach was different from that of 8 Brigade, and in line with General Ford's change in policy. "Derry and Belfast were as different as chalk and cheese, and our job in Derry at the time was to maintain a containment line, albeit in an aggressive manner, which was so different to the role required of units in Belfast". **CJ2.8 paragraph 40 (Col. Roy Jackson)**

iv) Had he used a Battalion from within 8 Brigade, Brigadier MacLellan would have more influence and control over the Battalion, and the arrest operation.

11.5.4 We make this submission on the following basis:

i) The decision to use 1 Para contravened standing operational procedures;

ii) The reasons advanced for the decision to use 1 Para are patently untrue;

iii) There was significant controversy about, and opposition to, the decision to use 1 Para, even before they had murdered 13 people. The reason for the controversy was the recognition within 8 Brigade that the decision amounted to: the implementation of a change in military policy in Derry; and, a deliberate affront to 8 Brigade.

Breach of Standard Operational Procedures

11.5.5 It is our primary submission that the use of a Reserve Battalion to conduct the centre-piece of the military operation on Bloody Sunday, the arrest operation, contravened standing operational procedures. We say this for the following reasons:

i) The use of a Reserve Battalion with no experience of the area was highly unusual. This is evident from the KOSB Standing Operations for Internal Security duties in Northern Ireland in relation to Riot Control 'It is generally better to use reinforcing troops to man the base line and use those soldiers with local knowledge of the area to carry out flanking movements.' **G24.187.20(e)**

ii) Brigadier Kitson, an acknowledged expert on internal security operations: "made the point about reserve troops from different Brigades only being used in static positions, or in areas where only "Three right turns" would be needed to get into position." **CK1.4 paragraph 7**

11.5.6 The reason for this being the obvious one, troops who are unfamiliar with an area, would be at a disadvantage relative to local troops, in circumstances where they were involved in an arrest operation. "[I]n a general sense obviously where you have to plunge around and do not know the land, you would be at a slight disadvantage between people who did." **General Kitson, Day 237/54/11 to Day 237/55/17**

General Ford's Reasons for Using 1 Para

11.5.7 General Ford advances the following reasons for the decision to use 1 Para.

"(i) The units in 8 Brigade were already committed in areas which they knew around the perimeter of the City.

(ii) The City battalion (that is the one covering the William Street area etc) was 22 Light Air Defence Regiment Royal Artillery. This was not an infantry battalion but an artillery regiment temporarily being

used in an infantry role and was not suited for a major arrest operation.

(iii) The Province reserve (1KOB) were my reserve. They only became operational on 13 January 1972 and had no experience of arrest operations, major or minor. A major arrest operation would certainly have been beyond their capabilities until at least the middle of February or so.

(iv) As the reserve battalion of 39 Brigade in Belfast, 1 PARA were not committed to permanently holding any particular area.

(v) The third Brigade in Northern Ireland had no reserve battalion.

(vi) 1 PARA had been in the province for well over a year. They had much experience, more than any other battalion in Northern Ireland, both in carrying out arrest operations and in coming under and countering terrorist fire.

(vii) They could be spared for three or four days by Commander 39 Brigade." **B1208.031**

11.5.8 General Ford was of the view it would not have been feasible to use one of the resident battalions to carry out the arrest operation because:

> "Each of the battalions in 8 Brigade had an area of responsibility, and they each knew their area well. To be responsible for a particular area involved not only knowing the geography, but also knowing the history of operations for that area, the intelligence of that area, the relationship with the RUC, and so on. Using, for example, the Royal Anglians or the Green Jackets for the arrest operation would have meant replacing them with 1 PARA and 1 PARA then having to take responsibility for their area. In military terms such a short term solution would have made no sense." **B1208.032 paragraph 5.4**

11.5.9 It is our submission that the reasons advanced by General Ford do not stand up to scrutiny. We take no real issue with the reasons advanced at (iii-v) but those are not in our view determinative of the issue. We propose to address the main reasons advanced below:

1. The units in 8 Brigade were already committed in areas which they knew around the perimeter of the City.

11.5.10 In our submission the converse is true and "the use of other regiments in the areas of responsibility allocated to them was predicated upon [General Ford's] direction that 1 Para were to be used specifically as the arrest force?" **Day 258/65/21 to Day 258/65/25**

11.5.11 General Ford gave orders that the plan "was to be based on the blocking of all approaches from the Bogside and Creggan, the blocking points to be held by teams of soldiers . . . covered by snipers". **B1279.015** Thus soldiers, who would normally have other duties, were manning blocking points which did not normally exist, and covering those blocking points with snipers. In our submission the manning of static blocking points, particularly at locations where no real trouble was expected, was a task which could have been allocated to any unit.

11.5.12 General Ford when questioned about this aspect of his reasoning suggested that resident battalions could "filter through those members of the public with legitimate business to conduct, which may well be necessary for the benefit of the community". **Day 258/66/12 to Day 258/66/20** But of course, as was pointed out to him and General Ford accepted, once the blocking points were in place, no-one was going to be allowed through, so it made no difference whether the troops were local or from outside the area.

11.5.13 General Ford stated in oral evidence that "Presumably headquarters 8th Brigade committed soldiers to man barriers in areas in which they were very familiar, presumably." **Day 254/19/19 to Day 254/19/21** If using soldiers in areas familiar to them is central to his decision to use 1 Para as an arrest force, it is difficult to understand why he never expressly ordered Brigadier MacLellan in those terms.

11.5.14 Moreover, as is evident from the allocation of troops on the day, the establishment of blocking points meant that a significant number of troops were not working in their normal area. An example of which is the fact that, a Company of 2 Royal Green Jackets, operated under the control of the 22nd Light Air Defence Regiment manning Barrier 14.[8]

11.5.15 More significantly, the evidence of Lt. Col. Welsh was to the effect that two of his companies were in "reserve at Magilligan". **Day 282/25/19 to Day 282/26/14** Clearly that was a role 1 Para, as reserve Battalion could have filled in place of 2 Royal Green Jackets with little difficulty.

11.5.16 It is evident that not only did General Ford never order Brigadier MacLellan to use soldiers in their own areas he never explored the practicality of soldiers operating within their own areas on Bloody Sunday.

11.5.17 It is submitted that this reasoning does not stand up to scrutiny because it is a patently dishonest attempt by General Ford to explain his decision to use 1 Para as the arrest force given that "It was the one regiment that [General Ford] introduced into this equation which resulted in the problems" and led to the deaths of unarmed civilians. **Day 257/29/1 to Day 257/29/6**

2. The City battalion (that is the one covering the William Street area etc) was 22 Light Air defence Regiment Royal Artillery. This was not an infantry battalion but an artillery regiment temporarily being used in an infantry role and was not suited for a major arrest operation.

11.5.18 The 22nd Light Air Defence Regiment had only arrived in Derry in November 1971. Prior to that the two resident battalions, 1 Royal Anglian and 2 Royal Green Jackets had alternated the City Battalion role for three weeks at a time. **B1122.4 paragraph 17 (Statement Col. Ferguson)**

[8] Col. Ferguson,'s statement: "The grouping was complex in that two of my batteries came under the command of 1 R Anglian, and in return one company of 2RGJ and one company 1 Para came under my command." **B1122.11 paragraph 62**

Moreover they had only taken over as the City Battalion on the 21 December 1971. **Day 281/16/15**

11.5.19 Thus the resident Battalions, both of which were infantry battalions, were extremely familiar with the William Street area having been operating in that area until November 1971 in three weekly cycles. The Royal Anglians had operated in the area since July 1970 while the Royal Green Jackets had operated their since May 1971.

11.5.20 Moreover, the reason for the allocation of 22nd Light Air Defence Regiment to Derry was to provide "the opportunity and the force level for the companies of the resident battalions to undertake specific operations." **B1122.4 paragraph 17** (Statement Col. Ferguson)

11.5.21 Thus, the deployment of the 22nd Light Air Defence Regiment in Derry, was for the express purpose of facilitating the resident battalions to conduct operations, such as the arrest operation mounted on Bloody Sunday.

11.5.22 The resident Battalions had extensive experience of operating in the Bogside and Creggan, they were familiar with the geography and familiar with the hooligans and their tactics. A fact acknowledged by General Ford:

> "Q. there is no-one better placed, as you have already indicated, to know the area, to know the buildings, to know the localities, to know the escape routes than the resident battalions?
>
> A. I would agree.
>
> Q. There is no-one better placed to be able to identify those involved in habitual rioting, whether or not they themselves are habitual rioters or simply persons who have arrived to take an opportunity of the occasion.?
>
> A. I agree . . ." **Day 258/67/7 to Day 258/67/11**

11.5.23 General Ford's focus on the 22nd Light Air Defence Regiment is entirely misplaced, given their recent arrival in Derry and the purpose for which they arrived, and is a further example of the extent to which General Ford was anxious to avoid giving an honest explanation for his decision to use 1 Para.

> *3. 1 PARA had been in the province for well over a year. They had much experience, more than any other battalion in Northern Ireland, both in carrying out arrest operations and in coming under and countering terrorist fire.*

11.5.24 Both of the resident Battalions in Derry had been in Northern Ireland for over a year. The Commanding Officer of the Royal Anglians has provided this Tribunal with information about his battalions experience, and success, in the mounting arrest operations in the Bogside. **CJ2.5 paragraphs 19 to 20**

11.5.25 There is no evidence, beyond General Ford's assertion to that effect, that 1 Para had greater experience than either 1 Royal Anglian or 2 Royal Green Jackets in carrying out arrest operations, or coming under terrorist fire. In the specific context of Derry they had no experience at all.

4. 1 Para could be spared for three or four days by Commander 39 Brigade

11.5.26 When questioned on this matter General Ford appears to have contradicted himself, suggesting that a factor in using 1 Para as the arrest force, was the fact that as such they would be able to leave Derry more swiftly.

> "I can only say again that when I look at the whole picture, which is what I had to do, including denuding Belfast of its reserve battalion, to have denuded them for possibly five days, and I think that Brigadier Kitson would have found that unacceptable? **Day 258/75/22 to Day 258/76/1**

11.5.27 Thus in oral evidence General Ford stated that the risk that 1 Para might have to stay in Derry for up to 5 days, (for reasons not adequately

explained, **Day 258/75/22 to Day 258/76/24)** influenced the decision to use them as an arrest force. Yet in his statement to this Inquiry one of the reasons for their use as an arrest force was the fact that they could be spared for 3-4 days.

11.5.28 This contradiction is a classic example of the lengths to which General Ford was prepared to go in order to justify his decision.

11.5.29 It is submitted that the reasons advanced by General Ford for using 1 Para as the arrest force do not stand up to scrutiny and have been fabricated in order to justify a decision which led to the deaths of 13 innocent people.

11.5.30 In reality either resident battalion could have mounted the arrest operation in Derry on Bloody Sunday, they had the advantage in terms of knowledge of the geography and the tactics of the hooligans and experience in mounting arrest operations. The consequent changes in deployment would not have caused any difficulty, either for 1 Para, or for the security of 8 Brigade. General Ford ordered Brigadier MacLellan to use 1 Para because he wanted them to be the arrest force, for reasons unrelated to the reasons advanced in his statement to this Inquiry.

Controversial Decision in 1972

11.5.31 There is an abundance of evidence that the decision to use 1 Para was controversial in 1972, even in military circles, and that the reason for the controversy was the recognition that the decision to use 1 Para was:

i) A decision to implement a change in military policy in Derry;

ii) A calculated insult to 8 Brigade.

11.5.32 The clearest evidence on this issue was given to the Inquiry by Col. Roy Jackson, the Commanding Officer of 1 Royal Anglians. He has given evidence that he not only disagreed with the decision to use 1 Para as the arrest force, but that he communicated that disagreement directly to Brigadier MacLellan.

11.5.33 In his statement to this Inquiry he states that:

> "I was surprised that 1 Para had been nominated to be "in reserve and available for a scoop up operation to be carried out on foot"(sic). 1 Para did not know the area and had not operated in the Bogside before. Also, everyone was aware that the Paras had a reputation for tough action and the citizens and hooligans of Londonderry would be greatly surprised if Belfast arrest procedures were carried out on them. I just wondered who had thought out this deployment: it reflected a change of policy – and emphasis – on future operations in Londonderry." **CJ2.8 paragraph 37**

11.5.34 Col. Jackson was quite clear that his reasons for objecting to the use of 1 Para were, the fact that "they were tough and rough and did not know the area, did not know the civilian population, did not know one brick from another round Rossville Flats, and yet we did". **Day 285/33/15 to Day 285/34/11**

11.5.35 Col. Jackson was also quite clear that the decision was an insult to the soldiers in his battalion "I think the soldiers felt affronted as much as I did that those with the wisdom called in an outside battalion to do something that the soldiers and I thought was our job." **Day 285/38/17 to Day 285/38/23**

11.5.36 It is clear that his dissatisfaction with the decision was so strong that he took what he described as the unusual step of raising it with Brigadier MacLellan, at the first opportunity he could, in the immediate aftermath of the Co-ordinating conference and asked him to communicate those views to HQNI. **Day 285/33/21 to Day 285/36/6**

11.5.37 There is a conflict of evidence on this issue to the extent that Brigadier MacLellan states that he does not remember this conversation, and that he believes that had it taken place he would have remembered. It is submitted that Col. Jackson gave clear evidence on this issue, and that his evidence

that the conversation occurred should be preferred to the account given by Brigadier MacLellan.

11.5.38 There is also evidence before the Tribunal that Col. Welsh, the Commanding Officer of the Royal Green Jackets, was unhappy about the decision to use 1 Para as the arrest force. In his statement to this Inquiry he stated:

> "The arrest operation involving the First Battalion The Parachute Regiment was mentioned. They were the 39 Brigade Reserve. They had been trained by Brigadier Frank Kitson who was a tough man and the commander of 39 Brigade. If there was anything nasty to do, they did it. However I do not think that at that stage any of us anticipated that there would be shooting by the army.
>
> . . .
>
> I was disappointed that my Battalion did not have a role, for we did know the ground well. We were trying to do the best we could to get on with the Catholic population and perhaps there was a feeling that the troublemakers were being dealt with in a tougher fashion in Belfast than in Derry. That may have been one of the reasons why the Parachute Regiment was brought in.
>
> . . .
>
> I can recall that at some stage I telephoned [Brigadier MacLellan] to ask why the Royal Green Jackets could not take a more active role and his reply to me was "No, Peter. I have had my orders". I left it at that." **B1340.002 paragraphs 9 to 13**

11.5.39 In an interview with Peter Taylor, some 20 years after Bloody Sunday, Col. Welsh told Peter Taylor that he disagreed with using 1 Para, given their conduct in Magilligan the previous weekend. He also confirmed that he "had telephoned the brigade commander, Brigadier Robert MacLellan, to say it was mad to bring the Paras in, only to be told by the brigadier that he had his orders and he was going to carry them out." **T234** and **Day 282/37/7 to Day 282/38/9**

11.5.40 Lt. Col. Ramsbotham, military assistant to General Carver at the time, has also given evidence that those same concerns were expressed by Col. Welsh to him, prior to Bloody Sunday

> "Peter Welsh also told me about his concerns that it was intended to bring 1 Para to Londonderry for the march on Sunday 30 January. His feeling, with which I completely agreed, was that Londonderry was very different to Belfast. 1 Para had been used as shock troops in Belfast and were the wrong people to bring in to this particular operation. My concern was not, solely, because it was 1 Para; it was because it was the Reserve troops who were to be used, who were from outside the area and therefore were not familiar with the ground."[9] **KR2.4 paragraph 20**

11.5.41 Col. Ferguson also stated that he had a 'hazy' recollection theat "following the march at Magilligan, CO 2RGJ told me that he had gone to the Brigade Commander to dissuade him from using the 1 Para for the march, on 30 January 1972." **B1122.10 paragraph 53**

11.5.42 Col. Ferguson was asked about this during the course of his oral evidence and confirmed that while he had no doubt that Col. Welsh had gone to the Brigade Commander, he was unclear whether he had heard that from Col. Welsh himself or one of his officers. **Day 281/46/3 to Day 281/46/22**

11.5.43 During the course of his evidence to this Inquiry, Col. Welsh appeared to accept General Ford's explanation for the decision to deploy 1 Para as the arrest force:

"Q. Was any reason ever given to you for the use of the Parachute Regiment instead of the Royal Green Jackets?

A. Oh, yes, I think – I mean – it was quite clear we, at that time – I think the roles in the battalions had changed and we were in the

county, and it would have meant taking us out of the county role and going into the city and it would have meant mucking up all the battalions, I think, so that was the plain reason, which I did not appreciate at the time." **Day 282/34/10 to Day 282/34/18**

11.5.44 However, during the course of his evidence on this issue, Col. Welsh accepted the following:

i) That he believed that the Royal Green Jackets should have been given a more active role and ought to have been considered for the arrest operation. **Day 282/34/19 to Day 282/35/7; Day 282/35/20 to Day 282/35/24; Day 282/56/1 to Day 282/56/17; Day 282/60/11 to Day 282/60/22; Day 282/62/7 to Day 282/62/15; Day 282/63/5 to Day 282/63/19**

ii) That he communicated that to Brigadier MacLellan, who made it clear that this was a decision over which he had no control. **Day 282/34/19 to Day 282/34/24**

iii) That, no matter which battalion conducted the arrest operation, there was going to be a certain amount of "mucking-up" of the battalions. **Day 282/56/18 to Day 282/58/12; Day 282/62/7 to Day 282/62/15**

iv) That he did believe that 1 Para had gone over the top at Magilligan and for that reason were not the best troops to deploy as the arrest force for the NICRA march in Derry. **Day 282/12/6 to Day 282/12/20; Day 282/34/24 to Day 282/35/24; Day 282/38/1 to Day 282/38/9; Day 282/632/11 to Day 282/63/19**

v) That at that time he believed that the reason the Paras were being used was because of their reputation as a 'tough' unit and because their approach was different from that of 8 Brigade who were "trying to get on with the Catholic population." **Day 282/33/22 to Day 282/34/5; Day 282/35/20 to Day 282/35/24**

11.5.45 In relation to the statement and evidence of Lt. Col. Ramsbotham, Col. Welsh has stated that he has no memory of this conversation and while

[9] Sir Ramsbotham makes it clear in the same paragraph that he did not think that Reserve troops should

accepting that his memory of the events of 1972 was poor, he appeared to suggest that the conversation had not happened. **Day 282/67/8 to Day 282/67/18**

11.5.46 It is our submission that Lt. Col. Ramsbotham's evidence is to be preferred for the following reasons:

i) Because Lt. Col. Ramsbotham's evidence is that he has a clear recollection of this conversation while Col. Welsh has expressed himself as being unsure about the accuracy of his recollection on this point;

ii) Because he recollects advising General Carver of the contents of the conversation and General Carver advised him that deployment of troops was a matter for HQNI; and,

iii) Because the contents of the conversation are entirely consistent with the views held by Col. Welsh at the time, and expressed by him at the time, and subsequently.

11.5.47 It is therefore our submission that, prior to Bloody Sunday, the decision to use 1 Para for the arrest operation was recognised by the two most experienced officers in Derry, as:

i) A clear departure from the military policy operational in Derry at that time;

ii) An unwise decision in view of 1 Para's reputation and their recent behaviour in Magilligan;

iii) An unwise decision in view of 1 Para's lack of knowledge or understanding of Derry, either geographically or militarily;

iv) An implicit, if not explicit criticism of the approach of their battalions.

11.5.48 Moreover, both officers felt so strongly about the matter that, independently of each other, they raised it with the Brigade Commander,

---

have been used to man the barriers either.

and in the case of Col. Welsh effectively alerted General Carver to the disquiet within Derry about the decision.

11.5.49 Neither officer saw any difficulty at the time with deploying 1 Para to replace their troops for the duration of the operation.

11.5.50 For the reasons set out above it is our submission 1 Para were allocated the task of mounting the arrest operation, because of: their reputation as tough; General Ford's dissatisfaction with 8 Brigade and the difference in the approach of battalions in Belfast to battalions in Derry.

11.6 Conclusions

11.6.1 In our submission each of the decisions identified above contributed directly to the use of lethal force in Derry on Bloody Sunday.

Decision to stop the March

11.6.2 It is our submission that the analysis of Chief Superintendent Lagan was correct and had the march been allowed to proceed to the Guildhall, while there might have been some rioting afterwards, it would have been controllable by the security forces and there was a risk of greater violence in circumstances where the march was stopped.

Decision that the March be policed by the Military

11.6.3 It is our submission that this decision was primarily informed by the desire on the part of General Ford to remove operational control from the RUC in order to implement a tougher policy against Derry Hooligans. Replacing the RUC with the military gave General Ford effective control over the concept of operations and enabled him to make the decision to have an arrest operation and to use 1 Para as the arrest force.

11.6.4 It is our further submission that the differences between the RUC and the military rendered the military unsuitable for involvement in an operation of this type. The decision took place against a background in which the

military in Northern Ireland had been involved in a significant number of controversial shooting incidents, in which unarmed civilians had been killed. [See **Section 9.2** above] Soldiers had not been provided with training in the policing of civil disobedience in a manner designed to minimise to the greatest extent recourse to the use of lethal force. Rather the military approach was to opt for maximal force.

The Decision to have an Arrest Operation

11.6.5 The decision that a major arrest operation should be part of the concept of operations was a decision made by General Ford for the reasons he has given to this Tribunal.

11.6.6 An arrest operation should only have been launched if it was both necessary and appropriate, given the circumstances on the ground. General Ford's concept of the military operation resulted in a situation in which:

i) The launch of the arrest operation was inevitable; and,

ii) The concept of separation never formed part of the concept if operations and was developed as a concept following the killing of unarmed civilians.

The Decision to use 1 Para

11.6.7 It is submitted that the evidence before the Tribunal is to the effect that if an arrest operation was necessary it should have been conducted by troops familiar with the territory, the people and the military policy applicable in Derry at that time.

11.6.8 The decision to use 1 Para was based primarily upon their reputation and amounted to a decision to take on and defeat the Derry Young Hooligans; and to, demonstrate a 'tougher' policy on the streets of Derry, both to the citizens of Derry, and to 8 Brigade.

11.6.9 It is submitted that the decision to use 1 Para had the gravest consequences in terms of increasing the risk of the use of lethal force for the following reasons:

i) 1 Para were aggressive and confrontational in their approach, they entered the Bogside in an aggressive and confrontational manner and had a greater willingness to use lethal force than other units.[10]

ii) Members of 1 Para regarded themselves as going into the Bogside in order to breach the No-Go area and demonstrate that 1 Para could go anywhere in Northern Ireland. This led to a confrontational attitude on their part and a willingness to engage in the use of lethal force in circumstances which were unjustified.[11]

iii) Members of 1 Para regarded themselves as being there to demonstrate to 8 Brigade how to deal with rioters, again this led to a confrontational attitude on their part and a willingness to engage in the use of lethal force in circumstances which were unjustified.[12]

iv) 1 Para had a view of Derry based entirely upon what they had witnessed on the News and what they understood from the attitude of their commanding officers, i.e. that the Bogside was a dangerous place controlled by IRA gunmen, backed up by rioters and it was a place where the army feared to tread.[13] This view was entirely at odds with the knowledge of 8th Brigade. This meant that they had a heightened sense of fear and anticipation going in to the Bogside and in consequence were more likely to overreact to Lt. N's shots.[14]

---

[10] That is evident from their conduct in Magilligan. The Tribunal is also referred to our submissions at **Section 9.3** and **9.7**. Sergeant O **B575.107 paragraphs 3 to 4**

[11] General Jackson, during an interview with Mr Moynahan in 1972, said that he "felt that the 1st Battalion had helped to ensure that there were no-go areas in Belfast, and that a certain contempt was felt for such areas existing elsewhere in the province."**CJ1.15**. General Jackson commented further on this matter at **Day 318/57/20 to Day 318/59/6**. The Tribunal is referred to the evidence of the following soldiers from 1 Para on this issue: INQ 1581 **C1581.2 paragraph 11**, INQ 1237 **C1237.12 paragraph 77**, INQ 739 **C739.1 paragraph 3**, Soldier U **B787.001 paragraph 5**, Sergeant O **B575.107 paragraphs 3 to 4**, Soldier J **B289.001 paragraph 6** and **Day370/89/24-90/14**, INQ 131 **C131.6 paragraph 33**, INQ 1093 **C1093.1 paragraph 7**, INQ 1544 **C1544.1 to C1544.2 paragraph 7** and INQ 1574 **C1574.2 paragraphs 9 to 12**

[12] See for example Soldier 147 **B1891.004 paragraph 22**

[13] See for example, Gen. Jackson's evidence that he was unaware that arrest operations and patrols were mounted in the Bogside.

[14] Soldier H **B262 paragraph 5**

v) Lack of knowledge of the geography of the area inevitably increased the sense of tension among soldiers and contributed to an atmosphere of disorientation and chaos leading to an increased risk of gunfire. In particular they were hyped-up about the Rossville Flats and Rubble Barricade, perceiving them as dangerous locations sheltering gunmen which contributed to the likelihood of their shooting in circumstances which were unjustified. Also a local unit would have confined their arrest operation to the junction of Rossville Street, William Street and would not have ended up in the Rossville Flats car-park or in Glenfada Park.[15]

vi) Many of 1 Para went in with a very fixed view about the existence of Barricades, based upon their experience of operations in Belfast, where Barricades were not allowed to exist. This meant that they were more likely to anticipate being fired upon from the Rubble Barricade, because of the failure of the people behind the Barricade to run away and the fact that at least some stood throwing missiles in the direction of soldiers. Derry soldiers would not have assumed the existence of gunmen and nail-bombers behind the Rubble Barricade and would not have been so eager to fire.[16]

vii) 1 Para regarded themselves, particularly when operating at Battalion strength, as autonomous once the arrest operation was launched (if it was). They operated outside the control of 8 Brigade in circumstances where a local unit would have had greater communication with and would have been more responsive to, control from 8 Brigade.

viii) 1 Para's contempt and disregard for 8 Brigade and their sense of themselves as autonomous contributed directly to their decision: firstly, to put pressure on 8 Brigade to launch the arrest operation when it was not appropriate to launch such an operation; and to

---

[15] See for example the evidence of Soldier 128, a Captain in the 2nd Battalion Royal Green Jackets, who described soldiers from C Company entering the Bogside via Barrier 14 and describes the last soldier as turning around, pointing his weapon at ECHO OP and shouting gunman. According to Soldier 128 the 1 Para soldier was under the mistaken impression that civilian gunmen were located on the top of the Embassy Ballroom. **Day 303/28/10 to Day 303/29/18**

[16] Soldier 018 **B1489 paragraph 4**

launch the arrest operation without an order from Brigade. A local unit would not have launched the arrest operation without an Order from Brigade.[17]

ix) Once a decision had been made to use 1 Para were to be used, they should have been appropriately briefed by 8 Brigade in relation to: the geography of the area; locations from where 1 Para could launch an effective arrest operation; how Derry rioters operated and how the general body of marchers would be likely to behave. 8 Brigade ought to have assisted 1 Para directly in their reconnaissance of the area. .

11.6.10 In our submission it is thus possible to draw the following conclusions from the manner in which the concept of the military operation developed:

1. The concept of military operations was devised entirely by General Ford, neither N Division, nor 8 Brigade had any input, significant or otherwise into the decisions made.
2. The decisions stem from General Ford's analysis of the security situation set out in his memo to General Tuzo. **G48.299**
3. None of the decisions was informed by the need to minimise to the greatest extent possible the risk of the use of lethal force. On the contrary all of the decisions were informed by an analysis which concluded that the use of lethal force against unarmed civilians was almost inevitable, if law and order were to be enforced.

[17] See Section on Military Operation for the Day

12. Sanction of Plans by Stormont/Westminster

12.1 Introduction & Summary of Submissions

12.1.1 The diverse elements which constituted the conditions for the occurrence of Bloody Sunday fused on 30 January 1972.

12.1.2 One element was the fact that the British Government allowed the Stormont Government to exercise disproportionate influence over security matters, including the use of the army. They thereby failed to exercise any or appropriate control over the use or disposition of its armed forces by the Stormont Government - a government which shamelessly discriminated against Catholics and which resisted the modest reforms being urged upon them and which was engaged in a relentless search for firmer security measures against the common enemy which included NICRA marchers and hooligans.

12.1.3 Another element was that the British Government tolerated, if not encouraged, in Northern Ireland, the use of unlawful violence including lethal force.

12.1.4 The essential elements of Operation Forecast, and those which contributed directly to the use of lethal force were sanctioned by both the British Government and the Stormont Government. They include the following:

(i) The decision to prevent the march reaching the Guildhall;

(ii) The decision to mount a major military operation;

(iii) The CGS' dispositions which, inter alia, involved a massive military deployment of 20 companies;

(iv) The decision to mount a significant "arrest" operation;

(v) The decision to use 1 Para.

(vi) The decision to run the risk that the lives of innocent civilians might be endangered.

(vii) The neglect of both governments to take steps to ensure that the operation was conducted in a manner designed to minimise to the greatest extent possible the risk to the lives of innocent civilians.

12.1.5 The "arrest" operation should never have been contemplated or at very

least put on a highly contingent basis subject to stringent conditions and under constant review at the highest level before launching.

12.1.6 Both governments foresaw, as a possible outcome, that the military operation might endanger the lives of innocent civilians and that this was a risk that they were prepared to run. Clearly if they did not foresee such a risk they ought to have foreseen it.

12.1.7 Instead the march was treated as routine operation the implementation of which was left to a low level.

12.1.8 In the event they failed to take steps to ensure that the operation was conducted in a manner designed to minimise to the greatest extent possible the risk to the lives of the people participating in the march and others.

12.1.9 Both governments allowed the view to be disseminated without disapproval that "NICRA was being taken over by the IRA and hooligans". Thus, in effect, conflating these three diverse elements into a common enemy. They thus failed to ensure that vital distinctions between these three disparate groups were maintained.

12.1.10 The equating of the hooligans with the IRA was promulgated without disapproval. Not only is this apparent from the Ford memo (which everyone denies having seen) but also from the manuscript (but not typed) record of the GEN 47 meeting on 27 January.

12.1.11 It is apparent from the contemporary documents that in the weeks leading up to Bloody Sunday Protestants were becoming increasingly agitated about the failure of the security forces to enforce the ban against Catholic marches, see, for example an assessment approved by the Joint Intelligence Committee at their meeting on 6 January 1972 **G46AA.2.88.1.1**. See also **G70.437** which is a report of the visit of the CDS to Northern Ireland on 24 January 1972 in which it is recorded that the GOC referred to NICRA as "the active ally of the IRA". The same document records that the ban on marches is the "major current problem" and at **G70.439** that:

> "... (The COS subsequently gave it as his opinion, and D Int agreed, that the Protestants have got used to the Roman Catholic bomber/gunman (whom they don't see) and are more likely to react

increasingly aggressively to the sight of NICRA supporters defying the law)".

12.1.12 Dalzell-Payne's background paper on marches records that the extension of the ban was seen by Paisley and his followers as a "final surrender to the IRA" and that the immediate reaction to the announcement in Stormont "was that the loyalist section of the community was going to be outraged and that victory had been given to the IRA". It further records that "even one of the most liberal minded Stormont MPs" said that the suppression of loyalist parades and the continued failure to control the IRA and to prevent the civil rights movement from demonstrating publicly "will invite a protestant backlash" see **G82.518**.

12.1.13 In that context the march on Sunday 30 January 1972 was going to be one of the first major acts of defiance and accordingly both governments ought to have been keenly interested in knowing how the security forces were going to deal with it. Those whose duty it was to keep them informed would have been expected to do just that.

12.1.14 The contemporaneous documents reinforced by some of the evidence the Tribunal has heard, demonstrates that the two governments foresaw or ought to have foreseen, at least as a possible outcome, that the operation might endanger the lives of the marchers and others.

12.1.15 In any event it is clearly established that neither government took steps to ensure that the operation was conducted in a manner designed to minimise to the greatest extent possible the risk to the lives of the marchers and others.

12.1.16 The contemporaneous documents nonetheless cogently demonstrate that the two governments foresaw or ought to have foreseen that the military operation might involve a serious risk that innocent civilians might be shot and that this was a risk that they were prepared to run or were indifferent to.

12.1.17 The failure of the respective governments, whose duty it was to protect the right to life of the marchers and others, to take all feasible measures to vindicate the right to life and to minimise to the maximum possible extent the risk to innocent lives deserves the utmost censure.

12.2 Role of the Stormont Government & the JSC

12.2.1 At the JSC meeting of 6th January **G47.289 to G47.298** it was noted:

> "Londonderry: "The Prime Minster mentioned that the Strand Trader association had asked him to meet a deputation about a spread of violent activity into the William Street area of the city. The Parliamentary Secretary at the Ministry of Home Affairs stressed the harm that this was doing to business interests in the area and the danger of further spread. The GOC undertook to discuss the situation on the spot with members of the Association." G47.291

12.2.2 The GOC sent General Ford to meet with the Strand Traders and the result is his notorious memo to the GOC entitled "The Situation in Londonderry as at 7th January" **G48.299 to G48.301** where at **G48.300 paragraph 6** he discusses the shooting of selected ringleaders of the Derry Young Hooligans ("DYH"):

> "The weapons at our disposal – CS gas and baton rounds – are ineffective. This is because the DYH operate mainly in open areas where they can avoid the gas (and some have respirators, many others make-shift wet rag masks) and in open order beyond the accurate range of baton rounds. Alternatively, they operate in built up areas where, because of their tactics and the personal protection they have, CS gas has to be used in vast quantities and to such an extent that it seeps into nearby buildings and affects innocent people, often women and children. Attempts to close with the DYH bring the troops into the killing zones of the snipers. As I understand it, the commander of a body of troops called out to restore law and order has a duty to use minimum force but he also has a duty to restore law and order. We have fulfilled the first duty but are failing in the second. I am coming to the conclusion that the minimum force necessary to achieve a restoration of law and order is to shoot

selected ringleaders amongst the DYH, after clear warnings have been issued. I believe we would be justified in using 7.62mm but in view of the devastating effects of this weapon and the danger of rounds killing more than the person aimed at, I believe we must consider issuing rifles adapted to fire HV .22 inch ammunition to sufficient members of the unit dealing with this problem, to enable ring leaders to be engaged with this less lethal ammunition. Thirty of these weapons have been sent to 8 Brigade this weekend for zeroing and familiarisation training. They, of course, will not be used operationally without authorisation".

12.2.3 At the next meeting of the JSC on 13 January 1972 **G52.315** the following note appears in the minutes:

> "The GOC also indicated that following a meeting with businessmen in Londonderry *certain measures* were in mind with a view to putting down the troublesome hooligan element there. *It was a very difficult problem to solve within the law.*"[1]

12.2.4 It is clear that this minute went to Carrington's Private Secretary on 18 January.

12.2.5 It is difficult to see what other than Ford's memo the GOC could have had in mind when he made this contribution to the meeting. The only document to issue from the meeting with the STA, so far as we know, was Ford's memo. Surely the "certain measures" referred to are those contained in that memo. This conclusion is reinforced by the comment that "it was a very difficult problem to solve within the law."[2]

12.2.6 It must also be remembered that there are two people present at JSC

---

[1] The reference in this document to it being a "difficult" problem appears to chime with the reference by Sir Edward Heath in the minutes of the GEN 47meeting dated 27 January where he refers to the "difficulties" facing the army when dealing with comparatively peaceful marches – see para.14.3.10 hereof

[2] See also **G60A.367.1** which is an Airgram in which the American Consul in Belfast is reporting back to America and in which the following paragraph appears: "Mr Bloomfield said the Prime Minister [Mr Faulkner] and Cabinet believe the Army is winning the battle against the IRA, and plan no let up in the military campaign. He also said there is no possibility of a major alteration in the present internment policy until the violence ceases. **To 'keep Westminster at bay" the Government is "hoping for a major military victory in the near future'".**

meetings who report directly to London. The first is GOC Tuzo himself, whose direct superior was General Carver the CGS. Sir David Ramsbotham when giving evidence stated that Tuzo and Carver had a private phone line and were often in contact **Day 254/103/15 to Day 254/103/17**. In addition, there is the UK Representative in Northern Ireland, at that time Mr Howard Smith. The UK Rep reported directly to the Home Office, we are in possession of documents which show that he was in contact with the Home Secretary himself see e.g. **INQ1.645** and **INQ1.646 to INQ1.655**.

12.2.7 That these lines of communication were open and used is clear from the submission dated 26 January 1972 from AW Stephens (Head of DS 10) to the Defence Secretary about the proposed march on 30 January **G74.457 to G74.458** which states:

> "2. It is primarily up to the Joint Security Committee in Northern Ireland to decide on the tactics which the security forces should adopt for dealing with this march. The JSC is due to meet as usual tomorrow morning and we hope to hear the outcome during the afternoon. However, we agreed this morning that it would be helpful for members of the Northern Ireland Policy Group to be aware, before tomorrow's meetings of the Group and of GEN 47, of the line which the GOC and UK Rep propose to take at the JSC meeting".

12.2.8 Later in the document he says:

> "The UK Rep and the GOC consider and the Home Office and MoD are inclined to agree" **G74.458 paragraph 7**

12.2.9 In his paper Mr Stephens notes that the march "seems certain to attract a larger number of people than any of the previous illegal marches which they have attempted to stage since Christmas" **G74.457**.

12.2.10 Mr Stephens further indicates that

> "... there would be no objection to arresting anyone on the fringe of the march who was causing trouble; and it seems only too likely that, once the march is brought to a halt, there will be at least some hooliganism. The GOC therefore has in mind to attempt to

arrest a fair number of such hooligans and to arrange for a special court sitting on Monday morning, before which they can be brought" G74.458

12.2.11 At the JSC Meeting on 27 January 1972 at which the GOC and the UK Representative were both present the Minutes record that the proposed marches on Saturday (Dungannon to Coalisland) and Sunday (Londonderry) posed considerable problems but that the Londonderry marches presented "more serious difficulties and security action will be primarily an army operation ... the operation might well develop into rioting and even a shooting-war" **G76.465**.

12.3 Role of the Westminster Government

12.3.1 In the context of what was anticipated would be the biggest civil rights march since the highly contentious extension of the ban such a major military operation to enforce the ban inevitably posed a serious risk to innocent civilians.

12.3.2 According to Sir Edward Heath the general policy agreed between the British Government and the Stormont Government was that marches "should be constrained with a view to avoiding ... situations which put members of the civilian population at risk". And furthermore that "within that policy" responsibility for operations rested with the CC and GOC **KH4.5 paragraph 19**.

12.3.3 However, as pointed out in the previous section entitled "Background to the Day" at Section 10 the army had already proposed, with the express approval of Stormont and Westminster, to take a more confrontational approach to the policing of illegal marches, even where to do so would provoke a violent situation which would not otherwise occur.

12.3.4 If the general policy was as stated by Sir Edward Heath then a major military operation which might develop in the manner foreshadowed in the JSC minute (putting at risk innocent members of the civilian population) would be outside the terms of the agreed policy and as Sir Edward Heath agreed such action would not just be outside the general

policy but it would be a complete breach of policy **Day 289/155/1 to Day 289/155/2**.

12.3.5 It follows therefore that if the army authorities were aware that innocent members of a civilian population might get killed, they would have to come first to Stormont and then to Westminster. If they were going to take action or allow such a situation to arise which might put innocent members of a civilian population at risk that would be a breach of the general policy and they would not be entitled to do that without authority. Without clearance from both governments they would be operating in breach of the policy.

12.3.6 At an absolute minimum the army officers concerned right through to Lord Carver in particular would have recognised the need to inform the government in relation to the forthcoming march that innocent civilians might be at risk.

12.3.7 Mr Stephens was shown the JSC minute dated 27 January and the following question was put to him:

"Q. Plainly those at the Ministry of Defence, there being a UK Rep there as well as you keeping in tough with the GOC, knew perfectly well that there was a reasonable possibility of a shooting war on this march; did you not?

A. We were certainly aware of that possibility because that possibility was inherent in any operation of this size".

Day 273/86/23 to Day 273/87/4

12.3.8 When asked did he recollect it ever being suggested that perhaps an arrest operation of any size should not take place in the context of a very large march where innocent people might get shot he stated "I do not remember it being put in those terms" **Day 273/87/17 to Day 273/87/21**.

12.3.9 That the operation was a political decision jointly approved by the Stormont Government and the British Government emerges from a number of sources. It is convenient to mention at this stage the submission from Mr Stephens to the Defence Secretary dated 26 January 1972 about the proposed march in which he said that it was "primarily" up to the JSC to decide on the tactics which the security forces should adopt for the march. He enlarged upon this in his evidence when he said that it was

"basically" the responsibility of the Northern Ireland Government and that what British Ministers were doing, as it seemed to him, was exercising what he referred to as a "power of non-disallowance". He said that in the last analysis British Ministers could have interfered with the concept that was being adopted because of their responsibility for the army. But they decided not to interfere. **Day 273/88/9 to Day 273/89/4**

12.3.10 At the GEN 47 meeting of 27 January 1972 **G79aa.487.006 to G79aa.487.007** the CGS described a large army operation involving the deployment of 20 companies of troops.

12.3.11 Summing up, the Prime Minister said "the meeting appreciated *the difficulties* which the Army faced when dealing with comparatively peaceful marches. This was essentially a job for the police, but the RUC did not possess the necessary numbers and incidents of confrontation between the Army and the civil population were inevitable." **G79.487**

12.3.12 There is, therefore, a difference between what, according to the minutes of the meeting, was reported to GEN 47, as compared to what was reported to the JSC. In the GEN 47 minutes there is no mention of an arrest operation, nor is there any indication that the proposed operation may develop into "rioting and even a shooting war". The "difficulties" with which the army were said to be faced when dealing with peaceful marches were not spelt out nor does the minute elaborate on what was meant by the reference to the incidents of confrontation between the army and the civil population which were said to be inevitable.

12.3.13 Accordingly, either the GEN 47 committee was not informed that a "shooting war" or anything comparable might develop or there was such discussion and it is not reflected in the minutes. Alternatively, they learnt of it after the GEN 47 meeting but before the march and certainly in time to issue the second telegram discussed hereafter.

12.3.14 They must certainly have been aware that a significant arrest operation was contemplated in view of the submission A W Stephens to Lord Carrington on 26 January 1972 **G74.457 to G74.458** where he states:

> "it seems only too likely that, once the march is brought to a halt, there will then be at least some hooliganism. The GOC therefore has in mind to attempt to *arrest a fair number* of such

hooligans..." **G74.458 paragraph 7**

12.3.15 Accordingly they ought to have been aware, as a result of this information, that the GOC intended to mount a significant arrest operation involving the arrest of a "fair number" of hooligans. It must always be remembered that in the military mind the hooligans operated in tandem with the IRA hence the no-policy until the Bogside could be dominated.

12.3.16 Moreover, in view of the significance of this particular march, the massive military operation which it was going to involve, the events at Magilligan the previous week involving the paratroopers, the article in The Guardian **L7 to L9** criticising the paratroopers and Sir Burke-Trend's briefing note to Sir Edward Heath **G75CA.462.5.1 to G75CA.462.5.4** one of the matters that Sir Edward Heath and GEN 47 would have wanted to know and would have been expected to have been informed about was whether a significant arrest operation was planned and, if so, whether the paratroopers were going to be involved. They would also have wanted to know the "attitude" to be adopted by the security forces if the ban was openly defied.

12.3.17 Sir Geoffrey Johnson Smith in his statement to the Tribunal **KJ3.2 paragraph 11** stated "... I think I would have been aware of the decision to use the parachute regiment to assist in handling the civil rights march as this was, at the time, au courant".

12.3.18 Giving oral evidence Sir Geoffrey resiled from this and indicated that it was only *after* Bloody Sunday that he was aware that the Parachute Regiment had been deployed **Day 279/8/1 to Day 279/9/25**. In our submission as indicated in paragraph 11 of his statement Sir Geoffrey was aware before the march that the Parachute Regiment was to be used in the policing of the march. Consequently he has given untruthful evidence to the Tribunal by indicating that he only became aware of this fact after Bloody Sunday.

12.3.19 Lord Carrington stated **Day 280/85/15 to Day 280/85/17** "well, we knew, of course, that the Paras were there in Northern Ireland. So I suppose one could infer from that that it was *likely* that they might be used". The decision to launch a highly aggressive killing machine with a reputation

which they enjoyed of brutal handling of demonstrators into what was clearly going to be an explosive situation was apparently regarded as unremarkable.

12.3.20 In an interview conducted in 1983 between Brigadier MacLellan and journalist Des Hamill he stated as follows:

> "I was told by General Ford to prepare my plans for it. I went down with my brigade major to see him and his D1. I had a written plan and we went through it. We agreed we did not have enough people locally, so he allocated additional forces, 1 Para, who were the reserve batallion in Belfast.
>
> The plans went back to London so the whole thing was approved before it ever started". **B1279.003.012**

12.3.21 In this connection we also refer to the evidence of Sir David Ramsbottham: **Day 254/190/3 to Day 254/190/17**

> I think you have agreed this much: that you and General Carver undoubtedly knew that there was going to be an arrest operation carried out by 1 Para; is that fair?
>
> A. What we knew was, that the plan was to stop the march at the barriers and hopefully that it would disperse and that if they did not disperse then reserves were deployed who could carry out an arrest operation and because the troops were not available in Londonderry, they would have to be taken from elsewhere in the Province and the selected battalion were 1 Para, who were better equipped for it than the Province reserve, who had only just arrived in the Province.
>
> Q. So the answer is: yes.
>
> A. Yes, so that is what we knew.

12.3.22 The march on Sunday was going to be one of the first major acts of defiance in light of the Northern Irish renewal of the ban and it was accordingly important, if not imperative, for the British Government to know how the security forces were going to react to it. Sir Edward Heath agreed that this was so - **Day 289/162/11**.

12.3.23 Sir Burke-Trend's briefing note at **G75CA.462.5.4 paragraphs 12 to 13** states:

"Marches and Demonstrations

12. You may wish to question the Secretary of State for Defence about recent suggestions in the Press and on television that the Army over-reacted against some of the Civil Rights demonstrations last weekend and that, in particular, soldiers of the Parachute Regiment, by being unnecessarily rough, have gratuitously provoked resentment among peaceful elements of the Roman Catholic population.

13. Overshadowing this question, however, is the graver issue of the attitude to be adopted by the security forces if the renewed ban on marches is openly defied. Are we able - and prepared - to deal with that situation? Perhaps the question should be urgently with Mr Faulkner during his visit to London".

12.3.24 This submission has quite clearly been made to assist the Secretary of State for Defence in his preparations for the proposed meetings of the MoD's Northern Ireland Policy Group and GEN 47, both scheduled for 27January. (In the event it appears that the NIPG meeting was cancelled see **G75D.462.005**).

12.3.25 On **Day 285/94** Mr Clarke announced that on the previous Friday the Cabinet Office, contrary to what the Tribunal had been earlier led to suppose, there were in fact some manuscript notes for the GEN 47 committee meetings. There are some very important matters that appear in the manuscript notes that inexplicably do not appear in the typescript notes. For example, in the transcription of the manuscript minutes of the GEN 47 meeting of 27 January when the CGS is reporting the position he is recorded as saying in relation to the march in Derry **"IRA will seek max. publicity: and this may provoke Prot. counter action"** **G79aa.487.6**.

12.3.26 See also **G79A.487.4** (Sir Burke Trend's manuscript notes which specifically refers to "NICRA being taken over by IRA and hooligans" which, contrary to the evidence given by Sir Edward Heath indicates that

he believed not only that NICRA and the IRA were close allies but also that NICRA had in fact been taken over by the IRA).

12.3.27 Sir Edward Heath accepted that he never carpeted anybody after Bloody Sunday even when he appreciated afterwards that there had been innocent casualties. He never complained that he had not been informed that innocent people might be put at risk as a result of the operation. We submit that he did not make such an inquiry because it was known that innocent casualties were going to be risked and that this was a risk that they were prepared to take as part of the "war". This may shed some light on what GEN 47 had in mind when they mentioned the unspecified "difficulties" which the army faced in dealing with comparatively peaceful marches which comprised for the most part peaceful demonstrators.

12.3.28 From the transcription of manuscript minutes of the GEN 47 meeting the following emerges:

(i) that GEN 47 "approved CGS' dispositions"; **G79aa.487.6**

(ii) it was being represented that "NICRA was being taken over by the IRA and hooligans"; **G79aa.487.6** It is to be observed that bracketing the IRA and the hooligans together in this way thereby, inter alia, elevating the threat from hooligans chimes very closely with the theme being discussed in the Ford memo.

(iii) that the "IRA will seek max. publicity: and this may provoke Prot. counter action" **G79aa.487.6**.

12.3.29 The term "IRA" as it is used in this context appears to embrace NICRA and hooligans. We know from other material that NICRA was regarded as the active ally of the IRA and that those who opposed the army were regarded as the Queen's enemies. Again from the point of view of the Stormont regime and Protestants it is clear that it was the failure to control, inter alia, NICRA which was regarded as provoking a Protestant backlash. Sir Arthur Hockaday accepted that the failure to appreciate and reinforce the distinction between NICRA marchers on the one hand and the IRA could have quite dangerous consequences. **Day 271/48/19 to Day 271/49/8**.

12.3.30 The contemporaneous manuscript notes contradict the essential elements of the evidence of Sir Edward Heath. These manuscript notes were provided to the parties whilst Sir Edward was giving evidence. These notes are highly material in any assessment of the accuracy or veracity of his evidence.

12.3.31 Even when these manuscript notes were put to Sir Edward Heath his evidence still remained that he was unaware of the CGS' or indeed anyone else's plans for dealing with the march.

12.3.32 In **G100A.605.1** dated 31 January 1972 there is a statement by the CGS (again which doesn't appear in the formal minute) "only shooting into crowds was directed against hooligans" - not gunmen. In other words, the CGS was telling Gen 47 that the shooting was into crowds against hooligans, the very topic General Ford was talking about in his memo dated 7 January. There is not the slightest indication in the note that Sir Edward Heath or anyone else present responded by enquiring as to why on earth they had shot into crowds nor any indication that they said this is unacceptable and outside the Yellow Card or that this was unanticipated and came as a great surprise.

12.3.33 In the minute from Dalzell-Payne dated 27 January 1972 **G82.512** he stated:

> "The attached paper has been prepared as background to the current situation, and to try to anticipate some of the problems we may face on Monday 31 Jan 72, if events on Sunday *prove our worst fears*. Shortage of time has not allowed its clearance with headquarters Northern Ireland".

12.3.34 In the section of his paper entitled "Conclusions" **G82.518** he states at paragraph13:

> "13. It is not possible to enforce the ban rigidly with the force levels available and we can only hope to deal with two or three large scale demonstrations at any one time. In order to deal with them effectively however, *we must take stronger military measures* which will inevitably lead to further accusations of "brutality and ill-treatment of non-violent demonstrators. ..."

12.3.35 And in the recommendation section of his report **G82.519** he states:

"14. We must accept that the current force level cannot be appreciably increased merely to impose a bon on marches. If we accept that the ban must continue, we are left with two possible courses of action, besides speeding up legal proceedings:

a. An extension of the ban to include all public meetings.

b. Additional measures for the physical control of crowds which threaten to march.

15. The only additional measure left for physical control is the use of firearms i.e. "Disperse or we fire." Inevitably it would not be the gunmen who would be killed but "innocent members of the crowd." This would be a harsh and final step, tantamount to saying "all else has failed" and for this reason must be rejected except in extremis. It cannot, however, be ruled out. We must await the outcome of the events planned for the weekend 29/30 Jan 72, see what effect our *firmer measures* have, and then if necessary advise the Home Office to urge Mr Faulkner to use his power under the Public Order Act to ban all public meetings, and speed up legal proceedings".

12.3.36 Accordingly, prior to 30 January, it was anticipated that firmer measures would be taken which would lead to accusations of the use of excessive force.

12.3.37 Another piece of evidence from which it can be inferred that Sir Edward Heath and GEN 47 foresaw that the military operation might endanger the lives of innocent civilians is to be found in the evidence of Sir David Ramsbotham from which it appears that **Day 254/190/18 to Day 254/193/4**. In particular when he was asked whether he was aware that on 27 January the JSC themselves, when approaching the arrest operation, themselves envisaged the risk of a "shooting war" he stated "I was aware that **everyone** knew there was a risk". **Day 254/192/17** He said that he

was "quite certain" that General Carver would have alerted the Prime Minister as to the possibility. This ought not to surprise anyone. What does beggar belief is the assertion that they were not told unless indeed it was that Lord Carver and others felt Northern Ireland was not a high priority. The politicians had abdicated responsibility for this intractable problem. If things went wrong no heads were going to roll. In those circumstances he might have felt there was no urgent necessity to bring everyone on board. He also said that General Carver "certainly" alerted Lord Carrington which was "why, as I mentioned, he set up the arrangements, so that he should be told exactly what happened so he could then inform them as quickly as possible, realising there having been shooting" **Day 254/192/22 to Day 254/193/4**

12.3.38 In addition, it can also be inferred that the GEN 47 meeting was told more than is minuted by the text of a telegram sent to the UK Rep's office on 28 January **G90.549** which states:

> "Ministers would like the suggestion put to Mr Faulkner that a statement be issued by Northern Ireland Government before Sunday's march"

12.3.39 One of the aims of such a statement, the telegram continues, would be:

> "To prepare public opinion here and in Northern Ireland for violent scenes on TV and following the march".

12.3.40 The telegram is signed "Douglas-Home".

12.3.41 The very worst case contemplated by the GEN 47 meeting, as minuted, was in the Prime Minister's summing up where he says:

> "incidents of confrontation between the Army and the civil population were inevitable." G79.487

12.3.42 The telegram clearly contemplates something other than simple "incidents of confrontation" which were commonplace and for which the public would not have to be prepared. Unless, of course, the information leading to that comment by the Prime Minister was not included in the minute.

12.3.43 The only other documentation available to us that may have been noted/intervened between the GEN 47 meeting and the telegram was the

paper of Col Harry Dalzell-Payne **G82.512 to G82.521**. That paper is dated 27 January 1972 so it is not clear whether it would have been seen in time for the GEN 47 meeting. There would however appear to be little point in circulating it for use after that meeting had concluded, given that the march was to be discussed there. The paper was circulated to, *inter alia*, the MA/CGS (Military Assistant to the CGS Sir David Ramsbotham who has told the Tribunal that he also travelled in to work with Dalzell-Payne). Giving evidence to the Tribunal Sir David has said that sending something to him was a sure way of getting it to the CGS.

12.3.44 The covering letter to the paper **G82.512** states:

> "The attached paper has been prepared as a background to the current situation, and to try to anticipate some of the problems we may face on Monday 31 Jan 72, if events on Sunday prove our worst fears. Shortage of time has not allowed its clearance with Headquarters Northern Ireland."

12.3.45 The paper itself does not anticipate dealing with hooligans or the IRA but enforcing the ban on marches and possible means for dealing with those who act in defiance of the ban. The paper was prepared in particular for the Bloody Sunday march.

12.3.46 Given the above a number of possibilities arise:

(i) Those at GEN 47 level were never told that there might be rioting nor an arrest operation nor that there might be shooting as a result of the march. This seems unlikely given the contents of the AW Stephens memo of 26th, the Dalzell-Payne memo of 27th and the telegram of 28th, it is also incredible given what is known about the contacts between NI and Whitehall;

(ii) The GEN 47 minutes do not accurately reflect what was said at the meeting.

12.3.47 However it is interesting that Sir Edward Heath notes in his statement that:

> "the tenor of the discussion was that this could be expected to be a comparatively peaceful march but that (as with all marches in

the Province at that time) IRA or hooligan attempts to infiltrate and exploit the march for their own purposes could never be ruled out and must be prepared for in contingency planning...." KH4.6 paragraph 22

12.3.48 The third possibility is that other meetings or discussions about the march took place outside the formal constraints of GEN 47 and that we have no documentation about what happened at these meetings.

12.3.49 Sir Edward Heath in 1972 never indicated to anyone that what happened on Bloody Sunday was completely unforeseen. For example, in his phone call with Taoiseach Jack Lynch there is not the slightest suggestion that the bad news had not been anticipated.

12.3.50 The telephone call with the Taoiseach also reveals that he was telling him that he had, contrary to his evidence before this Tribunal, anticipated that the march was bound to attract the intervention of the IRA - see **Day 290/88/15 to Day 290/89/20**.

12.3.51 The transcript indicates that Sir Edward Heath was maintaining that there was a serious risk that at some stage associated with this march that the IRA were bound to intervene. Sir Edward Heath said this because he was obliged to support and foster the army line that the IRA intervened and that was why the army had to fire back. But it does demonstrate that Sir Edward Heath and the British Government foresaw as a possibility that the military operation might endanger the lives of innocent civilians and that this was a risk which they were prepared to run. Moreover, Sir Edward Heath never made the case that the military operation had been designed in a manner to minimise to the greatest extent possible the risk to the lives of the people participating in the march. On the contrary, he was quite unapologetic. he transcript records:

> **"The reason it was against the law ... we have all known that if you have a march of this kind it will lead to a clash between the communities and it will also lead to gunmen intervening and everybody was warned yesterday".**
>
> **Day 290/90/4 to Day 290/90/8**

12.3.52 This reference to the warning is a reference to the second telegram and

demonstrates that Sir Edward Heath understood that to be a warning not just about ordinary hooligan activity but something considerably more serious and for which the public had to be prepared in advance. This reinforces the point made earlier that this telegram was to prepare the public for something rather more than "incidents of confrontation" which were commonplace at that time.

12.3.53 Although he later resiled from it transcript records the following question and answer **Day 290/91/9 to Day 290/91/22**:

A. Well that was a very firm and sensible warning.

Q. Exactly.

A. That they did not want marches because this was what could happen.

Q. This was the proposition I put to you: that you knew this is what could happen on this march, did you not?

A. Yes, but one wanted it not to happen and that is what we were trying to get.

Q. The answer to the question is: yes, you did appreciate the risk of violence and gunmen intervening in this march; do you agree?

A. No

Q. You have just agreed?

A. No.

12.3.54 In other words the British Government may have hoped that it would go off peacefully but they appreciated that there was a serious risk that innocent civilians may be shot. The British Government had appreciated before the event that there was a serious risk to civilian population.

12.3.55 The telegram and the statement that was put out indicated that everybody around Sir Edward Heath appreciated full well that the military operation might endanger the lives of innocent civilians but they were nevertheless prepared to run this risk.

12.3.56 When the statements were being made on behalf of the government in the House of Commons and the House of Lords, that was the opportunity to inform Parliament and the public that as far as the government was concerned there was no plan to enter the Bogside, there was no arrest operation to be mounted on that day, that it was all going to be low key

and it wasn't appreciated that there would be a large number of casualties and that the responsibility for the decision was the JSC.

12.3.57 The statements reveal that, contrary to the case being made before this Tribunal, that they did foresee that the military operation might endanger the lives of innocent civilians and were nevertheless prepared to run this risk. So real was this apprehension that it was felt necessary to warn the public in advance of this possible outcome. Their reaction after the event is only consistent with the case that they had foreseen the risk to innocent civilians. In fact their case at the time was the complete opposite to that which is being maintained before this Tribunal.

12.3.58 Lord Balniel, for example, made it very clear that it was known in advance that gunmen would take advantage of the march endangering innocent civilians when he stated:

> "I turn now to the events of Sunday afternoon in Londonderry. Intelligence information had given the security forces good reason to believe that the IRA would exploit the opportunities afforded by the march and subsequent rioting to amount attacks on security forces".
>
> V26 column 2 which is precisely what Sir Edward had told Taoiseach Jack Lynch on the 31st.

12.3.59 Moreover Lord Carver in his statement at **KC8.3 pararaph 18** states that on learning about what had happened on 30 January that his "first reaction was to heave a sigh of relief that *so few* had been killed".

12.3.60 Lord Balniel's statement also turns to the question of the responsibility for launching the arrest operation. He said "the arrest operation was discussed by the Joint Security Council". It went on to say "further [after] decisions had been taken by Ministers here". **V27 column 1**

12.3.61 Accordingly it is clear that Westminster knew and indeed had to know that there was an arrest operation being mounted and that Gen 47 must have taken decisions in respect of the arrest operation since there is nothing else that Lord Balniel could have been referring to.

12.3.62 Moreover not only does it appear that the arrest operation was discussed by the JSC and that decisions had been taken at Westminster but also that it was known that the Parachute Regiment was being deployed. Thus at

V27 column 275 it states:

"... The arrest operation was discussed by the Joint Security Council (*sic*). Further decisions had been taken by Ministers here....

The Parachute Regiment, the Belfast reserve battalion had been deployed to Londonderry as a precaution..."

Lord Balniel's statement

12.3.63 Lord Balniel's statement was made after Sir Reginald Maudling's statement in the House of Commons on 31 January and Lord Carrington's statement on the same date. His statement was very detailed and raised the important themes of:

(i) separation of marchers and rioters (the first public tatement introducing the concept of separation);

(ii) The use of crowds as cover by the IRA for the launch of attacks;

(iii) The fact that there was good intelligence which pointed to the IRA launching attacks on the security forces from the cover of the march;

(iv) The experience and discipline of the Parachute Regiment.

12.3.64 Of even greater significance is the fact that his statement as well as that of Sir Reginald Maudling and Lord Carrington completely failed to mention:

(i) That they didn't know any arrest or any major arrest operation was planned;

(ii) That the whole operation was intended to be played low-key;

(iii) That they hadn't known that the Parachute Regiment was to be used;

(iv) That the risk of innocent casualties was completely unanticipated; and

(v) That they didn't mention that the operation had been without approval or authority or outside the terms of the agreed policy.

12.3.65 The fact that these statements did not mention the essential elements of the matters which are currently relied upon before this Tribunal prevents any credence being attached to claims to the contrary.

12.3.66 Apart from the statements in the House of Commons and the House of Lords there were a number of guidance telegrams which were sent to UK Missions and Embassies around the world for their information. None of these telegrams contained any of the essential elements referred to above which are currently relied upon and, according to the statement of Kelvin White **KW3.28 paragraph 4**:

> "The aim of such guidance telegrams was to present HMG's case as fully as possible. If at some point HMG's point was vulnerable, that too would be included, with a "best available" answer suggested. No deliberately false information would have been knowingly included in such telegrams. To lie was not only morally wrong and against the rules but clear folly as it could well be exposed and the British posts abroad would be furious".

12.3.67 See also **KW3.60** which states:

> "(7) SENIOR OFFICERS ENVISAGED SHOOTING MIGHT OCCUR? BETTER NOT TO HAVE HAD ARREST OPERATION?
>
> CERTAINLY THERE WAS A RISK. THIS IS A REGRETTABLE FACET OF ARREST OPERATIONS IN AREAS WHERE THE IRA ARE ACTIVE. IT IS NO ARGUMENT FOR GIVING RIOTERS FREE REIN TO DO WHAT THEY LIKE, AND LORD WIDGERY ACCEPTED THAT ARRESTS WERE A LEGITIMATE SECURITY OBJECTIVE".

12.3.68 It is therefore clear that the government was doing all it could to make sure that the army's version of events was made public in advance of the Widgery Tribunal. It had therefore set up a supposedly independent inquiry into the events, on the basis that Bloody Sunday was an event of urgent public importance and that there were conflicting versions as to the events of that day. At the same time, it was shamelessly promoting the army version of events at home (Lord Balniel's speech in the House of Commons on 1st February; Dalzell-Payne's briefing of defence

correspondents on 31st January) and abroad (the guidance telegrams above). This is reinforced by the statement of Kelvin White where he says that "the aim of such guidance telegrams was to present the British Government's case as fully as possible". See also Sir Burke-Trend's handwritten notes dated 28 February 1972 in which the Attorney General is noted as having said "Army Council alert to do justice to **our case**" **OS1.895** and the cross-examination of Sir Edward Heath **Day 287/87/10 to Day 287/91/24**. It is therefore clear that the British Government's line on Bloody Sunday was that of the army. They make no bones about it in the exchanges with the A-G during Widgery. Notwithstanding that the government was shamelessly promoting its version of events, it is highly significant that it failed to disclose to the British public or the wider world in 1972 the key elements upon which reliance is now placed.

12.3.69 A statement from Lord Crawford, formerly Lord Balniel, was only served after the oral evidence had been completed and is dated 20 February 2004. At **KC10.16 paragraph 51** where he is dealing with his statement to the House of Commons he states "... we believed that it was vital that the facts, as we understood them, should be laid out to Parliament and to the country. I have no doubt that it was the proper thing to do and that those who provided me with the facts did so in good faith".

12.3.70 He stated that it was his clear duty to "provide what facts were available to Parliament at the very earliest opportunity" **KC10.19 paragraph 23**. He further states at **KC10.19 paragraph 25** "the presentation of the army's case was important....It would have been wrong in a democratic society not to have explained to Parliament the facts about this very serious and tragic event as we knew them ..."

12.3.71 It is quite clear that the real imperative was to get the army's line out in public from a Government Minister before Widgery was formally announced. We do however now know from Sir Burke Trend's manuscript notes that GEN 47 were advised formally by the CGS Lord Carver, on the morning of 31 January (within hours of the killings) that "Shooting into crowds was only directed at hooligans" i.e. not gunmen **G100a.605.1**. Lord Crawford, Lord Carrington and Sir Edward Heath were all present at that sub-committee meeting and would have listened

carefully to what they were being told by Lord Carver. It is absolutely clear that the fact that shooting into crowds was only directed at hooligans was withheld from Parliament and the country.

12.3.72 Accordingly, contrary to what Lord Crawford has stated, the object of the exercise in making the statement to the House of Commons was not to provide "what facts were available" to Parliament.

12.3.73 We should also point out that there is a manifest inconsistency between Lord Crawford's claim on the one hand in his statement at **KC10.13 paragraphs 41 to 42** that the British Government did not know that there was a risk of shootings and that that was a risk that they were prepared to run and the claim at **KC10.13 paragraph 52** that "intelligence information had given the security forces good reason to believe that the IRA would exploit the opportunities afforded by the march and subsequent rioting to mount attacks on the security forces".

12.3.74 In the minutes of the GEN 47 meeting on Monday 31 January **G100.601 to G100.605** there is no indication that Sir Edward Heath questioned the CGS about what had occurred or suggested that Sir Edward Heath and the British Government were not aware that anything like this might happen. Sir Edward Heath never expressed horror at any stage, in public or in private, because he knew from the beginning what the risks were.

12.3.75 There is nothing in the debate of 1 February any more than there is on 31st by anyone on behalf of the government indicating that they did not appreciate that there would be such a high level of casualties, that it was all low-key and that it was in fact the responsibility of the JSC alone.

12.3.76 Notwithstanding Sir Edward Heath's statement **KH4.6 paragraph 22** where he stated that as with all marches IRA or hooligan attempts to infiltrate and exploit the march could never be ruled out and must be prepared for in contingency planning. He said in cross-examination **Day 290/131/14 to Day 290/13/18** that he did not even ask the CGS, in the context of a large civil rights march what he was going to do about the IRA who he claimed might infiltrate the march. If this be so, it gives a clear indication that the risk of endangering the lives of innocent civilians was certainly not something that caused great concern.

12.3.77 In an interview, speaking about his reaction to the Widgery Report, Lord

Carrington said at Side B **A3/24.30 to 29.12**

> "The plan for the eh operation for the inevitable trouble that was going to arise as a result of this march – because everybody must have known it would lead to trouble – was first of all approved by Joint Security Committee in Northern Ireland and subsequently by Ministers here".

12.3.78 What is attributed to Lord Carrington in this interview also chimes with what Lord Balneil told the House of Commons in his statement referred to above.

12.3.79 The Tribunal is also referred to **L.204** which is a Daily Mail Report entitled "No action against Army" in which the following was attributed to Lord Carrington:

> "Lord Carrington said that the secret plan approved by Ministers in London and Army chiefs for dealing with the illegal Civil Rights march had included provision for a possible arrest operation by the Parachute Regiment".

12.3.80 Although Lord Carrington denied in his evidence that there was any secret plan he accepted that he had never, prior to giving evidence at the Tribunal, challenged what had been attributed to him **Day 280/105/21 to Day 280/108/5**

12.3.81 In **L.212** which is a Sunday Times Insight Report entitled "The Decision to put Civilians at Risk" the following paragraph appears in Column 3 (after having referred to Lord Balniel's statement in the House of Commons):

> "... Buy why did authority for the arrest operation have to come right from the top? Outside the Tribunal, army officers and Stormont civil servants have told us that any major operation in the Derry "enclave" had to be a political decision."

12.4 Conclusion

12.4.1 The inescapable inference is that the approval for the operation on Bloody

Sunday had to be a political decision approved by the Stormont Government and the British Government the essential elements of which involved, at least, the following:

(i) The decision to prevent the march reaching the Guildhall;

(ii) The decision to have a major military operation involving British armed forces;

(iii) The decision that this would or might involve a significant "arrest" operation;

(iv) The decision that the Paratroopers would be involved;

(v) The decision to allow a major military operation to proceed in which they foresaw, as a possible outcome, that the lives of innocent civilians might be endangered;

(vi) The decision to run the risk that the lives of innocent civilians might be endangered.

(vii) The neglect of both governments to take steps to ensure that the operation was conducted in a manner designed to minimise to the greatest extent possible the risk to the lives of innocent civilians.

13. Military and Police Intelligence before the March

13.1 Introduction and Summary of Submissions

13.1.1 In the immediate aftermath of the shootings, both the Government and the Army claimed publicly and privately (in internal reports) that, prior to the march, "reliable and detailed intelligence reports" had been received to the effect that the IRA planned to use the crowd cover at the march to launch attacks on the Army. Even though there were several isolated incidents of civilian firing on soldiers, it is clear from the evidence that both branches of the IRA planned ***not*** to be engaged in attacks on the Army on Bloody Sunday. Moreover, although in the Army's view there was an ever-present risk that the IRA would engage in hostile action, the assessment made by the senior officers responsible for planning Operation Forecast was that the IRA were unlikely to mount an attack on soldiers at or near the march.

13.1.2 The significance of this matter is as follows. First, if the IRA did not plan to engage in hostile action on Bloody Sunday and the military intelligence assessment was to like effect, this is evidence pointing to the conclusion that the IRA did not mount an attack on soldiers on the day except, as is recognised, in a belated and ineffectual response to the shootings by the paratroopers. Secondly, if it was the assessment of the Army Command that the IRA were unlikely to mount an attack on soldiers at or near the march, they ought to have ensured that this was fully appreciated by the soldiers engaged in the arrest operation. Although at the Brigade Order Group Conference "the last thing in anybody's mind was shooting", according to Col Steele, some of the soldiers involved, including officers and men in the Parachute Regiment, were led to believe and may have believed that there was a risk of their being fired upon, especially from the Rossville Flats, when this was not true. In consequence, many soldiers may have been unduly apprehensive about this risk and therefore more disposed to use lethal force either as an unwarranted pre-emptive measure or as an over-reaction to a perceived threat or simply following the lead set by others. This is particularly the case in the context that Nationalists, including residents of the

Bogside and Civil Rights marchers, were perceived as either the enemy or operating hand-in-glove with the enemy and could be killed with impunity.

13.1.3 Our submissions are that:

(i) Both the Official IRA and the Provisional IRA planned ***not*** to be engaged in attacks on the Army at or near the march on Bloody Sunday.

(ii) Neither of these organisations had previously taken advantage of a Civil Rights march to mount an attack on the Army or the Police.

(iii) The RUC's assessment was that they would not attack the soldiers.

(iv) The Army's assessment was that, although there was always a *risk* that the IRA could attack soldiers, it was unlikely that this would happen.

(v) The thrust of any intelligence that was received by the Army must have been to the effect that neither of the IRA organisations was planning an attack.

(vi) The signal of 27th January 1972 from the Director of Intelligence to Brigadier MacLellan was (properly) regarded as unreliable and inaccurate insofar as it suggested that "the IRA" would use the crowd as cover for an attack on the Army and it was discounted accordingly.

(vii) Neither the contents of the signal nor the information from Observer C, if this was the source of the same, could properly be described as either reliable or detailed.

(viii) Nor was there any other report to this effect, so that it was also incorrect to suggest that there was more than one such report, reliable or detailed or otherwise.

(ix) Specifically, the evidence of Observer B is false and, whether or not the documents supplied by MI5 (the Security Service) are authentic, they do not support Observer B's claims that "the IRA" was planning any hostile action against the Army on Bloody Sunday or that he supplied information to this effect to his handlers.

(x) The suggestion about "reliable and detailed intelligence reports" was therefore fabricated and must have been known by senior officers to have been fabricated.

(xi) The Information agencies deliberately engaged in a campaign of disinformation to support the Army case.

(xii) The conduct of the Intelligence agencies, Information agencies and the senior officers who were involved in manufacturing a story that the Army had such intelligence gives rise to the adverse inference that they did so because they knew it was necessary to fabricate such evidence to reinforce the claims that the shootings were justified.

13.2 The Intelligence network in Northern Ireland in 1972

13.2.1 The intelligence gathering efforts of the Army and police in Northern Ireland in 1972 were co-ordinated by the Director of Intelligence for Northern Ireland, "David", who had been seconded by the Security Service (MI5) for this purpose. He was responsible to the GOC and liaised with the UK Representative, Howard Smith, who later became head of the Security Service. For ease of reference, the military intelligence network in Northern Ireland is set out in a chart at Appendix 1. This chart is not complete but it represents our best efforts to construct the Intelligence network from the material available to us.

13.3 The evidence that the Army expected no IRA action

13.3.1 The starting point for the consideration of this issue is the fact that, as of 30th January 1972, neither the Official IRA nor the Provisional IRA had exploited Civil Rights marches for the purpose of mounting shooting or bombing attacks on the IRA or police. There is no record of any Civil Rights march being attended by such attacks and none of the witnesses recalls any occasion when the IRA used such a march as cover to attack the Army or police. This in itself should have given rise to the expectation that the march in Derry would not be accompanied by gun or bomb attacks.

13.3.2 In order to guarantee a peaceful march, organisers sought and received assurances from both the Officials and Provisionals that they would not engage in any action that would compromise the peaceful nature of the march. Martin McGuiness was second-in-command of the Provisional IRA in Derry at the material time. He was told on the previous Thursday (27th January) that an approach had been made to his OC by people representing the Civil Rights movement and on the day before the march he was instructed to issue orders to all volunteers that the IRA would not engage militarily with the Army or police, to ensure that the Civil Rights march passed off peacefully. (**KM3.1**) This decision was relayed to and accepted by all members. (**KM3.1**) OIRA 3 was the Officer Commanding the Official IRA in the North West. He confirms that the order given on the days leading up to Bloody Sunday was that no units or volunteers were to incite any confrontation with the Army or police or to commence any offensive action against them, on the grounds that they did not wish to do anything that would risk bad publicity for the march or its purpose. (**AOIRA 3.2 at paragraphs 5-6**) This is confirmed by OIRA1 (**AOIRA1.4 paragraph 6**), OIRA2 (**AOIRA2.2 paragraph 4**), OIRA4 (**AOIRA4.2 paragraph 7**) and OIRA5 (**AOIRA5.2 paragraph 8**). The evidence provided by IRA members themselves is supported by the evidence of a number of civilians, including Dr Raymond McClean (**AM105.2 paragraph 11**, and **Day 175/8/11 to Day 175/11/24**), Michael Havord (**AH46.3 paragraph 10** and **Day 125/14/13 to Day 125/20/11-20**) and Hugh McMonagle (**AM369.1 paragraph 2 100/2/22 to Day 100/4/21**).

13.3.3 Since both organisations planned positively to suspend all hostile activity on Bloody Sunday and this information was communicated not only to their own members but to other civilians for the purpose of reassuring the Civil Rights movement, this is the information that ought to have been passed on to the Police and Army if they received any information from reliable informants.

13.3.4 This was indeed the RUC's belief and expectation. Superintendent Lagan said in his Eversheds statement that he did not think the IRA or anyone else would shoot at the troops. He based this belief on his "general knowledge at the time". (**JL1.7 paragraph 19**) He did not disclose his sources. Detective Constable Hunter was one of three RUC Special Branch officers who travelled from Belfast to Derry for the march. He was given a briefing by Detective Chief Inspector Donnelly, who had apparently seen David's signal of 27th January containing the suggestion that "the IRA will use the crowd as cover". (See the handwritten note on the covering letter of 27th January 1972 at **G81A.511.1)** Detective Constable Hunter's recollection is that he was not told there would be shooting at the security forces. (**Day 186/9/19 to Day 186/9/20)** He also said that he had no knowledge of IRA gunmen previously opening fire in the course of a Civil Rights march or anywhere near a Civil Rights march (**Day 186/10/19 to Day 186/10/22**) Detective Chief Inspector Donnelly "specifically ... [has no recollection] .. .. of the likely actions of the IRA on the day or the sources of any such information" (**JD7.3 paragraph 2**).

13.3.5 This testimony is supported by the Special Branch's contemporaneous written assessments. In the assessment for the period ending 19th January 1972 at Appendix B, "Forthcoming events", the entry against the march is: "no trouble anticipated". It will be noted that this entry appears as an Appendix to the main body of the assessment (**G64.380**), which contains extensive discussion of the general situation as well as of the activities of relevant organisations such as both the Goulding and Brady IRA's, as they were known, and NICRA. For reasons which were not explained either by the PSNI or anyone else, the assessment for the period ending 26th January 1972, i.e. the last assessment before Bloody Sunday, has not been supplied although we do have a copy of the assessment for the following week, the period ended 3rd February 1972 (**G112.697**). The most recent Special Branch assessment prior to the march is therefore missing. However, a document entitled "Forthcoming Events", (**G78.484**) which is in exactly the same form as

Appendix B to the Special Branch assessments, has been provided as an attachment to minutes of the Joint Security Council meeting held on 27th January 1972 (**G76.464**) The entry against the march in Derry on Bloody Sunday specifies the time, route and speakers. The only other comment is: "No opposition anticipated but it is anticipated that marchers will clash with the Security Forces". There is no suggestion that anything more serious was expected. Specifically, there is no reference to the possibility of shooting or bomb attacks. It is highly likely that the body of the assessment would have contained a more extensive discussion of police expectations for the march and there must be at least a suspicion that the body of the assessment is missing because it contradicted the Army's subsequent story that IRA violence was anticipated.

13.3.6 **Lord Carver,** Chief of the General Staff, said that the Army was "dependant on the RUC for all intelligence" (**KC8.2 paragraph 7**). **Sir David Ramsbotham**, the Military Assistant to Lord Carver, agreed that "the Army had to rely on Intelligence Information provided by the RUC". (**KR2.1 paragraph 3**) The Director of Intelligence, David, did not specifically advert to the degree to which the Army relied on RUC Special Branch for its intelligence but his deputy, Col. GS Intelligence, INQ2241, when asked what he did to find out whether the IRA had any specific plans for the march, said:

> "We went to Special Branch. We are now talking about that time of the operations in NI when military intelligence was on a very weak ground; it had not got established at that stage, it was becoming established, which it later did. So the answer would be: we did not have detailed sources of intelligence of our own; we had the low grade information coming in from people; we relied on Special Branch and our organisation from MIO's to guide us along." (**Day 284/64/8 to Day 284/64/17**)

When asked for the source of the intelligence contained in the notes for the Brigade Order Group conference under the heading "Latest Intelligence Assessment" (G88.537), Col. Steele, then Brigade Major, said: "I should imagine most of it came from the RUC". (Day 266/75/11)

13.3.7 It can be safely assumed, therefore, that the Army did rely on the police assessment, which was that there was no likelihood of an IRA attack on soldiers at or near the march.

13.3.8. There is no indication in either the HQNI **INTSUMS** or the Brigade INTSUMS immediately preceding the march of any expectation of gun or bomb attacks on the Army or of any other hostile IRA action at or near the march. In 8 Brigade's INTSUM No. 101 of 26th January 1972 (G72.445), the Army's belief in relation to the march was that "all civil rights groups, whether IRA Goulding or Brady aligned, will combine together in an attempt to cause maximum embarrassment to the Security Forces". (G72.451 paragraph 27) Apart from the fact that nothing more than "embarrassment" was expected, there is no suggestion that either IRA would be directly involved. In the "Outlook" section, there was specific reference to an increased threat of cross-border action by IRA (Brady) ASU's. It was also expected that "planned protest demonstrations, which have the aim of provoking confrontations with the Security Forces and creating publicity and fuel for propaganda, will cause further trouble". This was said to apply particularly to the Bloody Sunday march. (G72.452) paragraphs 31 to 33) This suggests an expectation of no more than public disorder. The HQNI INTSUM 4/72 of the following day (G80.488) refers to the march as one that would "present particular problems and a greater than usual opportunity for demonstrating the difficulties of preventing violations of the ban in Republican areas" (G80.491 paragraph 23). There is no reference to the IRA or any anticipated gun or bomb attack on the Army in connection with the march. This INTSUM did go on to deal specifically with expectations of IRA

activity but there is no suggestion in this context either of IRA activity at or near the march. The expectation was that IRA activity in the country and border areas was likely to intensify and that both factions were likely to continue to attempt to mount spectacular operations in Belfast. (**G80.492 paragraph 24**) In Annex D under the heading "Detailed Reports" and the sub- headings "IRA Brady – Operations and Plans," there is no reference to any plans in connection with Bloody Sunday. (**G80.505 paragraph 2**) This page is heavily redacted but we assume that there are no entries relevant to Bloody Sunday.

13.3.9. The **HQNI Operational Summary** dated 28th January 1972 (**G83.522**) repeated in its "Outlook" section the suggestion that the march would present a greater than usual opportunity for demonstrating the difficulties of preventing violations of the ban in Republican areas. It added: "Intelligence reports indicate that the IRA are determined to produce a major confrontation by one means or another during the march". (**G83.526**) There is no indication of the nature, contents or sources of these reports or what is meant by a "major confrontation". The context suggests that what was envisaged was serious public disorder, bearing in mind that the IRA did not engage in pitched battles with the Army. The term "confrontation" itself suggests that what was envisaged was that the IRA would engineer a confrontation between either marchers or rioters on the one hand and the Army on the other. It was clear from the terminology used in connection with IRA activity in other parts of the Operational Summary that if shooting or bombing attacks had been anticipated in connection with the march this would have been stated in these terms.

13.3.10 In the MOD's **Weekly Intelligence Report for NI** of 28th January 1972 (**G85**), in the "Outlook" section, Brigadier Lewis wrote: "Apart from a hard core of professional hooligans who would certainly be seeking to exploit the situation as the rally disperses if not before, gunmen may be present."

(**G85.532 paragraph 18**). It should be noted that the Outlook section in this report seems to have been taken almost entirely from the Outlook sections in the HQNI INTSUM of 27th January and the Operational Summary of 28th January referred to above. Sentences in those Outlook sections have been either copied exactly or paraphrased. The reference in the Operational Summary Outlook to Intelligence reports indicating that the IRA were determined to produce a major confrontation by one means or other during the march appears to have been paraphrased so as to read "gunmen may be present" in Brigadier Lewis's report. In other words, the suggestion that "gunmen may be present" may represent a misunderstanding of the contents of the Operational Summary. Certainly, there is no indication that it is based on any other material. If it is not based on the Operational Summary, the complete absence of any detail suggests that it is little more than speculation. Taken at its height, it raises no more than the possibility that gunmen may be present, rather than the expectation that gunmen were likely to be present and likely to attack the Army.

13.3.11. There is no indication in any of the MO4, DS10 or other MOD documentation of knowledge of any intelligence concerning IRA plans to attack the Army.

13.3.12. On the face of it, the Op Order No. 2/72 (Op Forecast) of 27th January 1972 (**G.95.564**) indicates an expectation of hostile IRA action. Under the heading Background, the following appears:

"f. We expect a hooligan element to accompany the marchers, and anticipate an intensification of the normal level of hooliganism and rioting during and after the march. Almost certainly snipers, petrol bombers and nail bombers will support the rioters.

g. Bombers may intensify their efforts to destroy business and shopping premises in the city during the event, while the attention of the security forces is directed towards the containment of the march. (**G95.565 paragraph 1**)

13.3.13. Under the heading "The Threat", one of the threats was assessed to be "IRA terrorist activity, to take advantage of the event, to conduct shooting attacks against the Security Forces and bombing attacks against business, shopping and commercial premises in the City centre". (G95.565 paragraph 2b) Judging by the HQNI INTSUM and 8 Brigade's own INTSUM referred to above, there was no intelligence or indeed any other basis to support these suggestions. They are also difficult to reconcile with other aspects of the Op Order, including the plan to conduct an arrest operation on foot (G95.570 paragraph F), not to mention the intention to "collect and conduct press and TV men around deployment areas" (G95.573 paragraph 9(6). More importantly, these expectations, insofar as they were ever real, were significantly downgraded at the Brigade Order Group Conference the following day. The first two serials in the notes for the Conference (G88.537) correspond with the first two sections in the Op Order, namely "Background" and "Threat". It was in the background section of the Op Order that reference was made to snipers, petrol bombers and nail bombers supporting the rioters but there is no reference to this at all in serial 1 of the notes for the Conference. Under the heading "Latest INT assessment" in the Background section of the notes, there is a reference to the mood of NICRA being non-violent and a note that hooligan violence was inevitable. But there is no suggestion of any intelligence or other expectation concerning snipers, petrol bombers and nail bombers. Under the heading "Threat" in the notes to the conference, it is stated "no change from the Op Order" and summarises in note form the four matters assessed in the Op Order as threats, including "IRA activity to take advantage of event". G88.537). Significantly, this is referred to as a "threat" or, in other words, a risk. It is not expressed as an expectation or as something in respect of which there was intelligence.

13.3.14. However, the clearest indication that, notwithstanding the alarmist terms of the Operational Order, there was no genuine belief or expectation that the IRA would mount attacks on the Army on Bloody Sunday, apart from all the

documentary and other evidence referred to above, is the testimony of those most directly involved in planning the operation. The Operational Order was drafted by the Brigade Major, **Colonel Steele**. He did not expect the IRA to launch an attack on the Army. When asked by Counsel to the Inquiry if he recalled whether at the Coordinating Conference there was discussion of the possibility of shooting, he replied:

> "No, there was not .. .. there was no question of – there was no discussion on the risk of fire as far as I remember.. .. Shooting was the very last thing on anybody's mind". **(Day 266/87/10 to Day 266/87/22)**. Emphasis added.

13.3.13. When asked specifically about paragraph 4 of the signal from the Director of Intelligence in which it was stated that "Source believes that the marchers will be armed with sticks and stones and he expects that the IRA will use the crowd as cover", his reply was that he was very surprised to read that because "that is directly opposite to everything that we had been told about what the marchers would do, that they would not be armed with sticks and stones, but that they would be orderly and peaceful". **(Day 266/76/11 to Day266/77/1)**

13.3.16 **General MacLellan**, the Officer Commanding 8 Brigade, told the Tribunal that the arrest operation was launched believing that there would be no firing, and that "nobody would attempt to murder the soldiers doing it" **(Day 262/5/2 to Day 262/5/3)**. He said that there was no discussion or determination of what might or should occur if the Army were fired on and he did not think it was raised with him." **(Day 262/7/11 to Day 262/7/14)** The absence of any discussion of this issue can be explained only on the basis that there was no real expectation that the Army would be fired on.

13.3.17. **David,** the Director of Intelligence, was asked by Eversheds if there was any intelligence of which he was aware that specifically predicted that the IRA would attempt to exploit the march as cover for attacking the Army. He did not remember any intelligence specific to the march in question to that effect

(**KD2.2 paragraph 8**). Nor, when he was giving his testimony (**Day 330/23/22 to Day 330/24/5**), was he assisted by the production of his signal to Brigadier MacLellan. He suggested that it was endemic at that time that the IRA would join marches to exploit opportunities to cause trouble for the Security Forces (**KD2.2 paragraph 8**). In his second statement, he said that he asked the Security Service staff if they could identify any further documents to illustrate this point. (**KD2.11 paragraph 27**) Having trawled all the documentation available to them, the Security Service were unable to come up with a single example of the IRA using a Civil Rights march to engage in hostile activity against the Army. Nor could David provide an example himself (**Day 330/54/21 to Day 330/55.1**). His deputy, Col GS Intelligence in HQNI, **INQ2241**, could recall no occasion on which the IRA had used a march for cover for an attack on the Security Forces (**Day 284/69/23 to Day 284/70/6**). Captain **INQ2225,** one of the Military Intelligence Officers who reported to David, said that neither Special Branch nor he had any intelligence of what the IRA were going to do on the day. (**Day 384/131/19 to Day 384/131/21**) Captain INQ2225 had "no recollection of NICRA or any Civil Rights march ever being used or manipulated by the IRA to provide crowd cover for sniping at the RUC or the Military. That was not the *modus operandi* of the IRA. It was not the marches themselves that would be used by the IRA as opportunities for sniping, it was riots." (**C2225.3 paragraph 13**). Having said that, he accepted that, at Barrier 14 where he was deployed, there was no sniping at soldiers (**Day 384/141/3 to Day 384/141/5**) even though the rioting there was as fierce as he could ever remember in Derry (**Day 384/140/25 to Day 384/141/2**). Not only did Captain **INQ2225** have no recollection of any report immediately prior to the march of people having been drilling in the area of the Rossville Flats in preparation for an ambush, but he did not recall ever hearing of paramilitary drilling in the Rossville Flats (**C2225.8 paragraph 50**). Nor does Major **INQ2555** (GS02 INT) remember any significant intelligence about the possibility of trouble at the march (**C2555.4 paragraph 18**).

13.3.18 **INQ1803**, the GS03 Int and Sy at 8 Brigade, said that his understanding at the time corresponded with General Steele's understanding, as expressed in General Steele's testimony to the effect that paragraph 4 of the Signal from David was "directly opposite to everything that we had been told about what the marchers would do" (**Day 293/67/23 to Day 293/67/25**). General Steele's recollection that "shooting was the very last thing on anybody's mind" reflected his own recollection of the Co-ordinating Conference. He did not remember any discussion in the Conference about shooting. (**Day 293/70/10 to Day 293/70/14**) He confirmed that if there had been any assessment made by him to the effect that the IRA were expected to engage in attacks on the Army that would have appeared in the notes for the Co-ordinating Conference at serial 1, "Background to Event, Latest Intelligence Assessment" (**G88.537**, and **Day 293/73/19 to Day 293/73/24**). Although he said there was always a threat that the IRA could take advantage of an event (**Day 293/73/11 to Day 293/73/13**) he could not specifically remember any Civil Rights march that was exploited by the IRA in the sense that it was used as an opportunity to shoot soldiers (**Day 293/74/24 to Day 293/75/7**).

13.3.19 **INQ7** was the 1 Para Intelligence Officer. He had no recollection of the possibility of shooting by the IRA being discussed at the 1 Para Battalion Order Group Conference (**Day 292/21/1 to Day 292/21/4**). He said it "would have been alluded to because of the extract from the INTSUM's" but when it was pointed out to him that the most recent INTSUM (**B1295.1 paragraph 27**) did not refer to the possibility of shooting he said that in various (presumably previous) INTSUM's there had been reference to shooting at Security Forces and that a march is good cover for such activity. (**Day 292/21/18 to Day 292/21/24**) However, he could not cite an example of a Civil Rights march where the IRA had used the march as cover to attack the Army (**Day 292/82/25 to Day 292/83/4**) and what he would have known from the INTSUMs was that there was no prediction of any IRA activity in the

sense of a planned attack on the Army on Bloody Sunday (**Day 292/83/25**). He had no recollection of Col. Wilford telling him about shooting or the possibility of this happening (**Day 292/86/13 to Day 292/86/24**)

13.3.20 **General Ford** told Lord Widgery that he thought it "unlikely" that gunmen would open fire (**B.1203**) and also told Desmond Hamill that he "thought that gunmen would not intervene" (**B.1208.3.17**). **None of the staff in the HQNI Information Policy / Psyops unit** had any knowledge of intelligence to the effect that the IRA planned to use the march for the cover of attack on the Army. **Colin Wallace** said that "our information from inside the Republican Movement and from NICRA was that the organisers had obtained a promise from the IRA that they would not exploit either the march or the rally". (**KW2.9 paragraph 51**). **INQ1873** has no recollection of being offered any intelligence that indicated that the IRA planned to use the march as cover for their gunmen (**Day 242/22/19 to Day 242/22/24**). Mr **Mooney** said he had no reason to expect the IRA to use the march as cover for gunmen (**Day 239/119/16 to Day 239/119/22**). When it was suggested to Col **Tugwell** that passages in a thesis written by him in 1977 (**B133.101**) suggested that there was "no adequate evidence that the IRA had any plans to start shooting in the Bogside on Bloody Sunday" he had to concede that it "leans in that direction" **Day 241/132** This, of course, was a thesis based not only on intelligence and information received prior to the march but in the years thereafter.

13.3.21 There is no evidence of any last-minute change of plan to take account of recently received intelligence to the effect that the IRA planned an attack on the soldiers. Indeed, the way in which the Paras were deployed contraindicates an expectation of shooting. The first pig (Lt. N's) parked in open ground with its rear doors opening towards the Flats, the second pulled into the carpark itself directly underneath Block 1 and in full view of Blocks 2 and 3 while the rest of the convoy stopped in the middle of Rossville Street with soldiers debussing onto open ground.

13.3.22 Apart from the **Observer C** material discussed further below, there is not a single primary source report pre-dating Bloody Sunday that suggests that the IRA planned to use the crowd as cover to launch an attack on the Army.

13.3.23. The **Operational Survey** for the week ending 4th February 1972 said "the extent to which the Londonderry shootings arose out of deliberate IRA planning or out of swift reaction to an unforeseen situation is difficult to assess at this stage" (G115.744) but it would not have been difficult to assess if reliable intelligence had been received indicating deliberate IRA planning.

13.3.24 According to **Martin Ingram**, the former FRU member, he saw documents recording intelligence received prior to the march from both Official and Provisional IRA agents that there was no intention to undertake military during the march. (**KI2.4 paragraph 8**)

13.3.25 Finally, the Army Team at the Widgery Tribunal looked for material to indicate that the Army had, prior to the march, received specific intelligence of IRA plans to attack soldiers at the march but, according to Colin Wallace, they could not come up with any.

13.4 The evidence that the Army did expect IRA action

13.4.1 The evidence, such as it is, that "reliable and detailed intelligence reports" to the effect claimed by the Army had indeed been received in advance of the day consists of the following:

(i) General Ford's memo of 7th January 1972 concerning the march planned for 16th January: "It is the opinion of senior commanders in Londonderry that if the march takes place, however good the intentions of NICRA may be, the DYH backed up by the gunmen will undoubtedly take over control at an early stage." G48.301 (8) This was contradicted

in his subsequent evidence to Lord Widgery and his interview with Desmond Hamill. See above at paragraph 3.20.

(ii) The statement in the HQNI Operational Summary for the week ending Friday 28th January 1972 to the effect that "intelligence reports indicate that the IRA are determined to produce a major confrontation by one means or another during the march" (**G83.526**). This is discussed above at paragraph 3.9.

(ii) The statement at paragraph 18 of the Weekly Intelligence Report by Brigadier Lewis (BGS (Int) DIS) for the week ending 29th January suggesting that "gunmen may be present" at the march (**G85.532**). This is discussed at paragraph 3.10.

(iii) References in the Operational Order: "Almost certainly snipers, petrol bombers and nail bombers will support the rioters" **G95.565(1)(f)**; and "IRA terrorist activity to take advantage of the event, to conduct shooting attacks against SFs . . ":**G95.565 (2)(b)**. This is discussed at paragraph 3.13.

(iv) The reference at the Co-ordinating Conference:"Threat (2) IRA activity, to take advantage of event." :**G88.537 (2)**. This is discussed at paragraph 3.13.

(v) The suggestion in Desmond Hamill's notes that General Ford told him that he had received an intelligence report on 29th January indicating that the IRA were determined to produce a major confrontation (**B1208.4.6**). This reflects the wording used in the Operational Summary. The report is not further identified but, insofar as it is a reference to the Signal from David, it is discussed further below. Whether or not he did receive such a report, he also told Desmond Hamill that he did not expect gunmen to intervene.

(vi) Statements made subsequently in internal army reports, the statement in the House of Commons and the New York BIS press statement that such reports had been received, but these were all statements made after the event.

(vii) **Observers B and C** and the signal sent by David. As appears above, the signal sent by David was completely discounted by the senior officers responsible for planning Operation Forecast. As such, it had no impact on the planning of the military operation on Bloody Sunday. Nevertheless, it appears to have been the sole basis on which the Army and the Government claimed that "reliable and detailed intelligence reports" had been received prior to the march to the effect that the IRA would use the march as cover to attack soldiers. As such it must be examined carefully.

13.5 Observers B and C and the Signal from David

13.5.1 There is only one written document pre-dating Bloody Sunday that suggests that the Army had intelligence to the effect that the IRA would use the crowd as cover to attack soldiers. This is the signal from David dated 27th January (**KJ4.45**). The most salient features of this document are as follows. First, it could certainly not be described as "detailed". Secondly, as both General MacLellan and General Steele readily acknowledged, it was clearly not "reliable". Thirdly, it was based on a single report from a single source rather than a multiplicity of reports as suggested by the Army's use of the plural. Fourthly, even if is entirely genuine, which is not conceded, it was (correctly) discounted completely by all those involved in planning the military operation, so it could not have been regarded at the time as either reliable or accurate. Fifthly, it was not in fact reliable or accurate since neither IRA faction attacked the Army either by using the crowd as cover or at all. Indeed, even if the Soldiers' case is taken at its height, the accounts by soldiers of civilian fire do not bear any relation to the prediction contained in the signal. Sixthly, the apparent source of the information contained in the signal, namely **Observer C**, clearly appreciated that there was no attack on soldiers on Bloody Sunday since even he could not bring himself to furnish a report to that effect after the event, even though he was specifically tasked to ascertain

what had happened on the day and had been in contact with his handlers during the period immediately following the day. Seventhly, there has still not been produced any *prior* primary source report from Observer C or anyone else to the effect that the IRA planned to use the crowd as cover for an attack on the Army. The signal from David is claimed to have been based on an oral report from Julian. The report of the contact with Observer C was not written up until after Bloody Sunday, for reasons which have still not been satisfactorily explained.

13.5.2 Prior to the "discovery" of the signal from David and the materials concerning Observers C and D, there was no documentation of any kind pre-dating Bloody Sunday that referred to specific intelligence of IRA plans for the day. The sole basis for the suggestion that there had been such intelligence was the statement of **Observer B** and the Security Service documents attached thereto.

13.5.3 In March 2000 we were provided with a statement by Observer B to the effect that, among other things, he had witnessed the drilling of IRA Auxiliaries at Rossville Flats in the week leading up to Bloody Sunday. He contended that from his own observations and from speaking to other persons he formed the view that these Auxiliaries were practising an ambush on soldiers on Bloody Sunday. He claimed to have telephoned his handlers on 25, 26 and 27 January to give them this information. He claimed to have telephoned one of his handlers again on the day after Bloody Sunday with further information about how several men had been seen running from Rossville Flats after the shooting started and that they loaded two Thompson sub-machine guns, a rifle and a pistol into a car before driving off. He claimed that his evidence was corroborated by contemporaneous documents attached to the statement. Examination of this and other intelligence material leads to the following conclusion. First, not only do the attached documents not support Observer B's accounts but they positively contradict them in material respects.

Secondly, the available records suggest that Observer B did not make any report of such activity before Bloody Sunday either to his Army handlers or to his Security Service handlers. Thirdly, it is now apparent from the Observer C material that no relevant reports were provided by Observer B before Bloody Sunday; his handlers did not seek any reports from him even after Bloody Sunday; and the reports that he did supply support the evidence that the IRA arrived on the scene only after the event. Fourthly, Observer B could never have been regarded as an impartial witness. Apart from the fact that his accounts of drilling before Bloody Sunday are transparently ridiculous, the little we have been allowed to know about him is sufficient to indicate that he had connections with the Parachute Regiment and with Loyalist extremists.

13.5.4 As we have already discussed in Section 4, the manner in which the material concerning Observers B and C was disclosed tends to suggest information manipulation on the part of the Intelligence Services. The manner in which evidence has been given by Security Service agents gives rise to the unavoidable conclusion that they cannot be regarded as reliable, honest, or impartial witnesses. **James**, now deceased, led the Tribunal to believe that Observer B was the source who "pinpointed just about all the intelligence the Army had about Derry" and that, by implication, the "detailed and reliable intelligence reports" about the IRA plans for the day must have emanated from him. He did not even mention Observer C. It is now apparent that Observer B was of peripheral importance, that Observer C was the only resident informant in Derry of any value and, even after the event, that neither could come up with any information supporting the Army's case that they had merely fired back in response to civilian gunfire.

13.5.5 It is now proposed to examine in detail the material concerning Observer B, Observer C and the Signal from David.

13.6 Observer B

13.6.1 Observer B was English, strongly anti-Republican, intensely loyal to the UK and was handled as an agent by officers of the Parachute Regiment for about four months (**Day 325/70/7 to Day 325/73/25**). He also won the trust of Loyalist extremists (**Day 325/78/19 to Day 325/79/1078**) and worked closely with a Loyalist organisation (**Day 325/73/23 to Day 325/73/25**) He saw himself as playing a leading role in supporting the British Army in Northern Ireland. (**KJ4.1 paragraph 3**) Although he implied in his statement that he received only travelling expenses (**KO2.2 paragraph 4**) he did receive a salary and bonuses from August 1972. (**Day 325/82/17 to Day 325/82/21**) and **KM10. 2 paragraph 7**)

13.6.2 In his statement, he says that he was in Derry on 25th January 1972. (**KO2.2 paragraph 6**) This is not supported by any record to which Observer B refers but it is difficult to believe that Observer B could have recalled this date or the details of what appear in the paragraphs following without access to records. This gives rise to the inference that he did have access to records which had been withheld from the Tribunal.

13.6.3. At **KO2.2-3 paragraphs 7 to 10**, he describes seeing a group of about 40 men drilling in Glenfada Park and then marching across Rossville Street before entering Rossville Flats through the main entrance located between Blocks 1 and 2. It is hard to imagine how this could have occurred without being witnessed by soldiers or police officers on the City Walls and, as they would have crossed Rossville Street, from OP Echo on the Embassy Ballroom building. In **KO2.4 paragraph 12**, he claims that he saw the men spread out along the three landings of Block 2 apparently practising ambush tactics. This again would have been in full view of soldiers in OP Echo and is patently

absurd. In **KO2.5 paragraph 13**, he says that he telephoned his Army handler, IO1, that evening, i.e. Tuesday 25th January, describing what he had seen and that he told him again when he spoke to him on the telephone the following day (Wednesday 26th).

13.6.4 In paragraph 16, he says that on Thursday 27th January he saw the men drilling again in the same fashion and telephoned IO1 that day to tell him what he had witnessed. This is his last claimed sighting of any relevant events prior to Bloody Sunday.

13.6.5 **Officer M**, a Security Service officer, has checked the Security Service records in relation to Observer B. He confirms that "while the records suggest that Observer B remained in contact with IO1 at that time, they contain no reference to specific contact between them on 25, 26th, 27th or 31st January 1972". (**KM10.2 paragraph 5**) Nor is there any other record of any kind in anyone's possession supporting Observer B's account or his claim to have passed on his account to any of his handlers. However, there is a record that he met Julian on Thursday 27th January and there is no suggestion there that he passed on to Julian any information about drilling. The most significant aspect of the meeting, judging by the record thereof, is the fact that Julian paid Observer B £10 expenses. (**KM10.3 paragraph 6** and **KM10.5).**

13.6.6 Observer B saw nothing himself on Bloody Sunday but he claims to have spoken to two men, **A** and **B**, the next day. He claims that they told him that after the shooting had gone on for a couple of minutes they observed several men run from the Rossville Flats to a Ford Cortina marked at point C on the map at **KO2.18 (KO2.6 paragraph 17**) As appears from **P329**, soldiers on the City Wall would have had a clear view of any car parked in that position and the activities of any persons near it. Observer B says that, according to **A**, two men opened the boot of a car and threw in two Thompson sub-machine guns, a rifle and a pistol before getting into the car and driving off. He claims

that **B** said that the back of the car was full of Thompsons. Observer B then telephoned IO1 with this information shortly afterwards. (**KO2.6 paragraph 17**) As noted above, there is no record of any such contact. In addition, Observer B claims that document 1 of the attached Annex A details the conversation, save that he did not say anything about weapons being distributed from the car. This document is at **KO2.9**. It is a Security Service document rather than an Army document, even though the report was allegedly made to an Army handler. The details in this document conflict with the allegations in Observer B's statement and, in the most important respect, are to the opposite effect. First and foremost, the suggestion in Document 1 is that the weapons were being *distributed* from the vehicles rather than loaded into them. This is consistent with the case made by IRA members that they arrived *after the event* and distributed some weapons for the purposes of a retaliatory attack. This is further supported in the document by the suggestion that B talked to a group of Provisionals who were "very angry with themselves for having left their guns in the pub at Free Derry Corner". The entire object of Observer B's account in his Eversheds statement is to suggest that several men had run from the Rossville Flats after having been involved in shooting from there. While Observer B denies saying anything about distributing weapons from the car, this appears not only in Document 1 but also in Julian's note for file dated 4th February 1972. (**KM10.4**) Secondly, Document 1 refers to "cars", in the plural, and does not mention a Ford Cortina, which is the only car mentioned in Observer B's Eversheds statement. Observer B clearly appreciated that distribution of weapons after the event was inconsistent with involvement in the event itself so he simply fabricated an account involving civilian gunmen running away from the Flats after the shooting and escaping with their weapons in a getaway car.

13.6.7 In **KO2.7 paragraphs 19 to 20,** Observer B says that he met Julian on 1st February and told him what A and B had told him the previous day. He said

that Document 3 of Annex A (**KO2.11**) detailed the conversation. Document 3 consists of three lines and the only relevant detail confirms that the report was of weapons "being handed out" rather than loaded into a getaway car. The note for file is the note referred to above (**KM10.4**), in which the report was of a "distribution" of arms.

13.6.8 In **KO 2.7 paragraphs 21 to 22**, Observer B claims to have been told by X that when the shooting started the auxiliaries were firing from the balconies and that they stashed their weapons in small rooms off the landings. He claims that he reported this information to IO1. Yet again, needless to say, there is no record of any such contact or report.

13.6.9 In **KO2.8.1 paragraph 24** he says that on 22nd February 1972 he reported what he saw to IO1and that paragraphs 2 and 3 of Document 5 (**KO2.1.3**) record what he observed and reported. We are not certain that this document does in fact record any information supplied by Observer B since paragraph 1 indicates that the "source" was tasked to report on the general attitude of the Catholic population in the aftermath of the Bloody Sunday shootings with a specific brief to discover any material likely to be used at the Widgery Tribunal. This was a brief given to Observer C who, unlike Observer B, was, we are told, resident in Derry. In any event, paragraph 2 consists of speculation about civilian firing based on marks in walls at Glenfada Park. Paragraph 3 refers to a report apparently given to the Observer by an unidentified resident of the Bogside. This resident was reported by the Observer to have given him an account of a shooting which is at odds not only with the civilian evidence but also with the soldiers' evidence. As appears from the sketch map at **G123.825.001** and **KO2.13 paragraph 4**, the report was to the effect that soldiers advanced to the rubble barricade but were pinned down there by firing from the Glenfada Flats, whereupon they returned north along Rossville Street to Glenfada Park North and made their way along the western side of the Glenfada Park North car park.

13.6.10 Documents 2, 4 and 6 were not referred to or explained by Observer B but were simply attached to his statement.

13.6.11 Apart from the fact that none of the documentation supports Observer B's accounts, and some positively contradicts it, none of the alleged sources (A, B, C and X) has been traced by the Tribunal, so there is no independent evidence to support his versions. Indeed, there is no evidence of which we are aware to establish that any of the alleged sources actually existed.

13.6.12 James, now deceased, gave Eversheds a statement in March 1999 purporting to support Observer B. At paragraph 5, he said that "Observer B pinpointed just about everything we knew about Londonderry" (**KJ2.1**). James said that Observer B could see from the area of the Rossville Flats what was going on throughout the area. The impression was created that he lived in Derry. The truth, as we now know, is that he simply visited Derry from time to time (**KM10.3 paragraph 6**) and that Observer C was the main source in Derry. (**Day 325/119/21 to Day 325/120/3**)

13.6.13. James claims in paragraph 6 (**KJ2.1**) that he remembers Observer B contacting him a few days before Bloody Sunday "although it could have been afterward" and Observer B told him that he had been able to witness drilling by the IRA. However Observer B himself did not suggest that he made any report to James and there is no record of any such report.

13.6.14 The contemporaneous intelligence assessments have to be re-evaluated in the light of the information that Observer C (and not Observer B) was apparently the source of the signal that the IRA would attempt to use the march as cover to mount attacks on Security Forces in revenge for Magilligan. For example, in the Director of Intelligence's intelligence assessment for the week ended 31st January, he said (**G.108B.6646 paragraph 7**) that from an intelligence

point of view the interesting factors were, firstly, a forecast that the IRA would attempt to use the marchers as cover to mount attacks on Security Forces and, secondly, that there were those amongst the organisers who were determined to get revenge for the Magilligan incident the previous Sunday. Now that this appears to have come from Observer C, it is apparent that the Director of Intelligence (to whom James and Julian reported) was completely unaware of any relevant intelligence provided by Observer B about drilling or anything else.

13.6.13 Attached to Julian's third statement were a number of documents beginning at **KJ4.9**, described variously as notes for file and source sheets, written in the kind of standard form and in the degree of detail that would have been expected of intelligence reports for the Security Service. None of these documents refers to any reports made by Observer B concerning Bloody Sunday. The obvious question is why we have seen no such documents relating to Bloody Sunday. When asked why there were no documents of that kind in relation to Bloody Sunday itself, Julian said "there was a change of, um, reporting procedure". (**Day 326/25/3 to Day 326/25/4**).

13.7 Observer C

13.7.1 In fairness to James, it should be acknowledged that he had recently suffered a brain haemorrhage and he had found it confusing to try to remember events of some 30 years ago. (**KJ2.1 paragraph 10**) That might explain why James did not mention Observer C. Julian, on the other hand, has no such excuse. Julian made a second statement on 29th June 2001 and a third on 19th June 2002. In neither of these did he mention Observer C

13.7.2 It was not until Julian's fourth statement dated 21st March 2003 (**KJ4.30**) that Observer C was mentioned and this was at the request of the Inquiry (**KJ4.30 paragraph 1**). In paragraph 1 of the statement, Julian says that there were "several" volumes of files relating to Observer C and D. When asked about

this during his oral testimony, he said the figure "could be 20" and there were "about 80" documents in each file (**Day 326/26/2 to Day 326/26/12**) so there may be about 1600 documents relating to Observers C and D (the conduit between him and the Security Service). Although Observer C was the Security Service's main agent in Derry, Julian claimed to have forgotten about him. He said that Observer C suddenly came to him because of the signal document (**Day 325/119/6 to Day 325/119/12**). When asked exactly what it was about the signal that prompted his recollection, he said: " I cannot tell you exactly what it was" (**Day 326/29/9**). When pressed, he said "It was the, um, nature of the area covered and kind of information." (**Day 326/29/11 to Day 326/29/12**). With regard to the area, he accepted that when he made his first three statements he knew the area was Derry so that did not help him remember (**Day 326/30/2 to Day 326/30/3**). He then said it was "the nature of the reporting." The evidence continued as follows:

"Q. What is the nature of the reporting that helped you?
A. I've told you, it was the march and area.
Q. We all knew it was a march, we all knew it was Derry and you knew it was a march and you knew it was Derry when you made your first three statements.
A. Fine, fine.
Q. And that was it?
A. Yes, that is it". (**Day 326/31/5 to Day 326/31/12**)

13.7.3 We respectfully invite the Tribunal to reject Julian's evidence that he had forgotten about Observer C. Observer C was the main agent in Derry, whose reporting had been shown to the Home Secretary and the Prime Minister and in the weeks prior to Bloody Sunday he had apparently produced a series of reports about plans for civil unrest and other activities locally. If any of this is true, it is simply not credible that Julian would have forgotten about him but remembered Observer B. It is submitted that neither Julian nor the current Security Service staff wished to disclose the existence of Observer C. The obvious reason is that Observer C was apparently tasked to find out what he

could about the events of Bloody Sunday (document K at **KJ4.75** and **Day 325/111/5 to Day 325/111/25**) and he was able to come up with nothing which supported any part of the Army case about what happened on Bloody Sunday (**Day 326/4213**). This is so even though Julian made contact with Observer C either directly or through Observer D on at least 7, possibly 8, occasions between Bloody Sunday and 19th April 1972 (**Day 326/44/14 to Day 326/44/19**), viz. 1st February (**KJ4.80**), 2nd February (**KJ4.82**), 3rd February (**KJ4.83**), 17th February (**KJ4.88**), some time before 29th February (**KJ4.90**), sometime before 14th March (**KJ4.92**), sometime before 22nd March (**KJ4.94**), and sometime before 19th April (**KJ4.98**). In none of the documents recording those contacts is there any reference to any information concerning the events on Bloody Sunday. (**Day 326/44/24 to Day 326/45/2**) Nor, specifically, did he mention anything about Martin McGuinness either firing the first shot or at all (**Day 326/46/7**). Indeed, as discussed in section 4.5, some of the documentation attached to Observer B's statement refers to documents that we now know related to Observer C, so that some of the documents attached to Observer B's statement must have been extracted from a file containing documents expressly referring to Observer C. This makes it all the more difficult to understand how the existence of Observer C was not noticed by the Security Service responsible for supplying these documents to the Tribunal.

13.8 The Signal from David

13.8.1 With regard to the Signal, the first relevant document appears to be document E, a telegram dated 10th January 1972 from David to Julian (**KJ4.61**). In this telegram, David asked Julian for "anything that you can do to let us know whether a march is intended, its forming up place and route, the intentions of the organisers in the event of Security Forces counter action etc. will be very welcome". It should be noted that David did not seem at all concerned about the risk of IRA action and did not seek any intelligence concerning their

intentions. Indeed he stated in the telegram that, according to Special Branch, "the organisations primarily concerned were the James Connolly Republican Club, Derry CRA with which are associated the SRG and kindred soulds (*sic*) of the lunatic left". There was no reference to either IRA faction.

13.8.2 On 14th January 1972, Julian wrote in a note for the file that D telephoned on 12th January to say that C had visited all the places in Derry where he would be likely to gather information about the proposed march but had gleaned absolutely no information about it at all. (**KJ4.65**)

13.8.3 In a note for file dated 19th January 1971 (*sic*) (**KJ4.67**), Julian reported that Observer D had rung to say that the march which was to have taken place in Derry on 16th January would now definitely take place on 30th January. D said it was being organised by members of the IRA, i.e. Officials, who had attended a meeting to which he had previously referred (in document G (**KJ4.65**)). This, of course, was contrary to the information provided by Special Branch that it was organised by Derry CRA and other elements of the "lunatic left". It is also contrary to the overwhelming evidence that it was organised by NICRA.

13.8.4 There is no other relevant note or source report pre-dating Bloody Sunday. However, some of the contents of David's signal dated 27th January (**KJ4.45**) bear an obvious resemblance to the terminology used in a note for file apparently written by James on 31st January 1972 (document J at **KJ4.73**) and a note for file written by Julian on 31st January 1972 (document I at **KJ4.69**). These notes are written in a curious form. Document J was written before document I – it is referred to in document I. Written as they were the day after Bloody Sunday, they were not only written with those events in mind but they appear to have come into existence as a result of those events. At the beginning of the note at document J, James explained that at about 9.45 am on 31st January (the date of the note) "David phoned and asked me to pass over,

within half an hour, the gist of the intelligence we had given to him verbally during the previous week when Julian was in Northern Ireland and in touch with Observer C" (**KJ4.73 paragraph 1**). James then claims in the note to have repeated to Brigadier Lewis's staff officer the report that he had given to David. The important part is that a reliable source had allegedly reported on 26th January that "it was believed that the marchers would be armed with stones and bottles and that the IRA would use the crowd as cover for sniping attacks on the security forces".

13.8.5 Surprisingly, there is no source report for this information, which was allegedly provided five days before the note for file was written up. In his Eversheds statement dealing with these notes, Julian said that it was "standard practice" for James and himself to make notes of his meetings with agents but not to write up those meetings until they were in a secure environment. It is difficult to believe that neither James nor Julian was in a secure environment until five days after this meeting. When asked about the whereabouts of the notes of his meetings with Observer C, Julian replied that "they would have been destroyed when they were written up" because "it was absolutely pointless keeping notes when you have written up and produced a the (*sic*) proper document" (**Day 326/46/24 to Day 326/46/25**). When asked if all his contemporaneous handwritten notes were destroyed, he replied "absolutely right" (**Day 326/47/3**). The very first document referred to by Julian in that statement was a handwritten message from James to Observer D (**KJ4.33 paragraph 8** and **KJ4.50**). The next was a 5 page bundle also of Julian's own handwritten contemporaneous notes of a meeting with Observer C (**KJ4.34 paragraph 9** and **KJ4.52**). Therefore, for reasons that have not been satisfactorily explained, we do not have either the contemporaneous hand written notes of any such meeting or a source report of such a meeting. The other note for file written by Julian on the same date (document I) suggests it was Julian who met Observer C at Observer D's house on 26th January. He says: "Apart from the intelligence in the note for file at [document J] he also

gave me the following, which was passed by me verbally to David that evening" (paragraph 1). He did not record in this note the suggestion that the IRA would use the crowd as cover for sniping attacks on the Security Forces although he did repeat the suggestion that marchers had made plans for alternative routes and were preparing to use a hooligan element to create diversions. It is unclear why this should be repeated and not the reference to the IRA plans.

13.8.6 The signal from David (**KJ4.48**) contained elements from both of these notes for file. Even a cursory examination makes it obvious why the officers involved in planning the military operation discounted it as unreliable and inaccurate. In paragraph 1, David says that the information should be regarded as "tentative" since it was believed there was to be a further planning meeting. At paragraph 2 he specified the expected route but it is not the route that was taken and, in any event, the route was common knowledge. Paragraph 3 refers to a "possible" diversion in the Brandywell area (which didn't occur) using "young hooligans whom they would prefer out of the way of the march". Indeed this seems at odds with paragraph 4, in which it is suggested that the marchers would be armed with sticks and stones, an activity that would benefit from the presence of hooligans. Of course, with the exception of Donal Moran and his companions (**Day 133/51/1 to Day 133/51/9**), the marchers were not armed with sticks and stones. Paragraph 4 also suggested the organisers were determined to have their revenge for Magilligan and were determined to get to the Guildhall "come what may". All of this was wrong.

13.8.7 The part now relied upon by the soldiers is the suggestion in paragraph 4 that the source "expects the IRA to use the crowd as cover". Anyone familiar with the Republican Movement in 1972 would have appreciated first of all that there was no single organisation called the IRA. There were two separate and quite distinct organisations, viz the Official IRA and the Provisional IRA.

The latter had split from the former in acrimonious circumstances. Their relationship was characterised by bitter rivalry and often by violent feuding. A reference to the plans of "the IRA" was therefore meaningless and would tend to indicate a complete lack of understanding of or familiarity with the Republican movement. Put another way, the suggestion that "the IRA would use the crowd as cover" would communicate to an informed listener that the provider of such information not only possessed no reliable information about the intentions of either the Official IRA or the Provisional IRA but was not even sufficiently well informed to express unfounded speculation in a convincing manner. It should also be noted that the suggestion in paragraph 4 of David's signal is that the IRA "will use the crowd as cover" without specifying what they would use the crowd as cover for. This gap was conveniently closed by James by including the key words "for sniping attacks" in the note for file written after the event (document J).

13.8.8 The suggestion that the IRA would use the crowd as cover also appeared in the fourth paragraph of the signal in the second half of the sentence that was concerned firstly with the suggestion that marchers would be armed with sticks and stones. This is hardly the kind of prominence that would have been given to information that was meant to convey intelligence to the effect that soldiers were going to be subjected to gun and bomb attacks during the march. In short, the suggestion about the IRA is no more than a passing reference in a paragraph whose main point seems to be that the organisers were "determined to get to the Guildhall come what may". Considerably more time and space was devoted to (inaccurate) information about the proposed route (paragraph 2), the proposed speakers (paragraph 5), anti-Army propaganda beginning in primary schools (paragraph 6 – a suggestion which "infected" the whole document according to Supt McCullagh: (**Day 231/164/13 to Day 231/164/23**) and the location of new barricades (paragraph 7).

13.8.9 Taken at its height, the "intelligence" contained in the signal was worthless and, insofar as it contained anything other than common knowledge, self-evidently made up by a jaundiced resident who clearly had an axe to grind.

13.8.10 In the event, the IRA did not use the crowd as cover either for sniping attacks or otherwise. Even on the soldiers' accounts, the so-called drainpipe shot was not fired from the crowd and the subsequent shooting did not take place during the march or at soldiers behind barriers, as the signal implied. In most cases, the soldiers claimed that the shooting came from locations such as the Rossville Flats (including the roof and balconies) and from behind the Rubble Barricade, not "under cover of the crowd".

13.8.11 It is not difficult to see how, after considering the signal on its own merits and balancing it against the wealth of intelligence to the effect that shooting or bomb attacks were unlikely, the Army command discounted it altogether. The truth is that neither the Official IRA nor the Provisional IRA had intended to attack soldiers at or near the march and this was the Army's own assessment. A reference to "detailed and reliable intelligence reports" to the contrary effect was part of the smoke screen of disinformation put up after the event to conceal what really happened and to shift the blame.

13.8.12 Finally, it should not be forgotten that neither Observer B nor Observer C made any statements about any of these matters. Neither has ever given oral testimony or, therefore, had their accounts tested under cross-examination. In our submission, their accounts should be rejected for all the reasons set out above.

Appendix 1

FS1 - 806

MILITARY INTELLIGENCE [1]

DIRECTOR OF INTELLIGENCE

(David, seconded by Security Service (MI5)
- Responsible to GOC /CLF and liaised with UK Rep)

ColGS (Int & Security)
(INQ2241)

GS02 (Int)
(Major INQ2555)
GSO 3(Int)
(Captain INQ2160)
GSO 3(Security)
C1(Security)
(Captain INQ1031)

Special Military Intelligence Unit (SMIU) - Liaison with RUC S.B.) Military Intelligence Liaison Officers
INQ2220
Capt. INQ 2225

(James dec'd & Julian - MI5)

Officer seconded from MI6 (per Gen 1.72-77 paragraph 6)

8 BRIGADE INTELLIGENCE SECTION

Intelligence Officer (GSO 3 Int & Sy): INQ1803

Designation	22 LADR	1 Royal Anglians	2 RGJ	1Coldstream Guards
Int. Officer :	Captain 21	Lt INQ8		LtINQ462
Sergeant /WO	W.O. INQ 836			Serg INQ622
Photographer	INQ863(Battn. Photographer) W.O. INQ 836 (photographer on day)	Corporal INQ 1199	LCorp INQ 1231	INQ81 (Photographer but doesn't say he was in intelligence section)
Other NCO's	INQ118	4 NCO's inc.LCorp 1208		LC INQ 274, 1797, 0806

1 PARA INTELLIGENCE SECTION

DESIGNATION	CYPHER
Intelligence Officer :	INQ7
Sergeant	
Photographer	INQ1970
Standby Photographer	Lance Corporal INQ1609
Other	INQ2139, UNK140,142 (Signaller), A.N.Other? (per INQ7)
Graphics	UNK141

FS1 . 807

[1] See documents and charts provided by Cabinet Office in July 2000 at **GEN1.72** and contemporaneous chart **G20A.153.001**

14. OPERATION FORECAST

14.1 Introduction & Summary of Submissions

14.1.1 While the concept of the military operation was developed by General Ford, the actual planning process involved General Ford, 8 Brigade, in particular Brigadier MacLellan, and Lt. Col. Wilford, the Commanding Officer of 1 Para.

14.1.2 It is clear, as has been set out in **Section 11** that General Ford had a significant influence in developing the concept of military operations and that key aspects of decision-making were in fact removed from 8 Brigade by him. By the time 8 Brigade set about planning for the implementation of Operation Forecast, key decisions had been made: the decision to stop the March; the decision that the Army would police the March; the decision to have an arrest operation; and the decision to use 1 Para as the arrest force. Each of those decisions, in our view contributed to the use of lethal force by 1 Para against unarmed civilians on Bloody Sunday.

14.1.3 It is nonetheless the case that this situation was significantly exacerbated by the planning of Operation Forecast, and in particular the planning of the arrest operation, for which 8 Brigade and 1 Para bear primary responsibility.

14.1.4 General Ford however had a significant involvement in the contents of the Operations Order. It is evident, from the statements prepared by General Ford and Brigadier MacLellan for the Widgery Tribunal, that key aspects of the Operation Order which formed the foundation-stone for planning the operation were effectively drafted by General Ford. **B1208.077 paragraph 12** and **B1279.015 paragraph 8**

14.1.5 The planning and co-ordination of Operation Forecast including: the preparation of the Operation Order; the 1 Para 0arrest plan and the

conduct of the Co-ordinating conference are crucial to an understanding of how the planning and control of Operation Forecast was not conducted in such a manner as to "minimise, to the greatest extent possible, recourse to lethal force". *McCann v. United Kingdom* (1966) 21 EHRR 97

14.1.6 It is our submission that:

i) The planning process for Operation Forecast rendered the launch of the arrest operation virtually inevitable once there was rioting at the Blocking Points. This was primarily because General Ford regarded the March as an 'opportunity' to arrest large numbers of rioters and 8 Brigade imposed no effective controls on the circumstances in which the arrest operation was to be launched.

ii) Completely contrary to the case made by General Ford and senior military officers within 8 Brigade, the concept of separation was never central to the planning of the arrest operation. It is our primary submission that the concept of separation formed no part of the planning process or the concept of operations. Inasmuch as it existed at all prior to the launch of the arrest operation, and that is disputed, it was an afterthought by Brigadier MacLellan on the morning of the march, which he failed to communicate to any of the personnel under his command and control who could have ensured that it was determinative.

iii) 8 Brigade failed to exercise command or control over 1 Para in relation to their planning of the arrest operation. Although the Brigade arrest force, 1 Para operated virtually autonomously in relation to their planning of the arrest operation, without reference to either the Brigadier or Commanding Officers within 8 Brigade.

iv) 8 Brigade failed to ensure that 1 Para were adequately briefed in relation to how the arrest operation should be conducted. 1 Para were not given an adequate briefing in relation to: the geography of the area; locations from where 1 Para could launch an effective arrest operation; how Derry rioters operated; how the general body of marchers would be likely to behave; and, the nature and extent of the risk of attack by the IRA.

v) In the event that it is accepted that: there was a BID 150 and, that 1 Para were given the Order to go in over the secure link, then 1 Para and other units were inadequately briefed in relation to the necessity for maintaining an 'element of surprise' in relation to the launch of the arrest operation.

vi) To like effect the Commanding Officer and senior officers within 1 Para, failed to look for direction from or seek guidance or assistance from within 8 Brigade in relation to their planning of the arrest operation. They operated as if they were autonomous and without reference to 8 Brigade.

vii) Neither General Ford, 8 Brigade or 1 Para engaged in any assessment of the risk of the use of lethal force by soldiers and the consequent risk to unarmed civilians, in the event of an arrest operation being launched. In consequence no consideration was given to taking steps which would have minimised the risk to civilian life.

14.1.7 In terms of where responsibility for these decisions lies it is our contention that responsibility can be apportioned as follows:

i) Failings within the Operation Order which contributed to the:

a) Lack of separation;

b) Rendering the launch of an arrest operation inevitable; lie primarily with General Ford and Brigadier MacLellan and to a lesser extent Lt. Col. Steele.

ii) Failings at the level of the Co-ordinating Conference lie with Brigadier MacLellan, Lt. Col. Steele and Lt. Col. Wilford primarily, but to a lesser extent with the Commanding Officers in 8 Brigade.

iii) Failures in the actual planning of the arrest operation lie with Lt. Col. Wilford and his senior officers but also with 8 Brigade and in particular Brigadier MacLellan.

14.2 Launch of Arrest Operation rendered Inevitable

14.2.1 Brigadier MacLellan in his evidence to Lord Widgery was asked:

"Q. To put it another way . . . was the launching of the arrest operation regarded before this day as began as inevitable? A. No." **WT11.8D**

14.2.2 It is our submission that this was not the case. The Operation Order provided the framework which determined the circumstances in which the arrest operation ought to be launched, key sections of which had been directed by General Ford. General Ford established a framework which set no meaningful controls on the launch of the arrest operation beyond the requirement that there be rioting at the Blocking Points. Such an approach was entirely consistent with his approach to the Civil Rights March, which was that it was an 'opportunity' to arrest as many rioters as possible.

14.2.3 While it will be submitted that primary responsibility for creating a situation in which the launch of the arrest operation was inevitable in circumstances where there was violence at the Blocking Points rests with General Ford, as Brigadier significant responsibility also rests with Brigadier MacLellan. Significantly, throughout the planning process Brigadier MacLellan failed to take any action to ensure that the arrest operation would only be launched if considered both necessary and appropriate.

Operation Order

14.2.4 Responsibility for the Operation Order as eventually drafted does not lie exclusively with 8 Brigade. Key parts of the Operation Order were in fact 'directed' by General Ford at a meeting held in HQNI on the morning of the 26th January 1972, following which the Operations Order was drafted by Lt. Col. Steele on the 27th January 1972. **B1315.003 paragraph 15** The relevant sections of the statement, prepared by General Ford in the lead-up to the Widgery Tribunal state as follows:

"12. During the course of this meeting I gave the following directions verbally to the Brigade Commander:

a. The containment of the Creggan Match would be a Military Operation with the RUC in support, and the military in command at all levels.

. . .

d. The event was to be handled in as low a key as possible, and for as long as possible. To this end:-

(1) Troops were to take no action against the Marchers until either an attempt was made to breach the blocking points, or violence erupted, in the form of stone, bottle and nail bomb attacks against the Security Forces.

. . .

(3) Ringleaders of the March need not necessarily be arrested on the spot, but should be identified and arrested at a later stage.

(4) If the March took place entirely in the Bogside and Creggan it was to be permitted to continue unchallenged.

. . .

(e) Once the blocking points had been emplaced no Marchers were to be allowed to proceed through them, except in cases of genuine emergency.

(f) The hooligan element was not to be permitted to damage Business, Shopping and Protestant areas of Londonderry. To this end I directed that Tactical Headquarters and 3 Companies of the 1st Parachute Regiment should be held centrally behind the blocking points in the William Street area, and if an opportunity arose, launched in a scoop-up operation to arrest as many rioters and hooligans as possible.

(g) Blocking points were to be established as far forward as possible, to keep any violence in the Bogside and Creggan areas, and prevent it from overflowing into the Business and Shopping areas.

(h) The maximum number of soldiers were to be 'in the shop window'. They were to be covered by deployment of

Observation Posts and by a very large number of snipers, in the anti-sniper role.

. . .

(k) Finally I allocated Commander 8 Brigade the following:

. . .

(3) 1 PARA (three companies of which were to be used as a Brigade Arrest Force)."

14.2.5 The orders given by General Ford, are directly reflected in the Operations Order as subsequently drafted by Lt. Col. Steele. In particular:

i) Paragraph 12(a) of his statement is reflected in paragraph 7(a)(1) of Operation Forecast. **G95.566 paragraph 7(a)(1)**

ii) Paragraph 12(d)(1) of his statement is reflected by paragraph 7(b)(1)(a & b) of Operation Forecast. **G95.566 paragraph 7(b)(1)(a)** and **G95.566 paragraph 7(b)(1)(a)**

iii) Paragraph 12(d)(2) of his statement is reflected in paragraph

iv) Paragraph 12(d)(3) of his statement is reflected in paragraph 7(b)(2) of Operation Forecast. **G95.567 paragraph 7(b)(2)**

v) Paragraph 12(d)(4) of his statement is reflected in paragraph 7(b)(4) of Operation Forecast. **G95.567 paragraph 7(b)(4)**

vi) Paragraph 12(e) of his statement is reflected in paragraph 7(b)(3) and 7(c) of Operation Forecast. **G95.567 paragraph 7(b)(3)** and **G95.568 paragraph 7(c)**

vii) Paragraph 12(f) of his statement is reflected in paragraph 7(e) of Operation Forecast. **G95.568 paragraph 7(e)**

viii) Paragraph 12(g) of his statement is reflected in paragraph 7(h) of Operation Forecast. **G95.568 paragraph 7(h)**

ix) Paragraph 12(h) of his statement is reflected in paragraph 7(i) of Operation Forecast. **G95.568 paragraph 7(i)**

x) Paragraph 12(k)(3) of his statement is reflected in paragraph 9(f) of Operation Forecast. **G95.570 paragraph 9(f)**

14.2.6 The sections of Operation Forecast directed by General Ford created the conditions whereby the launch of the arrest operation was virtually

inevitable. We say this specifically with reference to paragraph 12(f) of his statement which is reflected in paragraph 7(e) of Operation Forecast. **G95.568 paragraph 7(e)**

14.2.7 General Ford's statement states:

> " . . . Tactical Headquarters and 3 Companies of the 1st Parachute Regiment should be held centrally behind the blocking points in the William Street area, and if an opportunity arose, launched in a scoop-up operation to arrest as many rioters and hooligans as possible." **B1208.078 paragraph 12(f)**

14.2.8 While the relevant section of Operation Forecast states:

> "e. Hooliganism. Although NICRA claim that this march is a non-violent protest, the organisers will have no control over the hooligans who will ensure that violence is inevitable. The deployment of troops is to take account of this situation. An arrest force is to be held centrally behind the check points, and launched in a scoop-up operation to arrest as many hooligans and rioters as possible." **G95.568 paragraph 7(e)**

14.2.9 It has been the consistent evidence of both Brigadier MacLellan and General Ford that they regarded rioting at the Barriers as inevitable. In his Supplementary Statement prepared for the Widgery Inquiry Brigadier MacLellan stated:

> ". . . it was thought unlikely that the stewards of the Northern Ireland Civil Rights Association March would be able to exercise any control over the hooligan element, and **I personally thought it almost inevitable that the hooligans would be present in force. . .**" **B1232 paragraph 18** (See also Lt. Col. Steele **Day 266/87/23 to Day 266/88/6**)

14.2.10 While in his statement to this Tribunal General Ford stated:

"Previous experience of the DYH, the opinions of those based in Londonderry and indeed common sense all lead to the conclusion that, whatever the intentions of the organisers, the NICRA march would be used as a cover and excuse for prolonged and violent rioting. . . ." **B1208.029 paragraph 4.11** (See also **B1141 paragraph 7**, **B1208.075 paragraph 7**)

14.2.11 This was also view of the Commanding Officers within 8 Brigade. By way of example, INQ 598 stated:

"there was a general expectation that rioting would take place, specifically at the point where the march was to be diverted away from the commercial centre of the City." **C598.3 paragraph 14**

14.2.12 A reading of General Ford's statement at **B1208.078 paragraph 12(f)** does not suggest any that there were any qualifications limiting the circumstances in which the arrest operation would be launched, rather it was a question of mounting the arrest operation if the "opportunity arose". A clear theme running through the evidence of General Ford is that the Civil Rights March presented precisely the "opportunity" needed to arrest large numbers of hooligans and in our submission the reference to "opportunity" should be read in that context.

14.2.13 As Lt. Col. Steele said in his statement to this Tribunal:

"Brigadier MacLellan's plan was to observe the march and contain it. I recall the CLF expressing a view at the meeting that this was an opportunity to arrest any hooligan element. Brigadier MacLellan and I expected there to be hooligans present, and that therefore there would be violence. Accordingly, the CLF said that if the hooligans were going to be there he would allot 1 Para to carry out an arrest operation and the CLF thought that this would be a chance for a major scoop up operation." **B1315.003 paragraph 14**

14.2.14 Some weight has been attached by senior military figures to the section of the Operations Order wherein it states:

> "The Security Forces are to take no action against the Marches until either:
>
> (a) An attempt is made to breach the blocking points.
>
> (b) Violence against the Security Forces, in the form of stone, bottle and nail bombing takes place." 101 G Ops dated 27 January 1972 at **G95.567 paragraph 7(b)(1)**

14.2.15 However, it is clear from: General Ford's statement; the Operations Order as drafted; and the evidence of Brigadier MacLellan's to Lord Widgery that what was being dealt with at this point in the Operations Order was the issue of taking against the Marchers. General Ford's statement makes specific reference to "action against the Marchers". **B1208.077 paragraph 12(d)(1)** This entire section of the Operations Order is entitled the "Dispersal of the Marches" **G95.567** while "Hooliganism" is a separate topic under which heading the plan involving an arrest force is dealt with. **G95.568 paragraph 7(e)** In the course of his oral testimony to Lord Widgery, Brigadier MacLellan was asked whether the reference to the arrest of ringleaders contained in Operation Forecast at **G95.567 paragraph 7(b)(2)**, was a reference to marchers, rather than rioters and he confirmed that this was the case. **WT11.9 A**

14.2.16 It is thus our submission that the plan as conceived by General Ford, was one in which it was only if there was no rioting at the Barriers that an arrest operation would not be launched. This is evident from his explanation of the rationale which underlay the inclusion of an arrest operation in Operation Forecast, in his supplementary statement to the Widgery Inquiry:

> "An arrest operation had been part of our contingency plans on all possible occasions. I have already described the damage that the hooligan element was doing to the William Street area.

We normally have insufficient troops in Londonderry to launch a major arrest operation. Secondly, it is difficult to achieve surprise. Thirdly, on an average afternoon only 20 to 50 of the hooligans operate.

I anticipated that the hooligans would turn out in something approaching their full strength on this occasion. One of my anxieties was that after the inevitable emotional speeches the hooligans would be reinforced by a thousand or more marchers and would bear down on Waterloo Place with the aim of swamping our troops and causing extensive damage to the shopping centre. Such a major riot would have been difficult to counter. It was for this reason that I moved up the 1 Kings Own Border Regiment as an additional reserve. I foresaw that if such an event happened the level of violence would be very high for anything up to three days after the march.

On the other hand, **if an opportunity did occur before the end of the rally when the hooligans were separated from the main crowd and we could have arrest a large number of them,** I hoped by this means we would have prevented a major escalation of violence later that evening." **B1152 paragraph 18**

14.2.17 General Ford regarded the March as an opportunity to deal with the rioters and given the view of the local security forces both police and army, that stopping the March from reaching the Guildhall would inevitably provoke rioting, the elements of the Operations Order directed by General Ford were designed to ensure that an arrest operation was inevitable.

14.2.18 Nonetheless, while the Operations Order as directed by General Ford, does not impose limitations as to the circumstances in which the arrest operation should be launched Brigadier MacLellan did in fact qualify the inevitability of the launch of the arrest operation, by reserving for himself the discretion as to whether to launch an arrest operation "in whole, or in part". **G95.570 paragraph 9(f)(1)(a)** It could therefore be argued that despite the strictures placed by General Ford on the conduct of Operation

Forecast, Brigadier MacLellan did not regard the launch of the arrest operation as inevitable.

14.2.19 Whatever Brigadier MacLellan's views General Ford undoubtedly regarded the launch of the arrest operation as inevitable. It will be submitted in **Section 15** that the fact that he did so was key to his decision to put pressure on Brigadier MacLellan to launch the arrest operation. If the arrest operation was launched on the orders of Brigadier MacLellan, which is disputed, it was the pressure from General Ford, coupled with the pressure from 1 Para, rather than any determination that separation had occurred, that resulted in the decision by Brigadier MacLellan to launch the arrest operation when he did.

14.2.20 In any event, given the framework established by General Ford, any limitation on the circumstances in which the arrest operation would be launched had to be imposed by Brigadier MacLellan through the planning process. It will be our contention that:

i) Contrary to the evidence given to this Tribunal, separation was not key to the launch of the arrest operation; and

ii) Brigadier MacLellan failed to exercise any command and control over 1 Para in their conduct of the arrest operation.

Consequently, despite retaining for himself the decision as to whether to launch the arrest operation, "in whole or in part", Brigadier MacLellan failed to take steps to ensure that the arrest operation would only be launched if in the circumstances it was wholly appropriate.

14.3 Separation

14.3.1 According to the evidence of Brigadier MacLellan and Lt. Col. Steele separation of rioters from non-violent marchers was key to the launch of the arrest operation. In the absence of separation it would not have been launched. As Brigadier MacLellan stated in his evidence to Lord Widgery:

"Q. To put it another way . . . was the launching of the arrest operation regarded before this day as began as inevitable? A. No.

Q. Would it have been launched at all unless the main body of peaceable marchers was well separated from the rioters? A. No sir." **WT11.8D**

14.3.2 It is our submission that the issue of separation, if it formed any part of the thinking within 8 Brigade, was little more than an afterthought. It has been elevated to a condition precedent purely as a means of seeking to minimise the responsibility of Brigadier MacLellan for sending soldiers into the Bogside who engaged in the unjustified and unlawful use of lethal force, resulting in the death of unarmed civilians.

14.3.3 It is proposed to look at the planning process from the Operation Order through to the decision that Col. Welsh would act as an observer in the helicopter in order to demonstrate that separation never formed part of the concept of operations at the planning stage.

Operation Order

14.3.4 To some extent it flows from the fact that the arrest operation was almost inevitable that the concept of separation, upon which so much reliance is placed, did not form a key part of the planning of the arrest plan at the stage at which the Operation Order was drafted.

14.3.5 That said, given that General Ford had only directed some elements of the arrest operation, Brigadier MacLellan could have inserted into the Operation Order a section which made the launch of the arrest operation dependent upon there being separation between the rioters and the non-violent marchers.

14.3.6 At the outset it should be observed that the very fact that it was envisaged within the Operations Order that ringleaders of the March could be arrested, demonstrates that the separation of marchers from rioters formed

no part of the thinking of either General Ford or Brigadier MacLellan at that stage. **G95.567 paragraph 7(b)(2), WT11.9A**

14.3.7 There is no reference in the directions given by General Ford for the need to separate rioters from non-violent marchers before the launch of the arrest operation. Nor is there any reference in the Operations Order itself to separation and no indication in any section of the Order that the concept of separation formed part of the planning.

14.3.8 In justifying the absence of any reference to separation Brigadier MacLellan places heavy reliance on the fact that in drafting the arrest plan he had reserved for himself the discretion as to whether to launch an arrest operation "in whole, or in part" 101 G Ops dated 27 January 1972 at **G95.570 paragraph 9(f)(1)(a)** :

> " . . . one thing that strikes the reader is that both in the operation order itself and in these notes for the co-ordinating conference, there is no reference to separation; do you know why that is?
>
> A. Yes, I do. The point is that this operation order was to other people. I had reserved the right to myself to give -- that no moves were to be made until I have the order for the arrest operation to take place.
>
> So as separation was my decision it would have been giving orders to myself, so to speak." **Day 261/75/1 to Day 261/75/11**

14.3.9 According to Lt. Col. Steele, there was no need to refer to separation in the Operations Order because the co-ordinating conference was the correct place to discuss it. **B1315.006 paragraph 30**

14.3.10 It is our submission that if separation was in fact part of the planning at that stage then it was vital that it be included in the Operations Order. According to the evidence of Brigadier MacLellan, the sole method whereby he was going to determine the issue of separation was by reference to Col. Welsh's reports from the helicopter:

"Q. . . . what information was going to be available to you in Ebrington Barracks to decide whether there was separation between rioters and marchers. You would have had verbal reports from the helicopter?

A. Correct.

Q. We can see from the transcript of the Ulsternet that you had reports from a number of units, but predominantly the 22nd Light Air Defence Regiment; they were 90 Alpha?

. . .

A. The helicopter is the one I was really listening to you. That was painting the picture for me.

Q. Shall we understand from that it was the helicopter upon which you were principally reliant rather than reports from the ground?

A. They were complimentary, but principally, yes." **Day 262/14/19 to Day 262/15/19**

14.3.11 Given that this was the case, as Lt. Col. Steele conceded in oral evidence, the issue of reporting on the march and making a determination on the issue of separation was also a very important part of the orders for the day for Col. Welsh. **Day 268/84/16 to Day 268/84/23** Yet there is no reference in the Operation Order to any order, either to Col. Welsh, or to the role and function of the helicopter in the Operation Order.

14.3.12 There is a reference in paragraph 9(f)(1)(j) of the Operations Order **G95.570 paragraph 9(f)(1)(j)** to a helicopter, but as Lt. Col. Steele acknowledged that aspect of the order does not address the issue of separation because:

"That is a different helicopter, as you appreciate. The helicopter in which Colonel Welsh was travelling was, you are quite right, an afterthought, in that it was, it was arranged at the

co-ordinating conference the day after this order was written."
Day 268/86/4 to Day 268/86/8 [1]

14.3.13 If the decision to use a helicopter to determine separation was, as Lt. Col. Steele conceded an afterthought, and separation had actually been part of the thinking of Brigadier MacLellan at the stage of the Operation Order, one would have expected references to the need to determine separation in the orders given to other soldiers. Evidence has been given that the soldiers in the best position to determine separation would have been those positioned on the City Walls. **CJ2.5 paragraph 23** Yet, despite the fact that the Operations Order provides for the domination of the Containment Line and the area within it by Observation Posts, **G95.567 paragraph 7(j)** no provision was made for the soldiers on the Walls, in the Observation Posts, or at the Barriers to provide Brigadier MacLellan with information about separation. In consequence, the question of how to determine separation had not been addressed in the Operations Order.

14.3.14 It is also evident that if separation had been an issue at that stage, 1 Para, the Brigade Arrest Force, should have been alive to the issue of separation. It was of crucial importance that 1 Para understood the importance of this issue, as it impacted, not only on their understanding of when the arrest operation would be launched, but also how the arrest operation was to be conducted. Knowledge of the issue of separation would impact directly on the tactics used by 1 Para and would have influenced decisions made by them, for example in relation to the use of vehicles. Yet, there is nothing in the section of the Operation Order dealing with the arrest operation about separation and nothing to alert the Brigade Arrest Force to the fact that separation was key to the launch of the arrest operation. **G95.567 paragraph 9(f)**

[1] It should be noted at this juncture that it is not accepted that the decision that Col. Welsh should go up in the helicopter was made at the Co-ordinating Conference. Rather it will be our submission that this decision was made on the morning of the Civil Rights March, and that determining separation was not the role and function of Col. Welsh, as per the statement of Col. Welsh. **B1334 paragraph 2**

14.3.15 In our submission, if separation had been an issue at this stage in the planning process it would have been clearly and unambiguously provided for in the Operations Order, its absence demonstrates that, at that stage in the planning process the concept of separation was not a feature. The absence of any orders in the Operations Order meant that it was vital that this matter be addressed at the Co-ordinating Conference.

8 Brigade Order Group Conference

14.3.16 The 8 Brigade Order Group Conference was held on the 28th January 1972 at 14.30 hours. Attending the Order Group Conference were the Brigadier and his Brigade Major, the Commanding Officers of the various Battalions based in Derry as well as Lt. Col. Wilford. **CJ2.7 paragraph 34** It also appears that it was attended by Col GSO1 Ops, INQ 1877 **B1122.11 paragraph 60** from HQNI and may have been attended by GSO3 INQ1803 **Day 285/25/4 to Day 285/25/10** as well as Inspector Lagan.

14.3.17 The Order Group Conference was the forum whereby the planning for Operation Forecast was co-ordinated between the various Battalions and was held for "the purpose of dealing with all of those matters which involved the interrelationships of different battalions". **Day 268/22/6 to Day 268/22/8, B1279.034 paragraph 41**

14.3.18 As set out above the absence of any orders in the Operations Order meant that it was vital, if this was a condition precedent to the launch of the arrest operation, that this matter be dealt with in some detail at the Co-ordinating Conference. In particular it was vital that:

i) It be decided how the issue of separation was to be determined; and,

ii) Lt. Col. Wilford should be briefed about the concept of separation, so that he understood both the circumstances in which the arrest operation would be launched and how it ought to be conducted.

14.3.19 Brigadier MacLellan's Notes for the Co-ordinating Conference appear to have been prepared by Lt. Col. Steele.[2] According to Brigadier MacLellan the notes were designed as an *aide-memoire* to "see that I did not miss anything **critical** out". **Day 261/22 to Day 262/24** Yet there is no mention in these notes of the issue of separation, which on Brigadier MacLellan's evidence was critical to the decision to launch the arrest operation. **G88.537-G88.538**

14.3.20 No convincing explanation has been advanced for the failure to include separation as a topic for discussion on the Notes of the Co-ordinating Conference. Brigadier MacLellan advances the same argument as that advanced in respect of the Operations Order. Because he had reserved for himself the option of launching the arrest operation "in whole or in part" it meant that "separation was my decision it would have been giving orders to myself, so to speak." **Day 261/75/1 to Day 261/75/11**

14.3.21 However for the reasons we have set out above, separation necessitated, at the absolute minimum communicating orders to Col. Welsh and Lt. Col. Wilford, and should have been understood by everyone at the Co-ordinating Conference.

14.3.22 Lt. Col. Steele, likewise offers no real explanation for the failure to mention separation in the Notes of the Co-ordinating Conference except to say that "for all I know this was an item that he brought up in his own mind and thought that it ought to be aired after the notes had been prepared." **Day 266/83/6 to Day 266/83/18** Again this comment makes it clear that separation was certainly not part of the thinking at the time the Operations Order was drafted.

14.3.23 Nonetheless the Tribunal has been invited by Lt. Col. Steele to accept that separation was discussed at the Co-ordinating Conference. **Day 266/83/19 to Day 266/84/2**

[2] **B1279.034 paragraph 41**, and **B1315.006 paragraph 31**

14.3.24 There is some evidence that suggests that separation may have been discussed at the Co-ordinating Conference. It is our submission that the military evidence from the personnel who attended the Co-ordinating Conference suggests that separation was not mentioned, and that in the event that it was, the military evidence taken at its height suggests that it merely received a brief mention and there was no actual discussion of the topic. Specifically it is submitted as follows:

i) Separation was not in Brigadier MacLellan's Notes for the Co-ordinating Conference because it was not one of the critical issues to be addressed at the Conference.

ii) Contrary to the evidence of Lt. Col. Steele the method whereby separation would be determined was not discussed. In particular, and contrary to Lt. Col. Steele's evidence, Col. Welsh was not ordered at the Co-ordinating Conference to monitor separation from a helicopter and report back to the Brigadier.

iii) Inasmuch as separation was discussed at the Co-ordinating conference it was mentioned as a Standing Operation Procedure, as per the evidence of Col. Jackson.

14.3.25 The height of the military evidence about the discussion of separation at the Co-ordinating Conference comes from Lt. Col. Steele. It is our submission that his evidence on this issue should not be accepted by this Tribunal. According to Lt. Col. Steele:

> "The issue of the separation of the marchers and the rioters was not spelt out in the Operation Order, but it did come up at the co-ordinating conference. This would be the right place to discuss it: the purpose of the co-ordinating conference was to tie up the details of the operation. I remember that Brigadier MacLellan told Lieutenant Colonel Welsh that monitoring the march from the helicopter was to be his specific role, and that he was to report on the progress of the march and to ensure that Brigadier MacLellan knew when separation of the marchers and the rioters had occurred. Brigadier MacLellan made it clear at

the co-ordinating conference, in front of all the commanding officers (including Lieutenant Colonel Wilford of 1 PARA) that he would not mount the arrest operation until separation had occurred. It was an indication of the importance that Brigadier MacLellan attached to the issue of separation that he asked such a senior officer to do the monitoring job in the helicopter. He needed somebody he could trust absolutely." **B1315.006 paragraph 30**

14.3.26 Lt. Col. Steele claims to have a very clear recollection of the discussion of separation at the co-ordinating conference. **Day 266/83/19 to Day 266/84/2** His evidence is that separation was discussed in the specific context of Col. Welsh being told "that monitoring the march from the helicopter was to be his specific role, and that he was to report on the progress of the march and to ensure that Brigadier MacLellan knew when separation of the marchers and the rioters had occurred." **B1315.006 paragraph 30**

14.3.27 Brigadier MacLellan deals with the Co-ordinating Conference in his statement to this Tribunal and makes no reference to the fact that separation was discussed. What he states is that "I do recall stressing that the aim was to use the minimum force necessary." **B1279.034 paragraph 41**

14.3.28 In his oral evidence to this Tribunal Brigadier MacLellan stated that he was "pretty certain, I am almost sure that I talked about separation and that on no account were people to get mixed up with the marchers and so on." **Day 261/22 to Day 261/24**

14.3.29 However, there is a significant difference between the evidence given to this Tribunal on the issue of separation as a topic at the Co-ordinating Conference, and the evidence given to the Widgery Tribunal in 1972.

14.3.30 While Lt. Col. Steele did not address this issue directly in 1972, it is nonetheless noteworthy that the central importance placed by Lt. Col. Steele on the need for separation is not reflected in the evidence given by him to Lord Widgery. **WT16.78E to 16.79D** From that evidence it was clear that in the conduct of an arrest operation Lt. Col. Steele would "expect a person to be arrested who is simply standing in an open space or, for that matter, running away, in the absence of a positive identification that he was one of the people who had been hurling stones". **WT16.79B – D** This evidence is impossible to square with the rationale which underlies separation, the need to ensure that non-violent marchers would not be caught up in the arrest operation. Lt. Col. Steele's evidence in 1972 undermines entirely his evidence to this Tribunal, as to the central importance given by 8 Brigade to the concept of separation.

14.3.31 Even more significant, is the evidence which Brigadier MacLellan gave 1972. In a statement made for the Widgery Tribunal Brigadier MacLellan stated that:

> "At this coordinating conference I made a particular point of stressing that the event was to be handled in the lowest possible key, that CS gas was only to be used when in imminent danger of being over-run, and the necessity for using minimum force." **B1232 paragraph 15** (See also **WT11.11 B**)

14.3.32 He goes on to state that the "only additional instruction that I gave, on the morning of the 30th January, was that Lieutenant Colonel P M Welsh AC, the Commanding Officer of 2 RGJ, should observe and report on the event from a Sioux helicopter." **B1232 paragraph 17**

14.3.33 Col. Welsh the officer apparently charged with determining separation, also gave evidence about this matter in 1972. According to the statement prepared by him for the Widgery Tribunal it was only on the morning of the 30 January that he heard that a helicopter was to fly an observer over the march and his "task was to report on progress of the march". **B1334**

paragraph 2 He gave evidence to similar effect to Lord Widgery. **WT10.54 D**

14.3.34 Col. Welsh's testimony is of course, on the question of timing, totally in line with the evidence given by Brigadier MacLellan in 1972. **B1232 paragraph 17**

14.3.35 Finally, Lt. Col. Wilford, the Commanding Officer of 1 Para, did make reference in the statement he prepared for Lord Widgery to the issue of separation, wherein he states:

> "I called Brigade and told them that now was the time to make arrests but I did not get the order to go until some ten minutes later. The delay was to allow the main uncommitted crowd to get clear." **B950 paragraph 14**

14.3.36 However, there is no reference in either his statement or his oral evidence in 1972 to that matter having been raised at the Co-ordinating Conference. Moreover his Orders to 1 Para after the Co-ordinating Conference make no reference to the issue of separation, suggesting that it had not been communicated to him as key to the launch of the arrest operation. His mission was "to arrest as many rioters as possible". **B945 paragraph 5(a)**

14.3.37 Thus in 1972, Brigadier MacLellan and Col. Welsh gave evidence that the decision that Col. Welsh would act as an observer from a helicopter was made on the morning of the March. Evidence which flatly contradicts the evidence of Lt. Col. Steele to this Tribunal. Moreover, even the evidence given by Lt. Col. Steele in 1972 tends to undermine his elevation of the issue of separation to an issue of such key importance.

14.3.38 It is arguable that Lt. Col. Steele receives some level of corroboration from the evidence given to this Tribunal by Col. Jackson and Col. Ferguson. His evidence is by way of contrast, significantly undermined by the evidence of Col. Welsh and the evidence Lt. Col. Wilford. In

relation to the evidence which tends to corroborate Lt. Col. Steele, neither the evidence of Cols. Jackson or Ferguson corroborates Lt. Col. Steele on the question of whether there was discussion, and a decision, as to how separation was to be determined.

14.3.39 Col. Jackson gave evidence that he believed that separation was discussed **Day 286/80/9 to Day286/80/20** because "this was an SOP for anything to try and arrest the hooligan elements, there had to be separation from the main marchers." **Day 286/81/17 to Day 286/81/19** However while he did accept on Day 286 that he believed that separation was discussed, that assertion must be qualified by the fact that what he stated at the outset of his oral testimony on this issue was quite different:

"Q. Do you recall there being a discussion at the co-ordinating conference about whether it was necessary for there to be separation between the marchers and the hooligans before any arrest operation was launched?

A. There always had to be separation before we did anything at all with hooligans. . . . we always had to ensure that separation occurred before we tried snatching hooligans.

I mean it was normal procedure. At free Derry Corner they used to speak, and there used to be separation between Free Derry Corner and Aggro Corner. . .

Q. Do you recall it being discussed at the co-ordinating conference?

A. Not particularly. It was a normal SOP, it was a normal procedure." **Day 285/40/20 to Day 285/41/14**

14.3.40 Even if it is accepted that Col. Jackson's evidence does lend support to Lt. Col. Steele's evidence that separation was discussed there is a significant difference in their evidence with regard to the nature and extent to which separation was discussed. Lt. Col. Steele is clear that the method whereby separation would be determined was discussed and was the subject matter of a specific order to Col. Welsh. Col. Jackson regards separation as something inevitably mentioned because it was a Standing Operation Procedure, he gives no indication that

there was any detailed discussion on the topic or that orders were given to anyone about how separation was determined.

14.3.41 Col. Jackson accepted that the issue of separation was discussed because it was Standing Operation Procedure. In his first supplementary statement he said that "the actual arrest operation needed careful planning in that (all agreed) there had to be separation between the hooligan element and the marchers "on their way home". **CJ2.37 paragraph 6** He gave no evidence to suggest that it had been agreed at the Co-ordinating Conference that Col. Welsh was to act as observer from the helicopter. Had this occurred, it seems inevitable that he would have given evidence about that matter given his view that:

> "The use of a helicopter over the Bogside to give third party information to the Commander in Ebrington Barracks on which he had to make the important decision was unsound. The Commander should have been on the Walls of the City and "involved" with the action." **CJ2.38 paragraph 6**

14.3.42 Given the conflict between what Col. Jackson stated at **Day 285/40/20 to Day 285/41/14**, and what he went on to state at **Day 286/80/9 to Day 286/80/20**, there must be a question-mark as to whether he has an independent recollection that separation was discussed. Even if his later account is accepted, his evidence amounts to no more than that there was an understanding that separation should take place, it does not suggest that any decision was made as to how separation should be determined. In fact it is our submission that his evidence is to the contrary effect, there was no real discussion. Given his stated opposition to the use of the helicopter as a means of determining separation, had an order been given to Col. Welsh this is a matter which he would have remembered. It is noteworthy in this respect that Mr. Glasgow QC who questioned Col. Jackson, on behalf of Lt. Col. Steele among others, never put it to Col. Jackson that Col. Welsh had been ordered at the Co-ordinating Conference to determine separation from a helicopter.

14.3.43 Col. Ferguson took the view that the reference in notes made by him, preparatory to conducting his own briefing of his company commanders and battery commanders to "isolate-hooligans", could **possibly** have arisen from something he heard at the co-ordinating conference, albeit that he had no recollection of any discussions about separation. **Day 281/94/4 to Day 281/96/6** Given that Col. Jackson was of the view that this was Standing Operation Procedure within 8 Brigade, and that Col. Ferguson had considered the launch of an arrest operation at the Barriers, **Day 281/100/18 to Day 281/101/9** it is equally possible that "isolate-hooligans" was a reference to the arrest operation he intended to launch, rather than a reflection on anything which had occurred at the Co-ordinating Conference.

14.3.44 Moreover Lt. Col. Steele's evidence was that there had been "a very wide discussion about separation and there was discussion about the arrest operation." **Day 268/22/24 to Day 268/23/2** Evidence which contrasts sharply with the evidence of Col. Ferguson:

> "My previous experience of these occasions in other theatres was that there would sometimes be quite long discussions about details of the operation, but it became clear to me that on this occasion this was not going to happen." **B1122.12 paragraph 64**

14.3.45 Even if the reference to "isolate-hooligans" is in fact a reference to separation, which Col. Ferguson accepts as a possibility, it does not support Lt. Col. Steele's evidence that Col. Welsh had been ordered to make the determination on separation from the helicopter.

14.4.46 However the evidence of Lt. Col. Steele is considerably undermined by the evidence of Col. Welsh to this Tribunal. Col. Welsh was the person apparently ordered to monitor the issue of separation, it was his only role and function on the day, and according to Lt. Col. Steele he was selected because of his seniority and the importance of the function. **B1315.006 paragraph 30**

14.4.47 In those circumstances one would have expected Col. Welsh's evidence in 1972 to have confirmed that it was at the Co-ordinating Conference that he was ordered to determine separation. As has already been noted his evidence in 1972 was that the decision to go up in the helicopter was his and that decision was made on the morning of the 30th January.

14.4.48 In his statement to this Tribunal he stated:

> "I think it was at this conference that I was asked to act as an observer in a helicopter. Having looked at the statement that I gave at the time and my evidence to the Widgery Tribunal I can see that I volunteered, but when I look back my memory is that I was asked by the Brigade Commander. I cannot however be sure which is correct. I cannot now recall any discussions with the Brigade Commander prior to undertaking my role as observer." **B1340.002 paragraph 13**

14.4.49 Col. Welsh was referred, during the course of his evidence to this Inquiry to Brigadier MacLellan's notes made in advance of the Co-ordinating Conference at **G88.537** and was asked:

> "There are no details there of the circumstance is which any arrest operation is to be launched. Do you recall there being a discussion at the co-ordinating conference about the circumstances in which the operation should be launched?
> A. I do not think so." **Day 282/21/7 to Day 282/21/12**

14.4.50 When questioned about the conflict in his evidence he stated that he "would believe what I said in 1972." **Day 282/22/7**

14.4.51 Finally, the evidence of Lt. Col. Wilford, to whom as Commanding Officer of the Brigade Arrest Force, it was of central importance that he understood the importance of separation. He was asked about the matter in his evidence to this Tribunal:

"Q. Were you aware that Brigadier MacLellan attached importance to there being a clear separation between rioters and marchers so that any arrest force would engage with rioters and not peaceful civilians?

A. No, but it seems – it seems a reasonable thing.

Q. But you were not aware that that was a matter to which he attached importance?

A. I do not recall that I was." **Day 312/59//6 to Day 312/59/13**

14.3.52 This account is entirely consistent with Lt. Col. Wilford's approach to the arrest operation. As was pointed out to Lt. Col. Steele, nowhere in the signals coming from 1 Para to Brigade Headquarters; nowhere in Lt. Col. Wilford's orders; and nowhere in his statements "does he ever indicate that separation was something which was vital to the launch of the operation in which he was engaged". **Day 268/29/16 to Day 268/31/18**

14.3.53 A number of other factors tend to suggest that, as per our submission, separation was not discussed at the Co-ordinating Conference:

i) The fact that no consideration appears to have been given to ordering units on the City Walls or on the ECHO Observation Posts to assist in the determination of separation on Bloody Sunday.

ii) The fact that in his evidence both to the Widgery Inquiry and to this Inquiry Col. Welsh makes clear that he did not know the details of the orders given to 1 Para or where the arrest operation was likely to be launched, making it impossible for him, in fact, to determine whether separation had taken place. **Day 282/26/2 to Day 282/27/15** and **Day 282/53/13 to Day 282/53/21**

iii) The fact that, as will be dealt with in more detail below, 1 Para's arrest plan was not discussed in detail or at all at the Co-ordinating Conference, which would have been necessary of anybody was to be in a position to assist the Brigadier in making his determination about separation from his location at Ebrington Barracks.

14.3.54 It is our submission that when he gave evidence to this Tribunal that he had a clear recollection that there was "a very wide discussion about separation and there was discussion about the arrest operation" he was lying. **Day 268/22/24 to Day 268/23/2**

14.3.55 Even, if it is accepted by this Tribunal that Brigadier MacLellan did, on the morning of Bloody Sunday, ask Col. Welsh to determine whether separation had taken place from his position as an observer in the helicopter, the failure to deal with separation at the Co-ordinating Conference meant that, in reality such an exercise was meaningless, for the following reasons:

i) Soldiers positioned on the City Walls were not ordered to assist in the determination of separation, depriving Brigadier MacLellan of vital information from a location which, in the opinion of Col. Jackson, the longest serving Commanding Officer in Derry, was the best vantage point from which to determine separation. **CJ2.38 paragraph 6**

ii) Soldiers positioned on Observation Posts at the Embassy Ballroom were not ordered to assist in the determination of separation, depriving Brigadier MacLellan of vital information, in circumstances where Col. Welsh considered that separation could be more easily determined from the Embassy Ballroom than from the helicopter. **Day 282/75/3 to Day 282/75/10**

iii) A method of determining separation was chosen which was at best unreliable, the exercise being conducted by someone who acknowledged that he was not a trained observer. **B1340.003 paragraph 17 Day 283/3/11 to Day 283/3/25**

iv) Col. Welsh was deprived of vital information to assist in his determination of the issue of separation, namely the likely location of the 1 Para arrest operation. **WT10.55A**

v) Lt. Col. Wilford was not provided with vital information in relation to the circumstances in which the arrest operation were to be launched which would also impact upon decisions as to how the arrest operation was to be conducted, in particular with regard to the

decision to use vehicles, which would inevitably destroy such separation as existed.

14.3.56 Separation has become, for senior military witnesses, and in particular for Brigadier MacLellan, General Ford and Lt. Col. Steele, the key to their defence for the decision to put 1 Para into the Bogside on Bloody Sunday. There has however since 1972 been a recognition that, if this defence was to have any substance separation of necessity must have been discussed at the Co-ordinating Conference, any later and it could have no meaningful effect on the outcome of the day. In order to maintain the fiction developed in 1972, Lt. Col. Steele has had to perjure himself about the nature and extent of the discussion of separation, if there was one, at the Brigade Order Group Conference on the 28th January 1972. That Lt. Col. Steele, Major General Steele as he now is, should engage in perjury in order to defend, not himself, but his former Brigadier, is a classic demonstration of how all-pervasive the army culture of closing ranks is. It moreover demonstrates the willingness, even now, of soldiers at the highest levels within the British Army to lie in order to prevent the truth about Bloody Sunday from being established.

1 Para Arrest Plan

14.3.57 It should be noted at the outset that, given our submissions above, to the effect that separation was not discussed at the Co-ordinating Conference and was not therefore communicated to Lt. Col. Wilford, it is somewhat inevitable that the concept would not make its way onto Lt. Col. Wilford's orders to 1 Para.

14.3.58 The evidence in relation to Lt. Col. Wilford's orders therefore, reinforces our submission that the evidence given in 1972 about this issue, completely undermines the suggestion made by Lt. Col. Steele that separation was discussed at the Co-ordinating Conference.

14.3.59 Lt. Col. Wilford did not give written Orders to 1 Para, **WT11.38D** he simply gave verbal Orders in respect of which the notes have been retained. **G94.562 – G94.563**

14.3.60 As with all the documentary evidence relevant to the planning stage of Operation Forecast, nothing in the notes suggests that separation formed any part of the concept of operations.

14.3.61 Lt. Col. Wilford held his Order Group on the 29th January 1972 where he issued his orders for Operation Forecast. In a statement prepared for the Widgery Tribunal he expanded upon the orders given, stating:

"a. I went through the Brigade Operation Order in detail to ensure we all understood the Situation the Mission and Execution . . .

b. My own mission 'To arrest as many rioters as possible'.

c. The Execution of our mission. I explained that until the rioting started it was not really possible for me to be specific in my plans and I therefore gave a general idea on how I thought it could go. The marchers has two routes from Bishops Field: Route One would bring them in from the South along Rossville Street into William steer with possible filters through to Waterloo Street and Magazine Street. If rioting broke out from this approach I considered that two companies would come in from the North and one fro the East to pinch them out from a retreat West and South. Route Two would bring them into William Street at the Junction with Lonemoor Road and although confrontation would not take place until the William Street barrier it would likely spread backwards and it would be necessary to put in two companies together to get the maximum impact and achieve mutual support. . . I was going forward where I could see the crowd and get an early view of its behaviour. On this confidently expected to move the companies forward to jump off points.

. . ." **B945 paragraph 5**

14.3.62 While Lt. Col. Wilford develops in some detail, in his statement for the Widgery Tribunal, his concept of operations, again there is no reference to the concept of separation. Most tellingly nothing in the 'Execution' of his mission, as set out in his statement, addresses the need for his soldiers to seek to distinguish between the non-violent marchers and rioter. Nor is there any reference to the need for separation, prior to launching the operation, a notable omission given that Lt. Col. Wilford was himself "going to be forward where I could see the crowd and get an early view of its behaviour." **B945 paragraph 5c**

14.3.63 In our submission, Lt. Col. Wilford's arrest order lends support to our submission that the concept of communication was never discussed with him, either at the Co-ordinating Conference or at any other forum.

Col. Welsh in the Helicopter

14.3.64 In 1972 both Brigadier MacLellan and Col. Welsh gave evidence to the effect that on the morning of the 30th January Col. Welsh was to act as an observer in the helicopter. Their evidence parts company in that according to Brigadier MacLellan, he ordered Col. Welsh to act as observer, while according to Col. Welsh he volunteered. **B1232 paragraph 17**, **B1334 paragraph 2**

14.3.65 It is noteworthy that in relation to the orders given Brigadier MacLellan's statement refers simply to Col. Welsh being instructed to "observe and report on the event from a Sioux helicopter." **B1232 paragraph 17** His statement does not state that Col. Welsh was instructed to determine whether separation between the non-violent marchers and the rioters had occurred.

141.3.66 Col. Welsh does state that this was part of his instructions stating that:

> "I was briefed to inform Brigade Headquarters, should a riot situation develop, when the main body of marchers had separated from the rioters. If a riot situation develops one often faces great difficulty in splitting the rioters from spectators.

Information on this point was therefore of importance to Brigade Headquarters. I had no knowledge of any detailed orders given to 1 Para or any other possible snatch unit. I assumed that if an adequate separation occurred, a snatch operation might be mounted." **B1334 paragraph 4**

14.3.67 On the face of it therefore, it appears that on 30th January 1972 separation was a concept which Brigadier MacLellan considered.

14.3.68 Taken at its height, this evidence suggests that separation was an afterthought a decision taken at the very last minute and in circumstances where Brigadier MacLellan had failed to communicate the importance of separation to either, the Brigade Arrest Force, or other units within Brigade who could have assisted in the determination of that issue.

14.3.69 There are two aspects to our submissions in relation to this issue:

i) On the assumption that Col. Welsh was ordered to determine the issue of separation from the helicopter, he was ordered to carry out an impossible task, because with the information which had been provided to him and in the conditions available to him, it was simply not possible for Col. Welsh to make such a determination.

ii) In fact, no weight can be attached to the evidence given by Brigadier MacLellan and Col. Welsh about the issue of separation in 1972, because it has been demonstrated, at this Tribunal that both witnesses gave misleading, unreliable and potentially dishonest evidence to the Widgery Inquiry about the issue of separation.

Determining Separation from the Helicopter Impossible

14.3.70 It is submitted that if separation was vital to the launch of the arrest operation as Brigadier MacLellan has claimed then, even on the morning of the 30th January he would have ordered troops positioned on the City Walls, on the Embassy Ballroom and in other Observation Posts to assist in his determination of the issue of separation.

14.3.71 Col. Jackson has given unchallenged evidence that the City Walls were the best location for determining separation. **CJ2.38 paragraph 6** While Col. Welsh considered that separation could be more easily determined from the Embassy Ballroom than from the helicopter. **Day 282/75/3 to Day 282/75/10**

14.3.72 Moreover as Col. Welsh acknowledged, determining separation from the helicopter was a difficult, if not impossible task:

> "Would it also be correct, General, that you experienced difficulties in maintaining a consistent view of what was occurring on the ground?
>
> A. Yes, that is correct. The helicopter, on the whole – it does not stay still, it has to circle around and move about.
>
> Q. Would it also be correct to say that apart from the movement of the helicopter, the view you would have would have been less than optimum?
>
> A. That us because of the movement of the helicopter, yes, and in the helicopter you can only see through the bubble in front or out of the door in the side if the helicopter is leaning over.
>
> Q. Therefore, the information that you could actually convey to the brigade headquarters was of limited value?
>
> A. Um, that is – it might be of limited value if we are the wrong height and facing in the wrong direction. Most of the time I think we were at a sensible height and we could see what was going on." **Day 283/3/11 to Day 283/4/4**

14.3.73 This in a context where as Col. Welsh acknowledged himself he was not a trained observer. **B1340.003 paragraph 17** But what fundamentally undermined Col. Welsh's inability to carry out his allotted function, if that was the case, was the complete failure to brief him adequately in relation to the 1 Para arrest operation.

14.3.74 As Col. Welsh has always acknowledged he was deprived of vital information to assist in his determination of the issue of separation,

namely the likely location of the 1 Para arrest operation. **WT10.55A** When questioned about this issue by Mr. Elias QC, he was clear that he had no knowledge about 1 Para's arrest operation:

> "You were giving your evidence on 3rd March, five weeks after the co-ordinating conference, would it be a safe inference . . . that there could not have been discussion at the co-ordinating conference, or indeed with you at any time, before you went up in the helicopter, about detail of the arrest operation that was proposed?
>
> No, I do not think there was any." **Day 282/53/13 to Day 282/53/21**

14.3.75 Absent such information, it is submitted he could not assist Brigade in the determination of the issue of separation.

14.3.76 Of course Brigadier MacLellan could not in fact have briefed Col. Welsh about 1 Para's arrest operation because he was a ignorant as Col. Welsh of Lt. Col. Wilford's plans, never having sought even an outline plan from Lt. Col. Wilford, as will be seen below.

14.3.77 Thus taking Brigadier MacLellan and Col. Welsh's evidence at its height, issuing an order to Col. Welsh to determine separation on the morning of the March, was a completely ineffective measure which could never have produced the desired outcome. Absent other methods of determining separation and a proper briefing of Col. Welsh, it demonstrates a complete lack of effective planning on the part of Brigadier MacLellan.

Reliability of Brigadier MacLellan and Col. Welsh on the Issue of Separation

14.3.78 In order to ascertain the reliability of the evidence of Brigadier MacLellan and Col. Welsh on this issue, it is necessary to consider their evidence about the topic of separation in its entirety. It has been seen in the course of this Tribunal that the evidence given by Brigadier MacLellan and Col.

Welsh to the Widgery Tribunal about separation was in material respects both inaccurate and misleading. This has been accepted by Col. Welsh.

14.3.79 The fact that these witnesses gave inaccurate and misleading evidence about separation in 1972 has two consequences:

i) It is directly relevant to an assessment of their credibility on the topic of separation. It will be our submission that the inaccuracies in their evidence go to undermine both their credibility and their reliability as witnesses on this issue.

ii) The nature of the inaccurate and misleading evidence is also relevant. The evidence makes it clear that, in fact, Col. Welsh had not communicated that separation had occurred before 1 Para went into the Bogside. If that is factually correct, then it undermines completely any suggestion that separation was a condition precedent to the launch of the arrest operation.[3]

14.3.80 The first and most crucial aspect of Brigadier MacLellan's evidence on this issue is the fact that in the very first statement made by him for the Widgery Inquiry he stated that:

> "At 1607 hours when it was confirmed **by the troops on the ground** that the hooligans in William St had become isolated from the NICRA Marchers, who were moving slowly and dispersing 300 metres away down Rossville St, I gave orders that the preplanned hooligan Arrest Operation should be launched." **B1222 paragraph 6**

14.3.81 Given Brigadier MacLellan's consistent assertions since making that statement that separation was communicated at 1604 from the helicopter, no weight can be attached to his evidence on this topic. In the hours after Bloody Sunday he maintained that separation was determined by troops on the ground. Troops who had never received a single order or direction

[3] This is an issue which will be developed more fully in **Section 15** at this stage the issue is being examined in order to assist in determining whether separation formed any part of the planning of the operation.

about determining separation, by the time he gave evidence to Lord Widgery he had expressly ordered Col. Welsh to determine the issue of separation from the air.

14.3.82 Both Col. Welsh and Brigadier MacLellan gave evidence in 1972 which suggests that Col. Welsh had made a determination that separation had taken place and that this was communicated to Brigade Headquarters before the Paras went in to the Bogside.4

14.3.83 According to Col. Welsh:

> "At about 1535 I saw the confrontation in William Street. After the water cannon was used I saw the crowd move down Rossville Street. Activity continued in William Street and I saw CS gas fired. The bulk of the crowd moved down Rossville Street. I reported when the tail of the crowd had passed the [North Block of] Rossville Flats.
>
> At this point I am satisfied that the matchers who had moved into Rossville Street were clear of the northern point of the Rossville Flats, going south." **B1334 paragraph 5 to 6**

14.3.84 In his evidence to the Widgery Inquiry Col. Welsh asserts that he communicated to Brigadier MacLellan that the tail of the crowd had passed the northern end of the Rossville Flats. **WT10.56C**

14.3.85 While Brigadier MacLellan states that:

> "At 1547 hours Commanding Officer 2 RGJ, airborne in a Sioux helicopter, indicated that the separation of the hooligan element from the bulk of the marchers was beginning to take place." **B1234 paragraph 24**
>
> "At 1604 hours . . . I was now told that the separation of the hooligans was complete . . ." **B1234 paragraph 27**

14.3.86 Brigadier MacLellan develops that in his evidence to Lord Widgery stating that:

"There was one other message to the helicopters. At about 16.04 we got through to Colonel Welsh – I do not know if it is in the log – for I asked for confirmation and was told that the tail of the marching crowd had passed the Rossville Flats. I remember that.

Q. It is not in the log. A. Certainly it happened.

Q. You remember that? A. Yes.

Q. The tail of the crowd had passed the Rossville flats. A. Yes.

. . .

I confirmed with Colonel Welsh the separation was complete, as I have just mentioned. Then I decided an arrest operation was necessary." **WT11.14A-D**

14.3.87 Thus, according to the evidence given by Brigadier MacLellan to Lord Widgery, Brigade Headquarters contacted Col. Welsh in the helicopter and sought and obtained confirmation that there was separation between the marchers and the rioters.

14.3.88 It is now evident from both the radio logs and the evidence of Col. Welsh that Brigadier MacLellan is wrong about this issue and that this simply never occurred:

"Q. You have had an opportunity, I understand, to look at the rest of the log. It is right, is it note, at no stage do you say in terms that separation has occurred?

A. No.

. . .

Q. For the purpose of the arrest operation, you were required to say, were you not, when – if it occurred – separation took place?

A. That was what it was hoped I could do.

Q. At no stage did you do that; is that right?

A. No, I put it in other sort of words, I think, just trying to describe what there was on the ground." **Day 282/44/22 to Day 282/45/25**

14.3.89 Col. Welsh went on to acknowledge that his statement to the Widgery Inquiry that he had "reported when the tail of the crowd had passed the north end of the Rossville Flats" **B1334 paragraph 5** was inaccurate. **Day282/48/9 to Day282/48/24**

14.3.90 Col. Welsh was unable to explain to this Tribunal "why you felt able to tell Lord Widgery you had not only identified the gap between Aggro Coroner and the Rossville Flats, but also reported it". **Day 282/51/5 to Day 282/51/24**

14.3.91 Therefore according to the evidence given by Col. Welsh to this Tribunal:

i) Brigadier MacLellan's statement in 1972 to the effect that he had contacted the helicopter, sought confirmation that separation had occurred, and received that confirmation, was inaccurate.

ii) His own statement in 1972 that he had reported that the tail of the crowd had passed the north end of the Rossville Flats was also inaccurate.

14.3.92 Brigadier MacLellan by way of contrast has sought to stand by his evidence in 1972 that he had communicated with the helicopter about separation. However he now claims that the confirmation that separation had occurred was communicated by his Brigade Major and that he had merely assumed that the Brigade Major had done a final check with the helicopter:

> "If we could go . . . to **W128**, there is a message at 1604, which is recorded in the log, but it is not a communication either to or from the helicopter, it is a communication from 22LAD referring to there being a crowd of about 50 at the corner and about 150 hooligans at the junction.
>
> Do you accept that, despite what you told Lord Widgery, there was not in fact a message either to or from the helicopter at about 1604?

A. No, I do not accept that. When I gave evidence to Lord Widgery . . . I was firmly of the impression that there had been a message.

I cannot explain that, but I was absolutely firmly of the impression that . . . the check had been made finally with the helicopter about separation." **Day 262/67/19 to Day 262/68/14** (See also **Day 262/55/16 to Day 262/567/17**)

14.3.93 Having been taken through his evidence in 1972 and the discrepancies between that evidence and the radio logs, Brigadier MacLellan went on to insist that:

"30 years later I still have the impression that I asked the brigade major if separation was complete and was assured it was." **Day 262/70/16 to Day 262/70/18**

14.3.94 Not only has Lt. Col. Steele has confirmed to this Tribunal that he did not have any further communication with the helicopter beyond serial 348 at 15.59 **W127** it is also the case that on Bloody Sunday Brigadier MacLellan would have been in a position to hear any communications between his Brigade Major and the helicopter from his office. **Day 267/67/17 to Day 267/76/20**

14.3.95 As Lt. Col. Steele has confirmed Brigadier MacLellan's "information was the same as my information because it was based entirely upon the brigade net. . . . So what we come down to is that the confirmation that I gave to him, my assessment of separation was based on those serials in the Ulster net that we have already been through." **Day 267/67/16 to Day 267/76/17**

14.3.96 Therefore when considering the evidence of Brigadier MacLellan and Col. Welsh, inasmuch as it amounts to evidence that separation was a necessary pre-requisite to the launch of the arrest operation one also has to consider the following:

i) The fact that Col. Welsh now accepts that he did not communicate to Brigadier MacLellan that there had been separation, even in the terms he claimed to have communicated that fact in 1972;

ii) The fact that Col. Welsh contradicts Brigadier MacLellan's evidence to Lord Widgery to the effect that he had communicated directly with the helicopter and sought specific confirmation of separation.

iii) The fact that Col. Welsh contradicts Brigadier MacLellan's evidence to Lord Widgery to the effect that he ever used the term separation.

iv) The fact that the radio logs demonstrate that there was no communication between Brigade Headquarters and the helicopter at the relevant time, or at all, which confirmed separation.

v) The fact that contrary to Brigadier MacLellan's evidence to this Tribunal Lt. Col. Steele did not have any further communication with the helicopter beyond serial 348 1559 **W127** and that fact could not but have been known to Brigadier MacLellan in 1972.

14.3.97 What is most remarkable of all however and evidence which in our submission completely and totally undermines any suggestion that determining separation was part of his function was the evidence given by Col. Welsh to the effect that the launch of the arrest operation came as a complete surprise:

> "From what I can remember – I think this is an accurate memory – is, looking down, I saw, totally unexpectedly . . . I saw the vehicles that I thought were Pigs . . . and I had not seen them go there and I had not heard it on the brigade net and, therefore, I can only presume that at the particular time we were circling around or for some reason could not see that, because when I saw them I was surprised. I think I said to the pilot, "Good Lord, the Paras have one in," if I have got my timing right." **Day 283/10/14 to Day 283/10/25**

14.3.98 If, as both Brigadier MacLellan and Col. Welsh claimed in 1972, his purpose in going up in the helicopter was to determine separation and he did in fact communicate separation, or words to that effect to Brigadier MacLellan, then the inevitable consequence was that the arrest operation would be launched. Col. Welsh's surprise at the launch of the arrest operation completely undermines any evidence that suggests he had in fact made a determination that separation had occurred. It also tends to undermine the suggestion that this was the function and purpose for which Col. Welsh was in the helicopter in the first place.

14.3.99 Both Brigadier MacLellan and Col. Welsh gave misleading, if not dishonest evidence to the Widgery Tribunal, about the issue of separation in 1972. Both claimed that the fact of separation had been communicated to Brigade Headquarters in clear and unambiguous, albeit different, terms in 1972 and both have been forced to acknowledge by reference to the objective evidence that this is not in fact the case.

14.3.100 Col. Welsh has now accepted the inaccuracy of his testimony to Lord Widgery in 1972, Brigadier MacLellan persists in the face of objective evidence to the contrary in seeking to maintain the fiction, despite having had to acknowledge that objectively speaking there is no evidence that separation had occurred. Given the misleading testimony given by both witnesses in 1972 about separation, it is submitted that no weight can be attached to their evidence that Col. Welsh had been ordered to determine separation. The more accurate description of Col. Welsh's role can be found in the statement of Brigadier MacLellan to the effect that Col. Welsh had been instructed "observe and report on the event from a Sioux helicopter." **B1232 paragraph 17**

14.3.101 It is our submission that:

i) The issue of separation did not form part of the concept of operations when the Operations Order was drafted;

ii) The issue of separation was not dealt with at the 8 Brigade Order Group Conference;

iii) Inasmuch as separation was mentioned, it was perfunctory in the extreme and it certainly did not occupy the key position to which it has now been elevated by General Ford, Brigadier MacLellan and Lt. Col. Steele;

iv) No discussion took place at the 8 Brigade Order Group Conference as to how the issue of separation was to be determined;

v) No order was given to Col. Welsh at the Order Group Conference that he should determine the issue of separation;

vi) That separation was part of the concept of operations was not communicated to Lt. Col. Wilford at the Order Group Conference, or in any other way.

vii) If separation ever formed part of the planning of operation, which is disputed, it was the subject of an inadequate briefing by Brigadier MacLellan of Col. Welsh, at the very last minute, to determine separation.

viii) If Col. Welsh was briefed to determine separation it was a task which it was impossible for him to fulfil because of: the difficulty in determining separation from the helicopter; and, the lack of information given to him about 1 Para's arrest operation.

14.4 Command & Control Issues

14.4.1 It is our submission that 8 Brigade failed to exercise command or control over 1 Para in planning the Brigade Arrest Operation. Despite the fact that they were the Brigade arrest force and ostensibly operated under the control of 8 Brigade, 1 Para were allowed to act autonomously in relation to their planning of the arrest operation, without reference to either the Brigadier or the Commanding Officers within 8 Brigade.

14.4.2 Effectively 8 Brigade abdicated responsibility for exercising control over the conduct of the arrest operation, resulting in a badly planned and purely executed arrest operation, carried out by soldiers who saw their function as teaching 8 Brigade and the Derry rioters a lesson and had unnecessary recourse to lethal force resulting in the loss of life on Bloody Sunday.

14.4.3 Primary responsibility for this abdication of responsibility rests with Brigadier MacLellan. The fact that essential elements of Operation Forecast had been dictated to him by General Ford, did not entitle him to wash his hands of the Brigade arrest operation. The Operation Order placed the responsibility for unleashing 1 Para into the Bogside on Brigadier MacLellan. As such Brigadier MacLellan had a clear responsibility to the people marching in the Civil Rights March in Derry to ensure that an arrest operation should not be launched unnecessarily and that the soldiers involved in an arrest operation should be operating under the strict control of 8 Brigade.

14.4.4 There are three elements which arise in relation to command and control:

i) The fact that 1 Para operated virtually autonomously in their conduct of the arrest operation, with insufficient command and control being exercised by 8 Brigade. 1 Para were given, and perceived themselves as having been given virtual 'carte blanche' to conduct the arrest operation as they say fit. This directly contributed to 1 Para's willingness to disobey orders in launching the arrest operation and conducting a shooting operation in the Bogside without any reference to Brigade Headquarters.

ii) Para were inadequately briefed as to local conditions and in particular: the geography of the area; locations from where 1 Para could launch an effective arrest operation; how Derry rioters operated; how the general body of marchers would be likely to behave; and, the nature and extent of the risk of attack by the IRA. 1 Para's ignorance of local conditions heightened the sense of tension among soldiers, as well as resulting in widespread confusion when the arrest operation was mounted and contributed significantly to their use of lethal force on Bloody Sunday.

iii) There was a complete failure on the part of 8 Brigade, to set up an effective system of liaison and communication between the various units involved in Operation Forecast, creating the potential for, and in fact causing considerable confusion on the day. One element of

this failure relates to the suggestion that the Order to launch the arrest operation was given over the secure link, or BID 150. If that is in fact correct 1 Para and other units were inadequately briefed in relation to the necessity for maintaining an 'element of surprise' in relation to the launch of the arrest operation. In this respect it is our primary submission that 1 Para entered the Bogside without authorisation from 8 Brigade, as will be developed in **Section 15** below.

14.4.5 While there are disparate elements in relation to the failure of 8 Brigade to exercise command and control over the arrest operation and over 1 Para the key to each of the failings identified above was the failure on the part of 8 Brigade to take control of the planning of the arrest operation. 8 Brigade gave no direction to 1 Para, in relation to the conduct of the arrest operation, there was no discussion with 1 Para about the conduct of the arrest operation and ultimately, right up to the minute it was launched 8 Brigade had no knowledge about how 1 Para were going to conduct the arrest operation.[4]

Operation Order

14.4.6 A remarkable feature of the Operations Order is the brevity of the section of the Operations Order dealing with 1 Paras role and function on the day and the lack of any detail as to how the arrest operation ought to be conducted.

14.4.7 The Orders to 1 Para which include the arrest operation are contained at 101 G Ops dated 27 January 1972 at **G95.567 paragraph 9(f)** and state as follows:

[4] It should be noted that the term launched is not intended to imply that the operation was launched on the orders of Brigadier MacLellan. It is our primary submission that there was no Order for 1 Para to go in and that 1 Para went into the Bogside in breach of Orders and without express authority from Brigadier MacLellan. That submission will be developed further in Section 15. While the term launched is used throughout this Section it should not be interpreted as a concession that 1 Para went into the Bogside with the authorisation of Brigadier MacLellan.

"(1) Maintain a Brigade Arrest Force, to conduct a 'scoop-up' operation of as many hooligans and rioters as possible.

(a) This operation will only be launched, either in whole or in part, on the orders of the Bde Comd.

(b) The Force will be deployed initially to Foyle College Car Park . . . where it will be held at immediate notice throughout the event.

(c) The Scoop-up operation is likely to be launched on two axis, one directed towards hooligan activity in the area of William St/Little Diamond, and one towards the area of William St/Little James St.

(d) It is expected that the arrest operation will be conducted on foot."

14.4.8 The constant refrain from Brigadier MacLellan and Lt. Col. Steel has been to the effect that it was for Lt. Col. Wilford to provide the detail of the plan and it was not their primary responsibility:

> "all I can say is that, as I said previously, one can merely give a concept and then the man on the ground has to do the best he can. That plan we have just been looking at, the arrows, were prefaced by "expect," "likely," because we did not know where the hooligans would be, we could guess but we did not know or he did not know until the thing started." **Day 261/59/12 to Day 261/59/18**

14.4.9 In our submission there should have been more detail in the Operation Order about the arrest operation particularly in view of the fact that 1 Para who had been assigned to 8 Brigade for the purpose of carrying out the arrest operation had never operated in Derry before. It was therefore vital that there was detailed guidance and direction about where the arrest operation should be conducted and how it should be conducted. In this respect the Tribunal is referred to the Operations Order for Operation Hailstone, which sets out in explicit detail precisely what was required of

each unit which was part of the arrest operation and how the arrest operation was to be conducted. 115/1 G Ops dated 17 July 1971 at **G3.24**

14.4.10 While it is accepted that Operation Hailstone was exclusively an arrest operation, given the necessity to ensure that the arrest operation was conducted properly, it is our submission that insufficient guidance was given to 1 Para in the Operations Order and this contributed to:

i) The fact that 1 Para were not well briefed as to local conditions; and.

ii) The fact that 1 Para operated virtually autonomously in their conduct of the arrest operation.

14.4.11 It also the case that other units were directly affected by how 1 Para conducted its arrest operation, whether by virtue of the fact that 1 Para would have to access the Bogside via Blocking Points manned by them, or 1 Para would be operating in an area overlooked by their Observation Posts and sniper posts. These units were given inadequate information to ensure that their conduct assisted in the smooth running of the arrest operation.

14.4.12 Finally, there is no reference in the Operations Order to either:

i) The fact that the order to go in is to be given over the secure link, or, in the event that it is suggested that reference to the BID 150 could not be placed in an Operations Order,

ii) The fact that there was a need to maintain an 'element of surprise' in relation to the launch of the arrest operation.

14.4.13 If Brigadier MacLellan were to retain operational control over the conduct of the arrest operation on Bloody Sunday, it was necessary for the Operations Order to set out in detail the orders to 1 Para in terms of how they were to conduct the Brigade arrest operation. In the event that Brigadier MacLellan determined that the Operation Order was not the place in which to set out this detail, then the conduct of the Co-ordinating Conference took on an added significance.

14.4.14 In essence the Operations Order failed to:

i) Put in place any system for command and control over 1 Paras conduct of the arrest operation.

ii) Provide direction for 1 Para in view of their lack of knowledge about local conditions.

iii) Set up any effective system of liaison and communication between the various units involved in Operation Forecast.

iv) Failed to make reference to: the Bid 140; the secure link, or the 'element of surprise'.

8 Brigade Order Group Conference

14.4.15 While it is not accepted that there should not have been significantly more detail in the Operations Order, particularly when one compares the Operations Order for Operation Forecast to that for Operation Hailstone, it is clear that the appropriate place for discussing the detail as to how the arrest plan was going to be conducted by 1 Para was the Co-ordinating Conference:

> "This would be the right place to discuss it; the purpose of the co-ordinating conference was to tie up the details of the operation." **B1315.006 paragraph 30**

14.4.16 Lt. Col. Steele gave evidence to this Tribunal that not only had there been discussion about separation at the Co-ordinating Conference, it was also the case that there had been "discussion about the arrest operation." **Day 268/22/25**

14.4.17 It is submitted that this suggestion is contradicted by the evidence of virtually every participant at the Co-ordinating Conference, and that it was the failure to discuss the arrest operation at the Co-ordinating Conference which is key to the difficulties which followed.

8 Brigade's Lack of knowledge about 1 Para's arrest operation

14.4.18 As to what happened at the Co-ordinating Conference. Lt. Col. Wilford did not in fact give written Orders to 1 Para, **WT11.38D** he simply gave verbal Orders in respect of which the notes have been retained. **G94.562 – G94.563** It follows that no written Orders about the arrest operation to be conducted by 1 Para were placed before the Co-ordinating Conference.

14.4.19 Aside from the oral evidence of Lt. Col. Steele referred to above the evidence overwhelmingly suggests that the Brigade arrest operation was simply not discussed. In particular, the evidence of all of the Commanding Officers within 8 Brigade is to the effect that there was no discussion at the Co-ordinating Conference about 1 Para's arrest plan.

14.4.20 It is evident from Brigadier MacLellan's evidence that not only was there no discussion but that he did not regard any such discussion as necessary.

"Q. This is clear is, is it not: neither at the co-ordinating conference, or indeed at any later time before or on the day of Bloody Sunday, did you ask Colonel Wilford what plan he had in mind?

A. No, I did not.

Q. Should you not have done so?

A. I do not think so." **Day 263/58/11 to Day 263/58/17**

14.4.21 According to Col. Welsh in his evidence to the Widgery Inquiry in 1972 he did not know any detail of the arrest operation that 1 Para were going to conduct he simply knew that "there was a possibility that the 1st parachute Regiment and posses from others might be used to arrest rioters if a suitable opportunity arose." **WT10.55A**

14.4.22 In his statement to this Tribunal Col. Welsh stated:

> ""I am not sure whether I was aware of the detail of the arrest operation. I think I was probably aware in general terms that it would involve some form of pincer movement and the fact that it would go ahead if the opportunity arose."

You seem to be speaking there of your state of knowledge at and after the co-ordinating conference; is that right?

A. I suppose so. I cannot remember.

Q. In 1972 your evidence was that you did not know; on the day, the details of the orders given to 1 Para; is that correct?

A. Yes." **Day 282/25/15 to Day 282/26/5**

Thus confirming his 1972 account.

14.4.23 When questioned on this issue by Mr. Elias he was referred to his Widgery evidence and asked:

"would it be a safe inference, given that, of course, you were telling the truth to Lord Widgery, that there could not have been discussion at the co-ordinating conference, or indeed with you at any time, before you went up in the helicopter, about detail of the arrest operation that was proposed?

A. No, I do not think there was any." **Day 282/53/13 to Day 282/53/21**

14.4.24 Col. Jackson also gave evidence to the same effect:

"I do not believe, in my own mind, that Wilford spoke in any depth about his operation . . . I thought he was allowed to get on on his own. I mean, nothing came out of that co-ordinating conference to say how the scoop-up operation would be carried out. I know it was a need to know basis, this operation, . . . But nothing on that conference gave any idea of what was going to happen.

. . .

There was a bit in the brigade order about [the fact that the arrest operation is likely to be mounted on two axes]

A. There was a bit, but I mean it was not really explained whether this was a scoop up operation or, as it happened to be in the end, was merely a frontal assault.

. . .

A. But other troops other than the Para would have to be involved, and this is the co-ordination, in retrospect, that I do not think was shown. I mean, they were going through blocking positions with RGJ, 22 Light Air Defence regiment, and things like that.

. . .

But I do not think, in retrospect, we were told sufficient about what the scoop-up operation was about." **Day 285/43/17 to Day 285/45/5**

14.4.25 Col. Ferguson's evidence was to like effect. In his statement to this Inquiry he noted in a general way the fact that discussion about the operation was extremely limited:

"My previous experience of these occasions in other theatres was that there would sometimes be quite long discussions about details of the operation, but it became clear to me that on this occasion this was not going to happen." **B1122.12 paragraph 64**

14.4.26 In his oral evidence he was specifically questioned about a quote which appeared in a draft Sunday Times article which purported to come from someone who had attended the 8 Brigade Order Group Conference, which stated:

"The mood of the meeting was one of complete determination that this really big arrest operation should go through." **S193**

14.2.27 Col. Ferguson was asked about the Co-ordinating Conference in light of the Sunday Times quote:

"Reading that, does that bring back any recollection of the attitude of the meeting to the arrest operation, or not?

A. When it says the mood of the meeting was one of complete determination, that would indicated there was a discussion saying, "Yes, we are right behind you, or words

to that effect. **There was none of that, there was no discussion."** **Day 281/55/7 to Day 282/56/4**

14.4.28 Finally INQ598, the Commanding Officer of the Coldstream Guards was asked:

"Q. What I am really asking you, General, is whether you can remember any detail, if it was discussed in your presence, for example, of just how that arrest operation would be mounted?

A. No, because I do not think it was discussed in detail, the operation at the conference. I think that would presumably – I mean, 1 Parachute Regiment were told to get on with it and it was the commanding officer's plan would be the detail of it?

Q. That would have been unlikely to have been discussed in you presence anyway and at the co-ordinating conference?

A. Very, yes." **Day 272/24/9 to Day 272/24/21**

14.4.29 While Inspector Lagan in his statement to this Tribunal stated that: "The discussion was fairly general. The arrest operation was to be carried out by the Paras. Nothing was discussed within my hearing about 1 Paras role." **JL1.12 paragraph 63**

14.4.30 Primary responsibility for the failure to establish what 1 Para's arrest plan was must lie with Brigadier MacLellan. Brigadier MacLellan ought to have either drafted a detailed arrest plan and ordered Lt. Col. Wilford to carry it out, with an appropriate level of discussion about the how the plan was going to be co-ordinated at the Brigade Order Group Conference. Alternatively, he ought, as General Ford did to him, directed Lt. Col. Wilford to present him with a detailed plan which could then have been discussed at the Conference. As Brigadier the responsibility ultimately rests with him. That said some responsibility for this failing must also lie with the Commanding Officer of 1 Para, Lt. Col. Wilford.

14.4.31 As Col. Jackson put it:

"they should have discussed with the brigade commander their modus operanda and how they intended to do the arrest operation." **Day 286/87/10 to Day 286/87/12**

14.4.32 It is apparent that he made no attempt to develop a detailed plan prior to the Co-ordinating Conference or even afterwards. In that right up until the point at which the arrest operation was launched Lt. Col. Wilford had never put his concept of operations into writing.

14.4.33 Lt. Col. Wilford's view that "until the rioting started it was not really possible for me to be specific in my plans" **B945 paragraph 5** meant that right up until the point at which the arrest operation was launched not even his own Platoon Commanders were aware of how the arrest operation was to be conducted. In those circumstances, absent clear and express orders from 8 Brigade, they were never going to have any information from Lt. Col. Wilford about his plan, given that he did not seem to know what it entailed himself.

14.4.34 The evidence demonstrates that there was virtually no discussion at the Co-ordinating Conference about the details of what was a Brigade arrest operation and specifically that:

i) 8 Brigade took no steps to establish what 1 Para's plan was;

ii) Likewise 1 Para gave 8 Brigade no information about how they proposed to conduct the arrest operation; and,

iii) 8 Brigade gave 1 Para no direction, guidance or assistance in determining how they should conduct the arrest operation;

iv) Again 1 Para did not seek any assistance from 8 Brigade, either through the Co-ordinating Conference, or by any other mechanism as to how the arrest plan was to be conducted;

Lack of assistance to 1 Para re local conditions

14.4.35 It follows from what has been said about the conduct of the Co-ordinating Conference that no guidance or assistance was given to 1 Para by 8 Brigade in organising this arrest operation.

14.4.36 Evidence has also been given that after he raised his objection to the use of 1 Para, and because of his concerns about their lack of knowledge of local conditions that Col. Jackson asked

> "Lieutenant Colonel Steele to contact Lieutenant Colonel Wilford to say I would be available for any information or advice he may need for his operation. I do not know if Lieutenant Colonel Steele ever relayed my offer, but Lieutenant Colonel Wilford did not contact me before, on, or after 30 January 1972." **CJ2.9 paragraph 42**

14.4.37 Lt. Col. Steele maintains that he has no recollection of this exchange, but it is not expressly disputed. **Day 268/169/11 to Day 268/169/22**

14.4.38 In fact, it seems from the evidence of Brigadier MacLellan that the fact that Lt. Col. Wilford had had an opportunity to carry out a reconnaissance was sufficient assistance from the perspective of 8 Brigade. As he pointed out Lt. Col. Wilford had had:

> "two days, or certainly time to do a reconnaissance and, as the tactical plan was his, before he had done a reconnaissance, there was no point really discussing it with him, almost." **Day 261/75/19 to Day 261/75/24**

14.4.39 A fact which fails to address that assistance and guidance as to where and how the arrest operation was to be conducted would have assisted in the conduct of the reconnaissance.

14.4.40 Apparently Lt. Col. Wilford had conducted a reconnaissance prior to his attendance at the Co-ordinating Conference. There is some confusion about the nature and extent of the reconnaissance conducted by 1 Para. According to Lt. Col. Wilford he was definitely the only member of 1 Para to go up to Derry prior to Bloody Sunday to carry out reconnaissance. **Day 312/22/1 to Day 312/22/5**

14.4.41 INQ 1495, a Captain of A Company of the Royal Anglians gave evidence that he had conducted a reconnaissance with a number of officers from 1 Para approximately a week before Bloody Sunday and that the suggesting of accessing the Bogside, via the wall at the Presbyterian Church had been his. **C1495.2 paragraphs 14 to 15**.

14.4.42 His evidence is undermined by the suggestion that this occurred a week before Bloody Sunday, in circumstances where the Operations Order was not finalised until the 28th January, and also by his evidence that there was more than one officer. Not only is Lt. Col. Wilford clear that he conducted his reconnaissance on his own, but no other officer of 1 Para gives evidence of having been in Derry or participating in any reconnaissance prior to the day itself. In our submission INQ 1495 may well have assisted Lt. Col. Wilford in his reconnaissance but in terms of the nature and extent of the reconnaissance the evidence of Lt. Col. Wilford is to be preferred.

14.4.43 It is noteworthy in that respect that Lt. Col. Wilford stated that:

> "Because of the task which had been given to me, that is to make an arrest operation, I had already considered -- immediately . . . that I would have to conduct a pincer movement. And I had looked at the ground as best as I could -- because of course I could not go into the Bogside, I could only be on the outside of it -- and that I would conduct a pincer movement in a particular area, in an area of about 200 yards by 200 yards . . . **Day 312/24/12 to Day 312/25/7**

14.4.44 The evidence thus suggests that Lt. Col. Wilford's reconnaissance was conducted without ever having entered the Bogside. It is moreover the case that it appears to have been conducted in a helicopter and/or car, albeit it is unclear whether the reference to the helicopter is purely a reference to how he got to Derry, again suggesting that Lt. Col. Wilford did not even look at the access points on foot. **B1110.023 paragraph 38 to 39**

14.4.45 By any account, the reconnaissance conducted in the manner suggested could have yielded relatively little information to Lt. Col. Wilford about how to conduct his arrest operation. It moreover appears that, beyond his attendance at the Co-ordinating Conference and Col. Jackson's offer of assistance, which may or may not have been communicated to him by Lt. Col. Steele, Lt. Col. Wilford received no assistance.

14.4.46 It is submitted that Lt. Col. Wilford should have received extensive assistance, as the Commanding Officer of an outside unit being required to conduct a crucial aspect of Operation Forecast, the arrest operation.

14.4.47 Col. Jackson has identified the type of areas in which assistance would have benefited Lt. Col. Wilford in the conduct of the arrest operation and could have prevented many of the difficulties eventually encountered on Bloody Sunday itself:

i) That they needed to have discussed their planned operation on the ground with the Brigade Commander, so that they were with someone with sufficient local knowledge to assist them in their reconnaissance.

ii) They needed to know the access routes into the Bogside. 1 Para's lack of knowledge in relation to this issue was of course of direct relevance to how the arrest operation eventually began to unravel on Bloody Sunday itself, resulting in a last minute change of plan.

iii) Equally the need to know escape routes so that rioters could be cut off.

iv) The issue of what Col. Jackson has described as the "Derry sound" whereby because of the topography and geography, soldiers could become confused as to where gunfire was coming from and could become very disoriented.

v) That the arrest operation should not have been launched in pigs because that would simply serve to drive rioters deeper into the Bogside. **Day 286/87/10 to Day 286/89/10** and **Day 287/7/10 to Day 287/8/4**

14.4.48 It is also of course the case that a proper briefing would have enabled Lt. Col. Wilford to have a realistic idea of the level of threat to be anticipated on entering the Bogside, rather than the view he had picked up from the television.

14.4.49 It is our primary submission that 1 Para should not have been used to conduct the arrest operation. However given that Brigadier MacLellan had no choice in this matter he should have taken such steps as were within his power to ensure that 1 Para had been adequately briefed about local conditions, this he palpably failed to do.

Failure of Co-ordination

14.4.50 It flows inevitably from the failure to have any discussion about the Brigade arrest operation that there was a consequent failure of co-ordination of the roles of the different units in assisting 1 Para with the arrest operation.

14.4.51 Nonetheless it is an issue that merits highlighting in particular because of the claim that the Order to launch the arrest operation was given over the secure link. It is also noteworthy because it was an issue specifically raised at the Co-ordinating Conference and ignored by Brigadier MacLellan.

14.4.52 Col. Ferguson has given evidence that at the end of the Orders Group he raised two issues. One related to the sue of lethal force and is addressed in more detail below, the other related to:

> "the complexity of the grouping of the companies, in that there were elements of four battalions deployed in a small area, the containment line was L-shaped and four companies/batteries were grouped with new battalion HQs. 1 Para was likely to have to pas through elements of other battalions, though at this stage it was not known which. Most of those participating had not worked with each other at this level. I asked whether there were to be any special arrangements to be made for the liaison

between the battalions in view of the complexity of the grouping. By this, I was asking whether liaison officers would be exchanged between the battalions in order to help communications. The answer I received was "no". I did not press this point any further . . . The grouping was complex in that two of my batteries came under command of 1 R Anglian, and in return one company of 2RGJ and one company of 1 Para came under my command. There was, therefore, a potential for confusion on the day." **B1122.11 paragraph 62**

14.4.53 As will be seen in **Section 15** communications did not work as efficiently as they ought. With 1 Para issuing direct orders over the Brigade net to the 22nd Light Air Defence Regiment to lift the barriers in circumstances where had liaison officers been exchanged it might not have been necessary to makes such a communication over an insecure radio network.

14.4.54 What is beyond doubt however, is that the 'element of surprise' which like the concept of separation, has become a key part of the defence of senior military officers, in that case Lt. Col. Wilford who it is contended entered the Bogside without authorisation, was never mention.

14.4.55 The persons in attendance at the Co-ordinating Conference were senior officers, there can have been no question of their not knowing about the existence of a BID 150 in the event that there was one in Derry. Had the need to exercise care in communications over the Brigade net been communicated then 1 Para would have exercised more care in its communications leading up to the launch of the arrest operation. Alternative means of communicating the need to open the Blocking Points to other units could also have been agreed in advance so that this did not need to be communicated over insecure means.

14.4.56 It is our contention that the failure to mention the BID 150 and the 'element of surprise' is because, as will be developed in **Section 15**, the issue of the secure means fits neatly with the incontrovertible fact that no

such order was recorded by Mr Porter on the Brigade net. Some explanation had to be found for that fact, other than an admission that 1 Para went in to the Bogside in breach of orders.

In Conclusion

14.4.57 The evidence of Brigadier MacLellan to this Inquiry as to the state of knowledge of 8 Brigade right up until the moment the arrest operation was launched is telling:

"A. My recollection is that I authorised the arrest operation to start and the plan for how it was to be conducted was that of CO 1 Para.

. . .

Lord Saville: Does that last answer mean, General MacLellan, you did not know what the plan was?

A. I did not know the detailed plan, sir, no.

Lord Saville: As I understand it your evidence is that your recollection is that you simply, in effect, said to 1 Para: carry out your plan; is that right?

A. That is in effect -

Lord Saville: In effect.

A. Yes, sir.

Lord Saville: Without knowing what the plan was.

A. Yes, sir.

Lord Saville: Apart from the fact the object of the exercise was to arrest people." **Day 262/75/14 to Day 262/76/6**

14.4.58 In our submission, this encapsulates precisely the state of knowledge of 8 Brigade about 1 Para's arrest operation. Right up until the point at which the arrest operation was launched, they knew nothing, other than that "the object of the exercise was to arrest people." The converse was also true in that 1 Para knew nothing of the expectations of 8 Brigade other than that they were to "arrest the maximum number of rioters". **G94.562 paragraph 2** Or as Brigadier MacLellan put it:

"Well, the commanding officer had a straightforward mission, which was to arrest as many hooligans as possible." **Day 261/52/5 to Day 261/52/7**

14.4.59 The evidence of the participants of the Co-ordinating Conference is in fact entirely consistent, not only with what Brigadier MacLellan stated about his state of knowledge to the effect that 8 Brigade knew nothing, other than that "the object of the exercise was to arrest people" **Day 262/75/5 to Day 262/76/6** but also with Brigadier MacLellan's characterisation of the relative responsibilities of 8 Brigade and 1 Para in relation to the Brigade arrest operation:

"Sure. Can I try and explain, that when you, in the military terms, if you issue an operation order, that is really to get everybody to the start line, to the off. But as I think von Clausewitz said, no plan survives first contact.

You may anticipate what you think will happen, but you have no idea how the other side will react. So, really when it comes to the tactics employed, it was very much up to the commanding officer, because he was able to see the ground, see where the hooligans were and be flexible. So I cannot really sort of give you the mechanics. I do not know, I mean, I was not second-guessing him.

Q. In terms of responsibility, it is down to the commanding officer of the unit concerned, which in this case is 1 Para?

A. Correct." **Day 261/50/2 to Day 261/50/18**

14.4.60 A consistent theme in Brigadier MacLellan's evidence to this Inquiry was that he had no responsibility other than to provide for an arrest operation and to set out in the most general terms how that operation was to be conducted. Any flaws in how the arrest operation was conducted were in consequence to be laid at the door of Lt. Col. Wilford. At a later stage in his evidence he stated that:

"I think all I can say is I expected them to arrest people that you have mentioned. How they did it, I do not think was in my mind." **Day 262/85/5 to Day 262/85/7**

The Tribunal is also referred to Brigadier MacLellan's oral evidence at **Day 261/58/25 to Day 261/59/18** and **Day 262/76/7 to Day 262/76/13** in relation to this issue.

14.4.61 The truth of the matter is, as was suggested to Brigadier MacLellan

"having had 1 Para imposed upon you, and perhaps resenting the implication that they could do the job better than any of the home battalions in 8 Brigade, you were content merely to let 1 Para get on with it without giving them the sort of guidance and assistance and planning you might have given if they had been a home battalion?" **Day 263/58/19 to Day 263/58/25**

14.4.62 It is our submission that Brigadier MacLellan's approach represented a grave abdication of his responsibility to exercise command and control over the launch of a Brigade arrest operation. The reality was that, right up until 1 Para went into the Bogside, neither the Brigade Commander, nor the Commanding Officers of 8 Brigade had any idea of how 1 Para were going to conduct the Brigade arrest operation, beyond the information contained in the Operation Order. In those circumstances effective co-ordination was simply not an option.

14.5 Failure to address the Risk of the use of Lethal Force

14.5.1 It was common case among the citizens of Derry, the security forces and their political masters that the Derry Civil Rights March had the potential to bring thousands of unarmed people onto the streets of Derry. While it was anticipated by the security forces that preventing the March from reaching the Guildhall could result in violence at the Blocking Points, the violence anticipated took the form of rioting by unarmed civilians.

14.5.2 Using soldiers armed with lethal weapons as a means of crowd control inevitably creates a serious risk of the indiscriminate and arbitrary use of lethal force in circumstances completely disproportionate to any threat faced by the security forces. On Bloody Sunday itself, the ostensible objective of Operation Forecast was to prevent marchers from reaching the Guildhall and to contain the March within the Bogside and Creggan. That objective was easily met with the use of Barriers, riot guns and water cannon, yet at the end of the day 13 people were killed as a result of the use of lethal force by soldiers and 13 more seriously injured. This because of the use of lethal force entirely disproportionate to the situation faced by soldiers armed with SLRs.

14.5.3 It was thus vital that the military officers and their political masters addressed their minds to imposing controls on the circumstances in which it was appropriate for soldiers to use lethal force, given the possibility of indiscriminate firing, particularly in circumstances where soldiers were armed with weapons as lethal and potentially indiscriminate as SLRs.

Anticipated Threat

14.5.4 On the face of it, the Operations Order appears to indicate an expectation of hostile IRA action. Under the heading Background, the following appears:

> "f. We expect a hooligan element to accompany the marchers, and anticipate an intensification of the normal level of hooliganism and rioting during and after the march. Almost certainly snipers, petrol bombers and nail bombers will support the rioters.
>
> A. Bombers may intensify their efforts to destroy business and shopping premises in the city during the event, while the attention of the security forces is directed towards the containment of the march. **G95.565 paragraph 1**

14.5.5 While according to the Operations Order the Threat posed by the March included the following:

"a. A deliberate attempt to defy the marching ban, resulting in a direct confrontation being made between the marching contingents and the Security Forces.

b. IRA terrorist activity, to take advantage of the event, to conduct shooting attacks against the Security Forces, and bombing attacks against Business, Shopping and Commercial premises in the City Centre.

c. Hooligan reaction to the general excitement of the event, in the form of stone, bottle and nail bombing of troops, arson of private premises and vehicles, and a high degree of violence throughout the event, it will intensify during the closing stage of the event, especially in the William St/Rossville St area; it is possible that hooligan violence may continue thereafter for several days." **G95.567 paragraph 2**

14.5.6 However as we have set out at **Section 13** above there was no intelligence or indeed any other basis to support these suggestions. These suggestions are also difficult to reconcile with other aspects of the Operations Order, including the plan to conduct an arrest operation on foot **G95.570 paragraph 9(f)(1)(d)**, not to mention the intention to "collect and conduct press and TV men around deployment areas". **G95.573 paragraph 9(6)(b)**

14.5.7 In any event, these expectations, were significantly downgraded at the Brigade Order Group Conference the following day. We would refer the Tribunal to our submissions at **Section 13** above wherein it is demonstrated that such intelligence as there was, was to the effect that the mood of NICRA was non-violent subject to a note that hooligan violence was inevitable. There was clearly no intelligence to suggest any "IRA activity to take advantage of event". **G95.567 paragraph 2(b)**

14.5.8 It is moreover apparent from the consistent evidence of all senior officers within Derry that the reference in the Operations Order to the threat of "IRA activity to take advantage of the event" was no more than a routine re-statement of an ever-present possibility, as opposed to an expectation of IRA activity.[5]

14.5.9 Brigadier MacLellan gave evidence to this Tribunal that the arrest operation was launched "believing that there would be no firing, and that nobody would attempt to murder the soldiers doing it". **Day 262/5/1 to Day 262/5/3**

14.5.10 While Lt. Col. Steele stated that at the Co-ordinating Conference:

> "No, there was not . . . There was no question of – there was no discussion on the risk of fire as far as I remember it. . . . Shooting was the very last thing that was in anybody's mind." **Day 266/87/21 to Day 266/87/22**

14.5.11 Col. Jackson, the Commanding Officer of the Royal Green Jackets, one of the resident battalions, in his statement to this Tribunal dealt with the intelligence available to the Commanding Officers in Derry prior to the Civil Rights March and threat as anticipated by 8 Brigade:

> "As far as I was aware the NICRA march was expected to reflect a carnival atmosphere." **CJ2.7 paragraph 31**

14.5.12 Col. Jackson went on to state that:

> "The Co-ordinating Conference would have commenced with the Intelligence Officer's reports of the current intelligence picture which, essentially, was no change. . . . The perceived

[5] Col. Welsh is the only officers who gave no evidence about this topic stating that he had no recollection of any discussion re shooting. **Day 282/29/2**

threat was that there was likely to be a deliberate attempt to defy the ban on the march." **CJ2.7 paragraph 35**

14.5.13 Col. Jackson was then asked about the level of threat as set out in the Operations Order and was shown **G81A/511.5 paragraph 4** the transcript of a signal sent to the Director of Intelligence to Brigadier MacLellan. In relation to that signal Col. Jackson stated that there was no specific intelligence about what the IRA's plans were for the day. **Day 285/26/7 to Day 285/27/4** Or as he had stated at an earlier stage:

"We did not have the intelligence, or any intelligence at all, to think that that march was other than, as far as we were concerned, a normal march." **Day 285/15/11 to Day 285/15/14**

14.5.14 Col. Jackson was also questioned about an interview given by him to Jimmy McGovern's team in which he had stated:

"I never knew anyone was expecting anything other than a few shots fired. . . .

I thought the march had something of a carnival atmosphere. That was what I was expecting. I was expecting the odd gunman too, of course. But masses of people turned up and there was no threat. You knew they would not attack you. It would have been stupid to fire from within the crowd because it would have endangered others." **CJ2.56**

"Q. On what basis did you expect a few shots to be fired?

A. They were always being fired from July, 1971, if a military target presented itself.

Q. Did you have any other specific reason to think that a few shots would be fired on the day?

A. No, and few shots were fired on the day, at my battalion. .

Q. Did you have any specific intelligence that led you to think there would be the odd gunman present?

A. No, other than what had happened in the past." **Day 285/27/15 to Day 285/28/9**

14.5.15 Col. Jackson also acknowledged that there had not been any intelligence to the effect that the IRA would not fire because of the size of the crowd, stating:

> "No, we could not allow that to be part of any operational plan. We had to be – make sure the soldiers knew that they were targets." **Day 285/28/22 to Day 285/29/2**

14.5.16 What follows from Col. Jackson's evidence is that, there was no intelligence to suggest any specific threat consequent upon the March and while there remained an ever-present threat to the security forces, he was of the belief that because of the size of the crowd the IRA were less likely than normal to engage in shooting at the soldiers. Moreover, it is apparent from Col. Jackson's statement at **CJ2.7 paragraph 35** that the real threat which the Co-ordinating Conference was concerned with was the threat of a deliberate attempt to defy the ban on marches..

14.5.17 Col. Ferguson, the Commanding Officer of the 22nd Light Air Defence Regiment, also gave evidence about the expectations of 8 Brigade in relation to paramilitary activity. In his statement to this Tribunal he said that:

> "I thought it was likely that at some stage during the proceedings there would be shooting." **B1122.11 paragraph 63**

14.5.18 Col. Ferguson was asked to enlarge on the circumstances in which he thought there might be shooting:

> "In my mind . . . was that there had always been extremists in Irish politics, on both sides of the political divide, who might not be under control of their various organisations, who might well just take the occasion to come out and take a pot-shot at someone. . . ." **Day 282/49/16 to Day 281/50/1**

14.5.19 That risk was quantified by Col. Ferguson as a "possibility", rather than a likelihood. **Day 282/50/2 to Day 281/50/8** Moreover Col. Ferguson was also very clear that he had no expectation that the IRA or any other terrorist organisation would have planned to attack the security forces

> "I had been a soldier for quite a long time and I had been in a number of situations where there were terrorist organisations in existence, but generally speaking the ethos of a terrorist organisation, is not to get engaged in pitch battles with the Security Forces, because it is not really in their interests. That was one point. Their interest, in the second, that they would almost certainly be bound to lose.
>
> The second point is that – understanding the situation in Londonderry, though elements of the civil rights organisation and the IRA might have similar long-term objectives, i.e. the creation of a Republic of all Ireland, it would have seemed to me that it was not in the interests of that general objective for the IRA to be involved at all. It was, in fact, against their interests because they would be, as it were, taking away from the legitimacy and the – of the civil rights organisation who were, after all, protesting against internment. So I suppose that was why I thought the two things would be separate and it would not be in the IRA's interest to be involved.
>
> That is why I said at the beginning that the image in my mind was the renegade, perhaps old-fashioned, Official IRA man just coming out to have a pot-shot at someone." **Day 281/50/14 to Day 281/51/14**

14.5.20 The only possible qualification from within 8 Brigade was the view expressed by INQ598 the Commanding Officer of the Coldstream Guards who in his statement to this Inquiry stated that having spoken to people before the March and that "they felt there would be trouble." **C598.2 paragraph 8** However it is clear from his evidence to the Inquiry that, again there was no specific intelligence and what he was describing was

the fact that soldiers "were constantly faced with the fact we might be fired on in everything we did". **Day 272/8/12 to Day 272/8/22**

14.5.21 While Inspector Lagan's evidence to this Tribunal, consistent with his evidence to the Widgery Tribunal was that:

> "I did not think that the IRA or anyone else would shoot at the troops at the time that the confrontation that the confrontation at the William St barrier was taking place and the people in the area were dispersing . . . I based this belief on my general knowledge at the time and not on information that came from any specific source. I could not see that the IRA or others would fire while the march was still taking place because of the dangers it would place the marchers in." **JL1.7 paragraph 19**

14.5.22 In our submission the evidence from the security forces in Derry, involved in the Order Group Conference, about the threat anticipated from the IRA can be summarised as follows:

i. There was no intelligence available to the Co-ordinating Conference that there was any organised IRA threat expected. **Day 285/15/11 to Day 285/15/14, Day 285/26/7 to Day 285/27/4**

ii. There was no intelligence to suggest that individual gunmen would seek to take advantage of the event in any way. **Day 285/28/1 to Day 285/28/9**

iii. Because of the reality that the IRA did target members of the security forces there was an ever-present threat to members of the security forces which was no greater than normal. **Day 285/28/1 to Day 285/28/9, Day 272/8/12 to Day 272/8/22**

iv. There was nonetheless a belief that because of the size of the crowd the IRA were less likely than normal to engage in shooting at the soldiers because it "would have been stupid to fire from within the crowd because it would have endangered others." **CJ2.56** And the reality was that "Shooting was the very last thing that was in anybody's mind." **Day 266/87/21 to Day 266/87/22** (See also

Brigadier MacLellan **Day 262/5/1 to Day 262/5/3** and Inspector Lagan **JL1.7 paragraph 19**)

v. However, the ever-present threat to soldiers could not be ignored. **Day 285/28/25 to Day 285/29/2**

14.5.23 It is our submission, therefore that, while it was accepted as an ever-present possibility that someone might shoot at the security forces, in reality there was an expectation that the risk of lethal force being used against the security forces was relatively minor, albeit it could not be ignored.

Failure to Address the Risk of the Use of Lethal Force

14.5.24 The evidence from the persons who attended the 8 Brigade Order Group Conference is that the risk of the use of lethal force in a crowd situation was not discussed.

14.5.25 In this respect Lt. Col. Wilford's evidence stands somewhat at odds with the evidence from other witnesses. In 1972 he stated in relation to the Co-ordinating Conference that "If firing was directed at the troops the situation would demand counter action as necessary. There was to be a massive deployment of snipers in the anti-sniper role." **B944 paragraph 4**

14.5.26 It was subsequently suggested by Lt. Col. Wilford in an interview he conducted for the programme "Inside Story Special – Remember Bloody Sunday" that he had raised the possibility of shooting at the 8 Brigade Order Group Conference but that he had been effectively ignored.

> "And then I asked, "But if this arrest operation turns into a shooting match, what do we do then?" It was dismissed . . . The answer to my question was "Oh well, that completely changes the situation". I accepted it, I suppose, because I was used to the Belfast situation again that if you're fired upon you return fire. .

. . I would have liked to have known how we were actually going to deal with it: whether in fact we were going to take part or were we to actually pull back and leave them at it." **X135.11**

14.5.27 This evidence has been contradicted by other persons at the 8 Brigade Order Group Conference, who have stated that they do not recollect it being said, although they appear to have regarded it as unlikely that it was said.[6]

14.5.28 In his evidence to this Tribunal Col. Wilford has reverted to his 1972 position stating that:

"I had not refreshed my memory from the contemporaneous documents before I gave this television interview. It appears from my 1972 statement that this issue was addressed at the co-ordinating conference." **B1110.025 paragraph 48**

14.5.29 In his oral evidence he was asked about the nature of the discussion about what was to happen if fire was directed against troops:

"Q. Do you have now any recollection of what was discussed or considered under that heading?

A. No, I have not, but I think I would be absolutely straightforward: the Yellow Card was in operation and that was sufficient." **Day 312/30/5 to Day 312/30/10**

14.5.30 Senior officers from 8 Brigade were asked about whether it was discussed at the Order Group Conference what ought to have happened in the event of shooting, with the consequent risk of civilian casualties. What is

[6] Lt. Col. Steele "No, I cannot, I cannot remember him saying "what happens if there is shooting", I do not recall that at all." **Day 267/3/3 to Day 267/3/5** , Brigadier MacLellan **Day 262/2/1 to Day 262/2/15** Col. Ferguson **Day 281/53/1 to Day 281/53/4** Col. Jackson **CJ2.8 paragraph 38**

evident from this body of evidence taken as a whole is that this matter was not discussed at the Co-ordinating Conference.[7]

14.5.31 Brigadier MacLellan did not appear to regard it as a matter which it was necessary to discuss at the Co-ordinating Conference. He was of the view that the Yellow Card was sufficient to give guidance to the Commanding Officer of 1 Para. **Day 262/2/10 to Day 262/2/15** When asked to address himself specifically to the risk to innocent civilians in the event that soldiers opened fire, even if justified, his view was:

> "it was really up to the individual soldiers and their non-commissioned officers and officers to control the situation as best they can
> I do not think one could give detailed orders about a battle which one was not in control of." **Day 262/5/4 to Day 262/5/9**

14.5.32 Thus, on Brigadier MacLellan's analysis there was simply no obligation on him as the Brigadier of 8 Brigade and the person who was to authorise the arrest operation to even apply his mind to what, if any steps could have been taken to minimise the risk to civilian life.

14.5.33 Lt. Col. Steele also suggested that the response to Lt. Col. Wilford's question, had it been asked was to take "action in accordance with the Yellow Card." **Day 267/3/5 to Day 267/3/10**

14.5.34 Crucially however Col. Ferguson, the Commanding Officer of the 22nd Light Air Defence Regiment has given evidence that he raised this very issue at the Co-ordinating Conference. He put this matter in his statement to this Inquiry in the following terms:

---

[7] Brigadier MacLellan, "But at any rate, so far as you were aware, there was not any discussion or determination of what might or should occur if the Army were fired on? A. No, and I do not think it was raised with me." Day 262/7/11 to Day 262/11/14 Lt. Co. Steele Day 267/3/11 to Day 267/3/21

"I thought it was likely that at some stage during the proceedings there would be shooting. In these circumstances, and in a built up area, it would be very difficult for individual soldiers to know who was shooting and from where. One shot was all that it might take for everyone to believe that they were coming under fire. It, therefore, seemed sensible to me to ask if there were any plans to modify the rules of engagement. By that, I meant the rules of engagement being modified downwards, perhaps to the extent that at the outset, decisions to open fire would be reserved to officers. I did not develop this idea in my question but that was what I had in mind. The response to my question was negative." **B1122.11 paragraph 63**

14.5.35 Col. Ferguson indicated that the negative response came from Brigadier MacLellan **Day 281/251/19** and went on to develop on why he had envisaged the risk:

"I should mention one point in relation to why I was concerned, there was also a danger, because there were so many different units involved, of soldiers of one unit firing at another because of the way that the containment line was L-shaped. So there were two aspects to it." **Day 281/52/1 to Day 281/52/10**

14.5.36 As Col. Ferguson acknowledged he did not develop the latter point at the meeting but "it would have been possible that I might have been asked, either by the brigade commander or the brigade to expand and say: what is it you have in mind; what are your concerns, but that was not done." **Day 281/52/16 to Day 281/52/19**

14.5.37 Col. Jackson, although having no recollection of the issue being raised nonetheless regarded it as a query which might well have been raised:

"I had spoken with Colonel Ferguson previously, when he arrived, because I handed over the city to him on 21st December,

and it was either on 21st December or before that that I mentioned the business of the Derry noise.

. . .

So he was aware that there was a problem." **Day 287/6/21 to Day 287/7/9**

14.5.38 That the Yellow Card could be modified downwards has been evidenced by Lieutenant 119 of 1 Para who in his statement to this tribunal stated that:

> "The only variation in this approach arose on occasions as a result of specific orders from Brigade. We might, for example, be ordered not to respond to petrol bombers with live fire for a defined period of time due to specific and particular political reasons known to Brigade. However, on the expiry of such an order we would return to the standard response described above . . ." **B1752.010 paragraph 9**

14.5.39 There was therefore clear precedent for the modification of the Yellow Card, in a way which reduced the risk of the use of lethal force by soldiers. If the Yellow Card could be modified down for periods in Belfast, there could be no justification for failing to consider this option in the context of a march which would involve thousands of unarmed civilians on the streets.

14.5.40 Moreover the concerns expressed by Col. Ferguson and endorsed by Col. Jackson were concerns which were also expressed by soldiers of a much more junior rank than the officers attending the 8 Brigade Order group Conference.

14.5.41 Soldier 128, a Captain in the Second Battalion of the Royal Green Jackets, had been briefed as a sniper in an Observation Post close to Barrier 14 on the day of the March. He gave evidence to this Inquiry about his concerns on hearing live rounds, shortly after the Paras had entered the Bogside:

"Q. In paragraph 20 you say:

"I was fully aware that a large number of rounds had been fired and I immediately feared the worst. It was always very difficult to identify from where shots were being fired in the Bogside because of the layout of the area and the Rossville Flats, which would distort sounds. When you hear shots, as a soldier, your automatic reaction is to fire yourself, which is a difficult reaction to stop. I was concerned that the troops who had gone into the Bogside had believed that they were under fire and had lost control of their firing. When firing breaks out in tense situations it can spread very quickly and is very difficult to control. Direct action is often necessary."

Should we understand from that paragraph that the concern that you had was that the troops who had gone into the Bogside might have opened fire in the mistaken belief that they were under fire themselves?

A. No, I do not think you would be right to draw that conclusion.

Q. The point you are making is that you were concerned that the troops had believed, rightly or wrongly, that they were under fire?

A. Yes. I mean, the wider point is the concern that I had at the time, and still do, is that in a firefight it is extraordinarily difficult to control fire. People, when they are frightened, tend to fire indiscriminately – it is human nature, I am afraid – and a heck of a lot of training goes into ensure that that does not happen. But I have experienced it. I was involved subsequently in training soldiers for duties in Northern Ireland, and it is a problem. I suspect it always has been, and my impression at the time, because of the number of rounds being fired, was that there may have been some problems with fire control." **Day 303/31/21 to Day 303/33/6**[8]

[8] See also his evidence when he describes the last soldier from C Company turning around having gone through Barrier 14, pointing his weapon at ECHO OP and shouting 'gunman'. According to Soldier

Obligation to Address the Risk of the use of Lethal Force

14.5.42 While it was apparently accepted that the risk of the use of lethal force against soldiers was either the same as or less than the risk in normal circumstances, it seems that the view was taken that soldiers should not be briefed that there might in fact be a reduced risk because of the obligation to protect soldiers' lives:

> "We had to be – make sure the soldiers knew that they were targets." **Day 285/29/1 to Day 285/29/2**

14.5.43 What did not apparently receive consideration was what steps should have been taken to protect the lives of the thousands of unarmed civilians marching in circumstances where soldiers armed with SLRs were sent out to police a public order situation, which was likely to involve an arrest operation of persons engaged in rioting. This despite the fact that all soldiers present were aware of the fact that the SLR was an indiscriminate weapon, in that even if it hit its target, in a crowded situation it could also cause death or injury to innocent bystanders as Col. Jackson acknowledged:

> "there were so many, many people that day that, if the military had opened fire, if we had opened fire, there would have been subsidiary casualties". **Day 285/28/16 to Day 285/28/19**

14.5.44 The reality is that the paratroopers did not open fire in response to any IRA shooting. While there was limited IRA shooting that took place after the Paratroopers opened fire and seems to have gone unnoticed by soldiers. There were a number of factors about Bloody Sunday which should have led, not merely Brigadier MacLellan, but his superior officers, Generals Ford and Tuzo, and his political masters in Whitehall and Westminster to take steps to:

---

128 the 1 Para soldier was under the mistaken impression that civilian gunmen were located on the top of the Embassy Ballroom. Day 303/28/10 to Day 303/29/18

i) Modify the Yellow Card, imposing additional restrictions on the circumstances in which lethal force could be used;

ii) Modify the Yellow Card to comply with the Government's obligations under Article 2 of the Convention;[9] and

iii) Made it expressly clear to the paratroopers that, whether they came under hostile fire on entering the Bogside or whether they *believed* they were under hostile fire, they ought to disengage rather than return fire in a crowd situation. If it was appropriate to order the paratroopers not to conduct a running battle with rioters down Rossville Street, it was at least as appropriate to order them not to conduct a running *gun* battle in the same area.

14.5.45 In our submission the failure to issue those directions was a clear breach of the obligation of all involved to ensure that the operation was conducted in such a manner as to minimise to the greatest extent possible the risk to life.

14.5.46 These factors were as follows:

i) There was going to be thousands of unarmed civilians on the streets of Derry.

ii) This march was going to be 'policed' by soldiers armed with SLRs, a non-discriminate high velocity weapons. Bullets from an SLA were capable of passing through walls and killing the people inside and were capable of passing through the intended target and killing other people indiscriminately. That on the assumption that a soldier actually hit his intended target.

iii) The soldiers who were going into the Bogside were unfamiliar with Derry, thus heightening their sense of being under threat and heightening their sense of fear,

---

[9] In our submission the Yellow Card was insufficiently restrictive under either domestic law or by reference to Convention standards in that it did not limit the use of lethal force to circumstances where it was necessary for the protection of life. See for example Rule 13, the Yellow Card ought to have stated something along the lines of, "In no circumstances should fire be opened unless there is an immediate threat to life or of serious injury which can only be averted by firing"

iv) The soldiers going into the Bogside had a reputation for being aggressive. A reputation witnessed by 8 Brigade on Magilligan Strand and a reputation sufficient to cause more than one of the Commanding Officers in 8 Brigade to express concern about their use as an arrest force.

v) There is a body of evidence from soldiers in 8 Brigade that because of the topography of the Bogside, it was difficult to identify where gunfire was coming from and soldiers could easily become disoriented. That difficulty could only be exacerbated in soldiers unfamiliar with the area.

vi) That in any situation where a shot was fired, whether at or by soldiers, fire control was an issue "When firing breaks out in tense situations it can spread very quickly and is very difficult to control." **B1802.04 paragraph 20**.

vii) That in Northern Ireland, the history of the use of lethal force by soldiers had demonstrated that soldiers in Northern Ireland were not slow to engage in the use of lethal force and that in both Belfast and Derry soldiers had fired and killed people who were demonstrably unarmed and in what has been characterised as 'disputed' circumstances.

14.5.47 All of the above factors should have resulted in steps being taken to reduce the risk of soldiers engaging in lethal force. Contrary to what Brigadier MacLellan stated this was not a matter which should have been left up to "the individual soldiers and their non-commissioned officers and officers to control the situation as best they can." **Day 262/5/4 to Day 262/5/9** Nor was it the fact that "the locals were aware of bombs going off every day, the shooting and so on. So they would have been aware . . .that throughout life at that stage in that area there was an element of risk" and that they should not "look for trouble" but try to "avoid trouble" a justification for his evasion of responsibility. While the individual soldiers are responsible for their acts of murder the responsibility for failing to minimise the risk to civilian life lies with their senior officers and in particular Brigadier MacLellan, General Ford and General Tuzo, as

well as their political masters on the joint Security Committee and in Whitehall and Westminster.

14.5.48 The consequences of this omission were grave. The evidence suggests that Lt. N fired the first shots in the Bogside (in breach of the Yellow Card) and that other soldiers may genuinely have misinterpreted this as civilian gunfire. Had the Yellow Card been modified downwards or had there been an instruction to withdraw in a disciplined fashion in such circumstances, the shootings that followed might have been averted. In the absence of any such ground rules, the Paratroopers felt free not only to remain in the area but to deploy lethal force against civilians as they saw fit.

14.5.49 The failure to address the risks to civilian life of the use of lethal force by soldiers in the Bogside on Bloody Sunday contributed directly to the loss of 13 lives and the serious injury of 13 more.

15. MILITARY OPERATION ON THE DAY

15.1 Introduction

15.1.1 Having failed comprehensively to minimise the risk of the use of lethal force by the security forces in the planning stage, the arrest operation on 30th January 1972 was carried out with inadequate control systems and unclear objectives. The usurpation of planning by General Ford, encompassing the deliberate selection of 1 Para to conduct the arrest operation, diluted Brigadier MacLellan's authority and rendered him impotent to prevent, let alone control the manner of the launch of the operation.

15.1.2 Although 8th Brigade set out the likely axes of movement for the arrest operation in the Op Order **G95.570**, Colonel Wilford failed to brief Brigadier MacLellan about his proposed operation in any detail.

15.1.3 Conversely neither Brigadier MacLellan nor Lieutenant Colonel Steele made sufficient inquiries of Colonel Wilford to apprise themselves of the potential strength, direction or tactics planned for an arrest operation under their command. In normal circumstances it would be astonishing for Brigadier MacLellan not to seek to approve a plan or agree a framework for 1 Para to work within given that up to 249 soldiers could be involved in close proximity to up to 10,000 civil rights marchers.

15.1.4 However, Brigadier MacLellan knew that these were not normal circumstances. As outlined above in Section 12 the Brigadier understood the import of General Ford's interference in the plan and did not want to risk censure for attempting to put 1 Para on a tight leash prior to the march. The Brigadier knew that the plan was not his own and that on paper he was to leave 1 Para with "carte blanche". However, Brigadier MacLellan had retained unto himself the authority to launch the operation in whole or in part and it is clear that he intended to control or limit the operation through his direct authority via Brigade Net. The end

product was a dangerously vague plan with mechanics of control which were deficient and deliberately muddled.

15.1.5 Almost from the moment 1 Para arrived in Derry those with responsibility for command and control began to lose operational control of events incrementally and at differing levels. From Brigadier MacLellan down to the lowest section commander in Support Company failures of command and control in the execution of the arrest operation, brought about by inadequate planning and obfuscation of authority, resulted in the deaths of 13 people and injury of 14 more.

15.1.6 These operational failures are attributable on a personal basis to Brigadier MacLellan, Lieutenant Colonel Steele, Colonel Wilford, Major Loden and the individual platoon and section commanders under his control.

15.2 The Order "Given"

15.2.1 Was an order given?

15.2.1.1 One of the central components of the case made by the soldiers both at the Widgery Inquiry and at this Inquiry was that 1 Para was given a direct order by 8 Brigade to launch the arrest operation.

15.2.1.2 It is submitted that the preponderance of the evidence does not support the assertion that the order to go in was given via a secure link. It is alleged that 1 Para entered the Bogside without authorisation from 8 Brigade.

15.2.1.3 In the alternative, it is submitted that if 8 Brigade HQ did give an order authorising the arrest operation,

(i) it should not have been given

(ii) it was an order given in precise and clear terms

(iii) it was disobeyed and/or grossly exceeded by 1 Para

15.2.2 There was no order given at all

15.2.2.1 There is a considerable body of evidence which casts doubt on whether 1 Para received authorisation at all prior to going into the Bogside. It is correct to say that the military account that a BID 150[1] was used to communicate the order to go in fits neatly with the incontrovertible fact that no such order was recorded by Mr Porter on the Brigade net.

15.2.2.2 Therefore the question of whether 1 Para received an order at all rests entirely on the existence and use of a secure net. It is submitted that there was no secure net, and that even if there was, it was not used to convey any order to go in.

Secrecy, the stated purpose for secure net was completely defeated

15.2.2.3 Prior to the alleged order given over the BID 150, transmissions made over the Brigade net comprehensively defeated the supposed purpose of using a secure net. Ostensibly the secure net was to be used on 30th January 1972 to give 1 Para the element of surprise so that when the order to go in was given, eavesdroppers on the Brigade net could not hear it and thereby avert rioters of the impending operation.

15.2.2.4 It was widely known in army circles and among some sections of the general population that army communications including the Brigade Net could be picked up by an ordinary radio or television set with a small amount of retuning of the set in question. (James McCafferty **AM60.1**, Jimmy Porter, **AP9**) Consequently the army developed the practice of not discussing intentions or plans over these insecure nets. In fact a directive was issued by 8 Brigade on 10th November 1971 stating:

> "We must accept the fact that our Pye communications, which can be picked up on transistor radios and TV sets, are completely insecure. No mention of future intentions is to be

[1] For the purposes of these submissions references to "BID 150" encompass the full working apparatus, ie BID 150 encryption device coupled with a C42 No. 3 radio

made over the Pye network unless the new fixed cursor SLIDEX code is used. All units are to ensure that normal voice procedure security is used by all ranks over our communication networks. Ordinary telephones may be used for restricted matters only in a guarded manner; privacy telephones can only be used for confidential administrative matters, and are not to be used for future operational intentions." (**G27.207**)

15.2.2.5 The success of the planned arrest operation was of great significance to the army, with General Ford hoping that anywhere up to 400 hooligans would be arrested. 1 Para had attempted to keep a low profile in making their way to Derry. Surprise and impact was one of the key factors in the execution of the arrest operation. Using a secure net to organise and authorise the launch of the operation would have excluded the risk of the element of surprise being lost. The BID 150 would have been ideal for this purpose.

15.2.2.6 However, if the officers manning the Gin Palace had access to a BID 150 and were aware of its purpose, it is inexplicable why they proceeded to make transmissions over the Brigade net which had the effect of openly advertising 1 Para's intentions well in advance of the alleged order to go in. The officers in the Gin Palace INQ 2033 and INQ 1853 were Captains in Battalion HQ who would both have attended Colonel Wilford's O Group in their respective capacities as Regimental Signals Officer and Motor Transport Officer. Indeed the Regimental Signals Officer INQ 2033 had previously commanded Anti-Tank and Machine Gun Platoons and presumably had wide field experience. (**Day 352/111/3 to Day 352/111/10**)

15.2.2.7 As can be seen from the table below, as early as around 15.39 it would have been obvious to anyone listening to the Brigade net that army units were seeking to come through barriers to disperse the crowd. Moreover, the request for permission timed at 15.55 was made by an officer in the

Gin Palace in uncoded and clear language naming both the object of the operation and the desired target area (William St/Little James St).

Bun W Ref	Item	To	From	Event	Time
W123	286	90A	65	Hello 90, this is 65. Can you be prepared to lift your barriers 12 and 14 should we require to push through them to disperse these crowds. Over.	(~1539)
	287	65	90A	90 Alpha. Roger. Out.	
W124	294	90A	65	65, from our Sunray. Be prepared for movement through serials 12, 14 and 16. Over.	(~1540)
	295	65	90A	90A. Roger. Out.	
W126	336	0	65	Hello, hello Zero, this is 65. My Sunray has deployed his units slightly forward from their original positions in preparation for any orders which you may have for him. Over.	1555
	337	65	0	Zero. Roger. Out.	
W127	343	0	65	65, from my Sunray. He would like to deploy one of his sub units through barrier 14 around the back into the area William Street/Little James Street. He reckons if he does this he will be able to pick up quite a number of yobbos. Over.	1555
	344	65	0	Zero. Roger. Out.	

	353	90A	65	Hello, 90, this is 65. Is there still a hooligan element in the area above barrier 14? Over.	1602
	354	90A	65	Hello, 90, this is 65. Over.	
	355	65	90A	90 Alpha. Send. Over.	
	356	90A	65	65. Is there still a hooligan element in the area William Street/Little James Street and around barrier 14? Over.	
	357	65	90A	90 Alpha. Yes. Over.	
	358	90A	65	65, roger. Would you mind informing Zero of this, as they don't appear to believe us on this point. Over.	
	359	65	90A	90 Alpha. Wait. Out.	
W128	360	90A?	0	Zero, roger.	
	367	0	90A	Hello, Zero, this is 90 Alpha. People at the moment are advancing on the House Martin-wrong, on serial 14, using a corrugated iron shield. Have you any idea yet what time it was 65 was going in? Over.	1609
	368	90A	0	Zero. Roger to your first. As for your second, leave that for the moment. Out.	
	370	90A	65	Hello, 90, this is 65. Can you lift barrier 14, where our call sign will be coming through? Over.	1609
	371	65	90A	90 Alpha. Wait. Out.	

	37 2	90 A	65	Hello, 65, this is 90A, serial 14 now being lifted. Over.	

Porter Transcript Excerpts

Timings taken from 8 Brigade Log

15.2.2.8 Anyone listening to the Brigade Net could have easily worked out exactly what operation was planned over 10 minutes before it actually happened. Any prospect of secrecy or surprise was utterly defeated. The suggestion that a tactical advantage was still available to 1 Para by the giving of the order over a secure net is a chimera in which the military have invested a good deal of their credibility in relation to the BID 150.

15.2.2.9 Indeed even Lieutenant Colonel Steele, the witness who has the greatest vested interest in the concept of the secure net providing secrecy, had to admit his surprise when confronted by the facts in making his witness statement in 2000:

> "I am today rather surprised that 1 PARA used the Brigade net for this request, since the BID 150 secure net was specifically set up for such communications". **B1315.008 paragraph 42**

15.2.2.10 It should be noted that on their evidence, soldiers at the Gin Palace had access all day to a fully functional secure net as well as a telephone line, both of which they knew would have been more secure than the Brigade net. The officers in the Gin Palace could easily have made all of their sensitive communications surrounding the arrest operation with 8 Brigade on the secure net. Furthermore, it was not ventured by the officers in the Gin Palace that they simply forgot about the BID 150. In fact INQ 1853 alleged that there was a signaller at the Gin Palace devoted to the BID 150 all day.

15.2.2.11 Given their experience and detailed knowledge of the utility of the BID 150 it is apparent that INQ 2033 and INQ 1853 never had in mind any

overriding necessity for surprise or secrecy, the stated purpose for using a BID 150. It necessarily follows that there was no plan or directive to use a secure net for the order to go in to give 1 Para a tactical advantage.

Lack of documentary evidence surrounding BID 150

15.2.2.12 There is very little documentary evidence to support the assertion that 1 Para had and/or used BID 150 equipment for operational purposes in Derry on 30th January 1972. Although the BID 150 was classified as TOP SECRET, no convincing evidence was proffered to show that the normal practices of army procedure (signals instructions, requisition forms, provision for a secure log) were obviated on the grounds of its classification. If anything, common sense would dictate that more bureaucracy should follow such a highly valued piece of technology, not less, both to secure its safety and to ensure proper usage.

15.2.2.13 Although 4 sets of BID 150 equipment were requested by 8 Brigade on 20th December 1971 (**G43.279**) not one corresponding document has been produced acknowledging receipt of the equipment or subsequent documents dealing with distribution and usage within the 8 Brigade area. In fact all of the documents disclosed to this Inquiry which deal with the use of the BID 150 within the 8 Brigade area *post date* 30th January 1972.

15.2.2.14 The 1 Para Signals Instruction for the day (**W287**), including net diagrams, does not make mention of the secure net or BID 150 at all. It was suggested by INQ 2033 that this document would not have included reference to the BID 150 since it was classified (**C2033.4 paragraph 17**). However, the BID 150 was only the encryption unit attached to a C42 (No. 3) radio unit. The C42 required tuning to a pre-determined frequency to allow it to communicate with other radios on the secure net in the same fashion as any other radio. No mention is made of a secure frequency (which could have been included without revealing the name or even nature of the equipment), nor are there any provisions specifying

whether they are to collect the encryption card from 8 Brigade HQ or from 39 Brigade HQ, or a reminder of to whom they are to speak in order to get the card.

15.2.2.15 The Royal Anglian Signals Instruction for the day (**W363**) also makes no reference to secure net or BID 150 capability, even to say that it is not to be used on the day.

15.2.2.16 In contrast, the 8 Brigade Signal Instruction prepared later that year and dated 22nd August 1972 (**W305**) devotes almost a full page at **W307** to the purpose, operation, and security of the BID 150 Brigade Secure Net. It is instructive to note that less than seven months after 30th January 1972 the BID 150 was openly acknowledged and documented in this instruction which was marked "CONFIDENTIAL". The suggestion that the BID 150 could not be acknowledged on paper is not only illogical in operational terms but it is also undermined by later documentary evidence.

15.2.2.17 Other than the word of the soldiers involved there has been no evidence produced to show that the BID 150 was in service either in 39 Brigade or 8 Brigade prior to 30th January 1972. The MoD has not produced a single signals instruction, signals briefing paper or other documentary record pre-dating 30th January 1972 verifying its operational use. Therefore there is no evidence to show that 1 Para possessed a BID 150 to bring to Derry, or that 8 Brigade had one to use in concert with them.

Infrequent use of the secure net

15.2.2.18 Lieutenant Colonel Steele said he only used it for two transmissions to 1 Para all day (note that he said one to Widgery), one of which was the order to go in. INQ 2033 on the other hand claimed that he may have used the secure net three or four times[2] on the day to speak to Brigade.

[2] **Day 352/143**

INQ 2033's recollection of events was somewhat hazy and in particular his description of the BID 150 as a one-to-one net was entirely erroneous[3]. Furthermore, Lieutenant Colonel Steele gave evidence in 1972, whereas INQ 2033's first statement was made in 2000. It is suggested that Lieutenant Colonel Steele's evidence, if any, is to be preferred over INQ 2033's evidence on this matter.

15.2.2.19 It can be seen in the Porter transcript that at some time around 6.30pm, 1 Para were attempting to contact 8 Brigade using their telephone line.

Bun W Ref	Item	To	From	Event
W146	685	65	0	Hello, 65, this is Zero. Grateful if you'd telephone me on the civil line when you are finished with it. Over.
	686	0	65	Zero, wilco. Out.
	687	65	0	Hello 65, this is Zero. Reference my last message, it is a matter of priority now that you contact Seagull as soon as possible. Over.
	688	0	65	65. Roger. We're trying ring you, but the number's engaged at the moment. We'll keep trying. Out.

15.2.2.20 Item 687 shows that Lieutenant Colonel Steele (Seagull) was anxious to speak to 1 Para. The telephone lines were understandably busy at the time at Brigade HQ. The officers at the Gin Palace responded saying they would keep trying to get through on the telephone. If there existed a direct hotline to Lieutenant Colonel Steele's office in the secure net it would obviously have been the easiest and most secure way for either party to get in touch. The fact that it was not used or even suggested in the above transmissions lends further weight to the premise that the secure net did not exist.

[3] Day 352/133 However secure net was simply an analog signal voice net with encryption.

15.2.2.21 On Lieutenant Colonel Steele's own evidence the secure net was used twice on the day. At a time when it would have been the ideal means of communication it was left idle. There is no logical explanation for the virtual redundancy of such a highly valued and high-tech piece of equipment. If the BID 150 had been in service that day it would have been used more often and to greater effect than alleged by the soldiers in their evidence.

The absence of the resident battalions from the secure net

15.2.2.22 If the 4 BID 150 sets requested on 20th December 1971 had arrived at 8 Brigade prior to 30th January 1972, and one of them was functional at Brigade Headquarters one would expect that at least 3 of the resident battalions would also be operational on the secure net. It is submitted that the equipment would have required testing and configuration in the 8 Brigade area prior to its use in major operation.

15.2.2.23 However very few of the officers manning the Operations Rooms of the resident battalions recalls having a BID 150 on the day. Colonel Roy Jackson told this Tribunal that in his time in Derry he never had access to a secure radio **Day 285/64**, and again at **Day 287/31**.

15.2.2.24 INQ 406 of the 22nd Light Air Defence Regiment says that there was a BID 150 in the battalion headquarters on the day **Day 274/37** and that INQ 1041 was manning it. INQ 1041 however has no memory of this and was in fact one of the watchkeepers and was one of those responsible for maintaining the battalion log (**C1041.2 paragraph 10**). David Ramsbotham told the Inquiry that the request made on 20th December 1971 (**G43.279**) was in fact a request for additional sets and that 8 Brigade already had a small number **Day 254/115**. However INQ 1903 says that prior to the delivery of BID 150s he recalls occurring in early 1972 there were no BID 150s in 8 Brigade (**Day 253/92**).

15.2.2.25 Lieutenant Colonel Steele was careful to insist in his evidence to Widgery that only 8 Brigade and 1 Para were able to communicate on the secure net. He knew that the smaller the circle surrounding the order to go in the smaller the chances were of the story unravelling.

15.2.2.26 Contrary to what INQ 2033 claimed in his evidence at **Day 352/132/3**, the secure net was not a special one to one type of net. It was introduced as a secure Command Net supplemental to the Brigade Command Net. It too was an analog signal transmitted on an agreed frequency.[4] The difference was provided by the BID 150 which encrypted and decrypted the signal at either end. Any battalion HQ with a BID 150 and the appropriate encryption card would be able to access the secure net in the same fashion as they would the Brigade net. There was no restriction on how many call signs could operate on it. The limiting factors were the number of BID 150 sets and the possession of the correct card by each unit.

15.2.2.27 It would have been possible for 8 Brigade and 1 Para to use an exclusive encryption card not available to the resident battalions, however no evidence has been produced to show that that is what happened and there are no convincing reasons as to why such a course would have been desirable.

15.2.2.28 A secure net including the resident battalions would potentially have been of great operational value on 30th January 1972. Sitreps from positions on the Embassy Building or the City Walls about the state of the crowd and timescales in relation to separation of marchers and rioters could have been provided in great detail over the secure net. It would have been tactically advantageous to keep transmissions about the position of the rioters and the proposed arrest operation off the Brigade net entirely. In addition, 1 Para were reliant on the resident

[4] Generally **W348** outlines introduction of Secure Command Net in 8 Brigade

battalions to open barriers and could have requested such action without eavesdroppers overhearing.

15.2.2.29 The convoluted story that only 8 Brigade and 1 Para had access to the secure net was no more than a convenient *ex post facto* damage limitation exercise on the part of Lieutenant Colonel Steele and 1 Para. The lack of merit of its premise from an operational tends to show that even if it existed no one used a BID 150 on the day.

Not informing HQNI

15.2.2.30 HQNI in Lisburn was monitoring events in 8 Brigade through sitreps sent via secure telex from 8 Brigade HQ Operations Room (**C2090.10 paragraph 21 and C2090.14**). 8 Brigade were under a duty to inform HQNI of sitreps received and operational decisions made. Ultimately HQNI would report to the MoD, and the MoD would report to the Prime Minister therefore accurate and up to date information was of the essence.

15.2.2.31 Often the matters passed to HQNI were of minor significance, such as **serial 57, W28**, "Creggan Rd crowd going N approx 50-60. CS drifting up behind". At the time it was allegedly sent the order to send 1 Para on a scoop-up operation would have been the most significant transmission of the day. It would have been self-evident to even the most junior watchkeeper that HQNI would want to know of this immediately. However there is no entry in the HQNI log corresponding to the alleged order to go in given by Lieutenant Colonel Steele.

15.2.2.32 Furthermore, staff officers in HQNI had the capacity to listen to 8 Brigade net if they chose since it was being relayed via Slieve Galleon to Lisburn (**C2090.14**). Therefore they could hear everything transmitted over the Brigade net but could not hear messages sent over the secure net or telephone lines. This made it even more important for 8 Brigade to relay key transmissions which had been sent via the secure link. It is

submitted that HQNI would have expected to be notified of the exact time of launch of the arrest operation along with its targets and strength as soon as it was launched. It is submitted that lack of any entry in the HQNI log corresponding to the order to go in is indicative that no such order was given by 8 Brigade.

Incredible nature of Gin Palace account

15.2.2.33 INQ 2006 told the Inquiry that he was manning the secure net all day. He said that at the crucial time he took the initial message from 8 Brigade which was "Yes, go, go" (**C2006.12 paragraph 48**). Having received this message he said he then threw the headset he had been listening to through the hatch back to the watchkeepers to take the full order. When questioned, initially INQ 2006 was fairly sure about throwing the headset:

"Q. How clear is the recollection of throwing the headset of the radio to an Ops Officer?

A. As clear as I can make it after such a long time. I believe what happened, because we had been badgering for a long time to get the go, when brigade told me yes, go, go, I just remember, I think, taking the headset off, throwing it through the hatch. It would be easier for me to do that, do not forget the line was still open and I would then grab hold of the handset, the telephone handset and then carry on writing." **Day 386/174/13**

15.2.2.34 However, when it was suggested to him that the watchkeepers in fact had their own handset for the secure link INQ 2006 conceded that the throwing of the headset may not have happened at all:

"Q. If the position were that as signaller you had a headset and a microphone?

A. Yes.

Q. But that there was a separate telephone handset leading

through to the Ops Officer, is it possible that when you received that initial communication from brigade, you simply then just shouted across to the Ops Officer who then picked up the telephone handset and spoke to brigade?

A. Quite possibly". **Day 386/174/23**

15.2.2.35 INQ 2006 says that he handed over the handset to the watchkeepers as soon as he heard the words "Yes, go, go" (**Day 386/185/9**). There is no explanation as to how Lieutenant Colonel Steele was supposed to know that he was to wait to speak to a second person to deliver the complete order. Furthermore it has never been suggested by Lieutenant Colonel Steele that he had to go through two separate soldiers at 1 Para HQ to deliver the order over the secure link. Transmissions are not delivered to thin air, particularly those over a net being used for the first time. The person transmitting will normally seek an acknowledgement that the other person is receiving before proceeding into the body of the message. If this normal procedure was followed on this occasion INQ 2006 would have had ample opportunity to acknowledge Lieutenant Colonel Steele and then pass on to his watchkeepers.

15.2.2.36 To add to the bizarre nature of the story INQ 2006 told this Inquiry that after passing on the handset to the watchkeepers he left his post and smoked a cigarette (**Day 386/176/6**). The C42 attached to the BID 150 required tuning to the correct frequency like any other radio, and signals officers were posted to ensure that radios (which had a tendency to drift) were kept in tune. INQ 2006's recollection that at the crucial time of the day he was able to walk away from the Gin Palace for a smoke is clearly at odds with his job.

15.2.2.37 Neither INQ 1853 or INQ 2033 can recall receiving the order to go in. Certainly, neither of them recalls having a handset thrown at them by a

signaller who then got up and went for a smoke. This account provided by INQ 2006 is false and misleading.

Chief Superintendent Lagans evidence re: "I am sorry, the Paras have gone in"

15.2.2.38 Chief Superintendent Lagan gave evidence about Brigadier MacLellan's reaction upon hearing that 1 Para had gone in. He first described the Brigadier's reaction in his statement signed on 10th March 1972:

"I heard the reports of confrontations at the various barricades and that the main body of the marchers had gone down to Free Derry Corner. The Brigadier who had presumably gone to his Operations Room, came into the office and said 'The Paratroops want to go in'. I said 'For heaven's sake hold them until we are absolutely certain the marchers and the rioters are well separated'. He left me again. After an interval he returned and said 'I am sorry, the Paras have gone in'. I did not hear the order to the Paras to move, over the radio". (**JL1.2 paragraph 6**)

15.2.2.39 When questioned about his understanding of what Brigadier MacLellan meant Chief Superintendent Lagan was clear that the Brigadier had not sent 1 Para in himself:

Mr Stocker: You have said you made the comment 'For heaven's sake, hold them'; did the Brigadier make any reply?

Answer: He did not make any reply, but he left his office, and I assumed that he was going into the OPs room to pursue my suggestion.

Question: How long was he absent?

Answer: I cannot be specific about it, but after a short interval he returned to me and he said 'I am sorry, the Paras have gone in'.

Question: Had you overheard on the radio any order for them to go in?

Answer: I did not, my Lord.

Question: We have been told that there were a number of radio networks, one of which, the Ulsternet, is capable of being overheard and another network, which is a secure network, which is not capable of being overheard, so far as is known; did you know where the secure link was?

Answer: Truthfully no, my Lord, I assumed it would be in the Ops room.

Lord Widgery: It probably was not on a set to which you could listen?

Answer: That is quite possible.

Question: Are you sure about the 'sorry'? You appreciate the importance of it. The Brigadier, according to you, came back and said 'I am sorry, the Paras have gone in'. You are satisfied about him saying 'sorry'?

Answer: I am completely satisfied. The two things, the words he used and the tone of voice in which he expressed them, impressed themselves on my mind.

Mr Stocker: That is capable of two meanings. By the phrase 'I am sorry', did you take him to be, as it were, apologising, or did you take him to be expressing his own view that he was personally sorry about it?

Answer: I assumed, my Lord, that in view of what I had said earlier he expressed his sorrow to me. I also interpreted the meaning from the tone he used that he was not personally responsible for them going in.

Question: That was the conclusion --

Answer: That was my own conclusion. **JL1.38 D**

15.2.2.40 Under cross-examination by Mr McSparran Chief Superintendent Lagan was even clearer in expressing his opinion.

Question: Your view was that the entry of Paratroopers, or the launching of the Paratroopers, was not as a result of his order at that time?

Answer: That is how I read the situation, my Lord.

Question: Did he say, or indicate anything to you, which would have led you to the belief that he had given such an order?

Answer: No, my Lord. **JL1.44 A**

15.2.2.41 When directly questioned by Lord Widgery Chief Superintendent Lagan stood firmly by his opinion:

Lord Widgery: I am very anxious not to leave this with any doubt about what you are telling me, Mr Lagan. I think what you are telling me is that the order, when given, as far as you could see, was the Brigadier's order, rather than that a mistake had occurred and somebody else had let the Paratroopers' Regiment off the leash without the Brigadier's instructions. I think what you are telling me is the first of those two.

Answer: When the Brigadier said to me 'Sorry, the Paras have gone in', my immediate reaction to it was that they had gone in on somebody else's instructions and not on his. I would have thought, in view of an earlier comment to me, that he would have consulted with me again before he would have sent them in. **JL1.54 F**

15.2.2.42 In his statement to this Inquiry Chief Superintendent Lagan deals with his contemporaneous interpretation of the words "I am sorry, the Paras have gone in"[5]. He is unambiguous that the interpretation he gave to Widgery was entirely consistent with the words spoken and the manner in which they were delivered **JL1.17 paragraph 97**. Consequently Chief Superintendent Lagan's 1972 evidence stands uncontradicted.

[5] **JL1.16 paragraphs 91to 99**

He firmly believed that Brigadier MacLellan had not been involved in the decision to send 1 Para in.

15.2.2.43 Brigadier MacLellan denied the inference made by Chief Superintendent Lagan in a letter to General Ford of 15th March 1972 (**B1279.001**). Brigadier MacLellan admitted that he did have a conversation with Chief Superintendent Lagan after he had given the order, but that it was not in the terms alleged:

"I then returned to my office and told Lagan that the arrest operation had started. I cannot remember the exact words which were used but as far as I can recall Lagan then said 'Well I hope they are separated enough'. I replied 'I am assured that they are, but anyway it is too late to stop them now'. I suppose I may have said '.....anyway I'm sorry but it is too late to stop them now' but I do not remember using the word 'sorry' and if I did it was in this context and certainly not because I regretted having just given the orders for the arrest operation to start". (**B1279.002**)

15.2.2.43 Brigadier MacLellan even goes as far as categorising Chief Superintendent Lagan's evidence as "a deliberate distortion of the truth".

15.2.2.44 He told this Inquiry that he did not recall saying the words but that if he did he meant, "I am sorry, I know you wanted it otherwise". **Day 262/75/7**

15.2.2.45 However insistent the protests by Brigadier MacLellan, as the person with the most to lose he is open to the allegation that he would deny it in any event. Chief Superintendent Lagan's evidence is unambiguous in his understanding of Brigadier MacLellan's words. Although it is a subjective interpretation it supports the case that 1 Para entered the Bogside without the authorisation of 8 Brigade.

The lifting of the barriers

15.2.2.47 The order to 22nd Lt AD to lift barrier 14 did not come from 8 Brigade, rather it came from 1 Para **W128, item 370**. A battalion to battalion command is not the normal method of issuing orders in the army. Whilst the battalion on the receiving end may assume that the battalion requesting has authority for its actions it cannot be sure unless it receives a direct order from a superior command. This uncertainty would be exacerbated if the receiving battalion was not party to a related order broadcast on a net to which they had no access.

15.2.2.48 In the event it would appear that the 22nd Lt AD did comply and passed the order from their headquarters to A Company of the Royal Green Jackets who were manning barrier 14, but they barely had time to react. So rushed was the whole operation that 1 Para had to go through a small gap in the wire on the east side of William Street. Commander C Company said he would have preferred if the barriers had been opened in the middle of the road allowing them to go through in tactical formation rather than single file. **Day 294/151/16**

15.2.2.49 Furthermore, barrier 12 was not mentioned at all by 1 Para in their request/order to the 22nd Lt AD, nor does it feature in the Brigade log. The soldiers manning barriers 14 and 12 were not ready to open them. INQ 1326 who was commanding the troops at barrier 12 said that there was a delay of 10 seconds while his men undid the wire (**Day 301/113/3**). Soldier S, who was driving the lead Pig through barrier 12 told Lord Widgery that he was halted at the barrier for "about a minute" (**B711 E**). 8 Brigade had not indicated that the soldiers at the barriers ought to be ready. The procedure lacked organisation and coherence suggesting that 8 Brigade had been circumvented and 1 Para went in of their own volition.

There was no order

15.2.2.50 All the foregoing factors demonstrate clearly that even if 1 Para had a functional BID 150 unit in Derry it was not used to receive the order to go in. The account provided by the soldiers is false and there was no order to go in at all. 1 Para therefore entered the Bogside without authorisation from 8 Brigade.

15.2.2.51 After he realised that 1 Para had commenced the operation without permission it is alleged that Lieutenant Colonel Steele instructed the log keepers in the Operations Room at Ebrington to retrospectively insert an entry in the log reflecting authorisation from 8 Brigade. It is noteworthy that the order recorded in the Brigade log at serial 159 is commensurate with the level of permission sought by 1 Para in their last request. Lieutenant Colonel Steele could only assume that the operation prematurely launched by Colonel Wilford was the one he had requested.

15.2.2.52 Since the watchkeeper manning the Brigade net would not have heard any such transmission, Lieutenant Colonel Steele knew that he had to take personal responsibility for the alleged order from an early stage. He knew that if he took ownership of this serial that he would be the only person at 8 Brigade HQ who could speak to its veracity. Furthermore, by claiming that only 1 Para had secure means he excluded the resident battalions from the equation, leaving the officers in the Gin Palace as the only remaining people who could answer questions about the order to go in. Neither INQ 1853 or INQ 2033 made a statement in 1972, nor were they called to give evidence to Lord Widgery despite the allegations made by Mr McSparran or the controversy surrounding the order to go in.

15.2.3 If the order was given, in what terms was it given?

15.2.3.1 In the alternative, if it is accepted that there was an order to go in given by 8 Brigade it is submitted that the order was a direct order in precise terms. There was no ambiguity or difficulty in language requiring

interpretation. The order is recorded in the 8 Brigade log at **serial 159, W47**.

Serial	DTG	To	From	Event	Action
159	1609		BM	Orders given to 1 PARA at 1607 hrs for 1 sub unit of 1 PARA to do scoop up OP through barrier 14. Not to conduct running battle down Rossville St.	

15.2.3.2 Lieutenant Colonel Steele insisted at Widgery that the order recorded at serial 159 was only the gist of the order he gave to 1 Para. He explained to Widgery (after some prompting from his counsel[6]) and has maintained since that the order he gave was in the following terms: 1 Para to launch the arrest operation, with one of the sub units going through barrier 14 and a prohibition from conducting running battles down Rossville Street.

15.2.3.3 Brigadier MacLellan says the Brigade Major gave the order in his presence over the secure net. His recollection did not include reference to barrier 14. In his statement to Widgery at **B1235** Brigadier MacLellan says that the orders were that:

"(a) The operation was to be launched forthwith to arrest as many rioters as possible in the area of the junction William Street/Rossville Street.

(b) 1 Para were not to conduct a running battle down Rossville Street and not to get involved with the Northern Ireland civil rights association marchers".

15.2.3.4 In his statement for the Widgery Inquiry Colonel Wilford says that he was "ordered to make arrests" (**B950 paragraph 15**). The only

[6] **B1299** at D where Lt Col Steele's recollection was initially that he instructed 1 Para to use all three companies.

qualification which he says he received was that there were to be "no running battles" (**B988 E**). Colonel Wilford maintains that he did not receive any restriction as to the number of companies in the order (**B1110.032 paragraph 87**).

15.2.3.5 The officers manning the Gin Palace have no direct recollection of the terms of the order which they say came over the secure net. INQ 2033 states that they would have passed on the order word for word **Day 352/159/5 to 352/160/13**.

15.2.3.6 It is worth noting that the 1 Para log bears some resemblance to the order recorded in the Brigade log. It is recorded at **serial 31, W90**.

Serial	DTG	To	From	Event	Action
31	1610	9	+	Move 3 now through K14. Also C/S 1 No running battles	

15.3 Should the order have been given?

15.3.1. The order to commence the arrest operation is timed in the Brigade log as having been given at 1607. At that time 8 Brigade knew or ought to have known that it was unnecessary, inappropriate and reckless in all the circumstances to launch an arrest operation at all.

15.3.2 As comprehensively exposed earlier in section 16.3, separation of the rioters from the marchers was never a key plank of the planning for the arrest operation. If it featured in the thinking of any of the soldiers at all on 30th January 1972 it was no more than an afterthought.

15.3.3 Whether or not separation was in fact a pre-condition enshrined in the planning of the arrest operation, it is submitted that separation never in fact occurred on the day.

15.3.4 Furthermore it is submitted that the rioting at barriers 12 and 14 had subsided to a level where there was no longer a need to disperse the crowd. As a result of the reduction in the numbers involved in the respective riots combined with the distance they were from the barriers, at the point the order was given there was no realistic prospect of arresting more than a few rioters.

15.3.5 Brigadier MacLellan and Lieutenant Colonel Steele either knew or ought to have known that the above circumstances prevailed at 1607.

15.3.6 **The facts surrounding 8 Brigade's decision to launch**

15.3.7 Brigadier MacLellan had made the decision to control the operation on 30th January 1972 from his Brigade Headquarters at Ebrington. Having no view of proceedings or live CCTV link 8 Brigade were entirely reliant on information relayed by units on the ground, both through the Brigade net and telephone land lines. As is demonstrated by Appendix I below all of the relevant pieces of information were in fact broadcast over the Brigade net and are recorded on the Porter tape.

15.3.8 No additional information was received by 8 Brigade to assist in their decision whether or not to launch the operation. Therefore the key source to consider when examining the propriety of 8 Brigade's decision to launch is the Porter transcript. It must be borne in mind however that the decision to launch any arrest operation was in the context of policing a large peaceful march with some civil disorder on the fringes. The table below contains all of the information available to Brigadier MacLellan in the run up to 1 Para entering the Bogside.

Bun W Ref	Item	To	From	Event	Time
W122	268	0	61Y	Zero, 61 Yankee. Head of the column approaching Aggro Corner. Over.	1534
	269	61Y	0	Zero, roger. Now this is important, um, for your to observe whether they now turn down Rossville Street or whether they form in Aggro Corner with a view to pushing on to their original published meeting place. Over.	
	272	0	90A	Zero, this is 90 Alpha. Our call signs report the whole of William Street blocked. Head of the crowd at the William Street/Rossville Street junction. A number have turned away down Abbey Street. Over.	
	273	90A	0	Zero, roger. Can you observe head of the ... whether the head of the crowd are going to intend to push on down William Street or whether they will now be turning down Rossville Street towards Fox's Corner. Over.	
W123	274	0	90A	90 Alpha. Wilco. Out.	
	275	0	61Y	Zero, 61 Yankee. There seem to be quite a few of the crowd breaking away, running down towards Waterloo Place. Over.	
	276	61Y	0	Zero. Roger. Out.	
	277	0	61Y	Zero, 61 Yankee. The main body of the crowd now seems to be halted on Aggro Corner. Over.	
	278	61Y	0	Zero. Roger. Out.	
	279	0	61Y	Zero, 61 Yankee. The crowd now definitely moving down William Street towards Waterloo Place. Over.	
	280	61Y	0	Zero. Roger. Out.	

	281			Zero. Roger.	
	282	0	90A	Hello, Zero, this is 90 Alpha. The head of the crowd has now reached serial 14. The Sunray there is speaking to them at the moment. Currently all is peaceful. Over.	1536
	283	90A	0	Zero. Roger. Out.	
	284	0	90A	Hello, Zero, this is 90 Alpha. Initial reports of crowd becoming hostile at serial 14 and a certain amount of stoning. Over.	1538
	285	90A	0	Zero. Roger. Out.	
	288	0	90A	Hello, Zero, this is 90 Alpha. Currently Rucsack is talking to the crowd at serial 14. As far as the crowd is concerned, William Street and Creggan Street are completely blocked at the moment and we get reports of continued movement from Lone Moor Road into the area. Over.	1539
	289	90A	0	Zero, roger. And is there more reports of violence in the area of 14, and is it now in fact spreading towards 12 and 13? Over.	
	290	0	90A	90 Alpha. No. We only had an initial indication of a limited amount of stoning. Latest reports show that Rucsack are talking to the crowd there. Over.	
W124	291	90A	0	Zero. Roger. Out.	
	296	0	76	Hello, Zero, this is 76. The tail of the crowd has just reached the junction Westland Street/Lone Moor Road. We believe the estimate of the size of this crowd to be considerably in excess of the 3,000 which was reported earlier. Over.	1540
	297	76	0	Zero. Roger. Out.	

	298	0	90A	Hello, Zero, this is 90 Alpha. The crowd has spilt across to serial 15 and are being stoned by about 50 in that area at this time. Over.	1541
	299	90A	0	Zero, roger. Say again numbers. Over.	
	300	0	90A	90 Alpha. I say again, five zero. Over.	
	301	90A	0	Zero. Roger. Out.	
	302	0	76	Zero, this is 76. Rucsack estimates the size of the crowd at about 10,000 now. Over.	
	303	76	0	Zero. Roger. Out.	
	304	0	61Y	Zero, this is 61 Yankee. There's a general drift of, I suppose, about 100 cro... people from Aggro Corner into the waste ground by the Flats in Chamberlain Street. Over.	1542
	305	61Y	0	Zero, roger. Would you care to comment on the latest report received from Rucsack, which is that the overall size of the crowd is now 10,000. Over.	
	306	0	61Y	61 Yankee. We still maintain that it is more in the region of 2,000. The crowd is very spread out and this gives the appearance that there are very many more people taking part than are actually there. Over.	1542
	307	61Y	0	Zero. Roger. Out.	
	308	0	76	Zero, this is 76. The tail of the column is now Lone Moor Road/Creggan Terrace. Over.	1544
	309	76	0	Zero. Roger. Out.	
W125	310			Zero Alpha. Roger. Out.	
	311	0	61Y	Zero, this is 61 Yankee. Your large water pistol seems to have removed all the crowd now onto Aggro Corner. There seems to be a general move down, er, down Rossville street. Over.	
	312	61Y	0	Zero. Roger. Out.	

	313	0	90A	Hello, Zero, this is 90 Alpha. A certain amount of stoning at serials 14 and 15. Neptune has been used at serial 14 with considerable effect. Over.	
	314	90A	0	Zero. Roger. Out.	
	315	0	61Y	Zero, this is 61Y. Reference the state of the crowd, apart from the hooligan fringe, the vast majority of people now in the area of the waste ground by the Flats and on the ... on Aggro Corner look as though they're not quite sure what they're going to do next. Over.	1547
	316	61Y	0	Zero, roger. Can you estimate the numbers of this group now? Over.	
	317	0	61Y	61 Yankee. We still reckon that it's about ... it's in the region of 2,000 people. Over.	
	318	61Y	0	Zero. Roger. Out.	
	319	61Y	90A	90 Alpha. Roger. Out to you.	
	320	0	90A	Hello, Zero, this is 90 Alpha. Our call signs confirm that general movement of crowd, although there is a hooligan fringe at serials 14 and 15. Some CS has been used, but this was used by them. I repeat: used by them. Over.	1548
	321	90A	0	Zero. Roger. Out.	
	322	0	90A	Hello, Zero, this is 90 Alpha. Serials 12 and 13 also under heavy bombardment from normal hooligans. Over.	1549
	323	90A	0	Zero. Roger. Out.	

W126	326	0	90A	Hello, Zero, this is 90 Alpha. Our sub units at call ... serials 12 and 13 have had to disperse the hooligans with rubber bullets and gas. They have been dispersed now into the general area of waste ground Rossville Street/William Street. Little James Street is completely clear. They report that some of the hooligans were wearing respirators, though not of similar pattern to ours. Over.	1550
	327	90A	0	Zero. Roger to all that. What is the current situation at your 14 and 15? Over.	
	328	0	90A	90 Alpha. Wait. Out.	
	329	0	61Y	Zero, 61 Yankee. The general movement of the main body of the crowd seems to be down Rossville Street towards the area of the Flats. There is a flat-top lorry down behind the flats. Whether or not this is going to be used as a speakers' platform I wouldn't like to say just yet. Over.	1552
	330	61Y	0	Zero. Roger. Out.	
	331			Roger, Alpha. Roger. Out.	
	332	0	90A	Zero, this is 90A. Reference your query regarding serials 14 and 15. 15 is clear, but serial 14 is suffering from a certain amount of stoning from the same hard core of hooligans on the Rossville Street/William Street corner. Over.	1551 1553
	333	90A	0	Zero. Roger. Out.	
	334	0	90A	Hello, Zero, this is 90A. Our call signs estimate numbers on Aggro Corner at the moment about 200. Over.	1554
	335	90A	0	Zero. Roger. Out.	

	338	0	61Y	Zero, this is 61 Yankee. General state of the crowd. It now stretches between Aggro Corner, which has just had some more gas/cs? put on it, down to about 100 yards beyond the Flats. People are generally spreading out and the drift of people is definitely down to beyond the Flats and back the way they came, they came. Over.	1554
W127	339	61Y	0	Zero. Roger. Out.	
	346	0	76	Zero, this is 76. There's a minor stoning now at serial 9. Over.	1558
	347	76	0	Zero. Roger. Out.	
	348	0	61Y	Zero, this is Kilo 61 Yankee. General crowd movement now is down into the Lecky Road from the area of the Flats. It seems as though a lot of people feel they've made their protest and are now returning back to their homes.	1559
	349	61Y	0	Zero. Roger. Out.	
	350	61Y	90A	90 Alpha. Roger. Out.	
	351	0	76	Hello, Zero, this is 76. Approximately 200 people are being addressed by someone with a loudspeaker at Free Derry Corner. Over.	1601
	352	76	0	Zero. Roger. Out.	
	353	90A	65	Hello, 90, this is 65. Is there still a hooligan element in the area above barrier 14? Over.	
	354	90A	65	Hello, 90, this is 65. Over.	
	355	65	90A	90 Alpha. Send. Over.	
	356	90A	65	65. Is there still a hooligan element in the area William Street/Little James Street and around barrier 14? Over.	
	357	65	90A	90 Alpha. Yes. Over.	1602

	358	90A	65	65, roger. Would you mind informing Zero of this, as they don't appear to believe us on this point. Over.	
	359	65	90A	90 Alpha. Wait. Out.	
W128	360	90A?	0	Zero, roger.	
	361	0	76	People in the Creggan Road seem to be dispersing in a northerly direction suffering from the effects of CS gas, which was not thrown by us. Over.	1602
	362	76	0	Zero. I missed the first part of that transmission. Say it again. Over.	
	363	0	76	76. Crowd in Creggan Road seem to be dispersing in a northerly direction. Over.	
	364	76	0	Zero. Roger. Out.	
	365	0	90A	Hello, Zero, this is 90A. There is now a crowd of about 500 on Fox's Corner being addressed from a loudspeaker van. These appear to be normal civil rights people. There's still a crowd of about 150 hooligans at junction Rossville Street/William Street. Over.	1603 1604 (3)
	366	90A	0	Zero. Roger. Out.	
	367	0	90A	Hello, Zero, this is 90 Alpha. People at the moment are advancing on the House Martin-wrong, on serial 14, using a corrugated iron shield. Have you any idea yet what time it was 65 was going in? Over.	1609
	368	90A	0	Zero. Roger to your first. As for your second, leave that for the moment. Out.	
	369	0	76	Zero, this is 76. Most of the people in Creggan Road which are dispersing are children, women and old people. Out.	1609

	370	90A	65	Hello, 90, this is 65. Can you lift barrier 14, where our call sign will be coming through? Over.	
	371	65	90A	90 Alpha. Wait. Out.	
	372	90A	65	Hello, 65, this is 90A, serial 14 now being lifted. Over.	1609
	373	65	90A	64 [sic], roger. Out.	
	374	65	0	Zero. Roger. Out.	
	375	0	61Y	Zero, this is 61 Yankee. The crowd as I see it now is about 70 in Chamberlain Street. The people on Aggro Corner have been driven away by the last fusillade of gas cartridges, are moving down towards the meeting, which has now in strength to I think about 200 people on the corner behind the Flats. Over.	1610
W129	376	61Y	0	Zero. Roger. 90 Alpha, acknowledge. Over.	
	377	90A	0	90 Alpha, acknowledge. Over. 90 Alpha, did you hear that last from 61 Yankee? Over.	
	378	0	90A	90 Alpha. No. Over.	
	379	90A	0	Zero. Roger. There are 70 hooligans in Chamberlain Street. Ah, most of those who have dispersed from Aggro Corner are moving down, ah, are moving down Rossville Street. Over.	
	380	0	90A	90 Alpha. Roger. Out.	
	381	0	61Y?	Ah, Zero, the appearance of the pigs and four tonners in Rossville Street has now effectively moved all the crowd out of Chamberlain Street and they are now forming behind the Flats. Over.	1612

Porter Transcript Excerpts

Timings taken from 8 Brigade Log

15.3.9 The best anyone in possession of the above information could have said about the situation just before 1607 hours was that 500 or so people had gathered to hear speeches at Free Derry Corner and 150 or so rioters were present at the junctions of William Street/Rossville Street. In our submission, given the general drift of people away from the march and the rioting, it would also have been valid to surmise that there were people strung in unknown numbers between these two groups. On the basis of the above transmissions there was no way of knowing whether separation of the rioters and the marchers had occurred.

15.3.10 The photographs taken by Mr Tucker from Block 2 of the Rosville Flats (**EP28.1** *et seq*) demonstrate the disposition of the crowd on Rossville Street and the wasteground immediately prior to and after the entry of 1 Para into Rossville Street. They show a large number of people spread around the wasteground at Rossville Street giving lie to notion that any kind of separation had occurred at all. Brigadier MacLellan told this Inquiry that he did not realise that this was the scene on Rossville Street (**Day 263/6/6 to 263/6/14**). It is our submission that although he couldnot be sure of the exact scene on Rossville Street Brigadier MacLellan suspected that there were many innocent bystanders along the length of the street.

15.3.11 It is submitted that the reason that Brigadier MacLellan placed the "no running battles" restriction on 1 Para was to prevent them becoming embroiled with the marchers.

15.3.12 Brigadier MacLellan and Lieutenant Colonel Steele between them knew that "spectators" were a regular feature at the fringes of riots. These persons, who did not assist those rioting, but who were curious to watch the confrontation with the army were present at every riot.

15.3.13 The staff at 8 Brigade HQ were aware that the topography of the entire area surrounding the Rossville Street/William Street junction made the likelihood of conducting a successful arrest operation targeted at rioters based at that junction minimal. From the junction of Rossville Street/William Street there are myriad routes available to escape snatch operations conducted either on foot or in vehicles. In fact soldiers conducting an operation in vehicles would be hampered in pursuit of fleeing rioters through the numerous side alleys and walkways in the vicinity of Columbcille Court, Glenfada Park and Abbey Park.

15.3.14 It is submitted that the riot was no more severe than usual and Brigadier MacLellan was not given any indication by the units on the ground that the situation was getting out of hand. In fact 22nd Lt AD told 8 Brigade at 1551:

"15 is clear, but serial 14 is suffering from a certain amount of stoning from the same hard core of hooligans on the Rossville Street/William Street corner" (**W126, item 332**).

15.3.15 Brigadier MacLellan conceded in his evidence that soldiers coming from barrier 12 would have faced considerable difficulty in making legal arrests, a matter which was of some concern to him prior to the march **Day 262/98/14 262/102/3**. In the event 8 Brigade did not make any attempt to ensure that 1 Para had been watching the stone throwing at barriers 12 and 14. As a result Brigadier MacLellan knew that any arrests made were in danger of being illegal arrests.

15.3.16 In the minutes leading up to 1607 Brigadier MacLellan, on the basis of the information he received, could not have believed:

(i) that separation of the rioters from the marchers existed, or

(ii) that an arrest operation against the remaining rioters was necessary or safe

15.3.17 For all of the above reasons at the time of launch 8 Brigade knew or ought to have known that there was no real prospect of arresting any

more than a handful of stone throwers at the risk of putting Parachute Regiment soldiers into close proximity with large numbers of civil rights marchers.

15.4 Nature of the order given

15.4.1 Brigadier MacLellan, Lieutenant Colonel Steele, Colonel Wilford and other former soldiers have asked the Tribunal to accept that when Brigadier MacLellan gave 1 Para the order to commence the arrest operation he implicitly left Colonel Wilford carte blanche in the conduct of the operation.

15.4.2 The Tribunal in our submission ought to reject this argument completely. The former soldiers propounding this construct wish this Tribunal, over 30 years later, to retrospectively authorise actions which were expressly forbidden in plain English in the order actually given.

15.4.3 In our submission, if an order was given at all which is disputed, it is accurately recorded in the Brigade log at serial 159. This order is broadly reflected in the 1 Para log, except that the 1 Para log has A Company (C/S 1) moving in addition.

15.4.4 In effect 8 Brigade gave authorisation for 1 Para to conduct the operation requested at 1555: "He [Wilford] would like to deploy one of his sub units through barrier 14 around the back into the area William Street/Little James Street. He reckons if he does this he will be able to pick up quite a number of yobbos".

15.4.5 Brigadier MacLellan authorised a snatch operation to be conducted by C Company from barrier 14 up to the junction of William Street/Rossville Street. The Brigadier knew that rioters would flee down Rossville Street but did not want 1 Para soldiers to chase after them into the general crowd and so placed the "no running battles"

limitation on the operation. His expectation was that, in line with the Operation Order, that it would be conducted on foot.

15.4.6 In our submission there is no mystery to the order given by Brigadier MacLellan. Reading more into the words than are present or disregarding portions of it are merely attempts to obfuscate simple English with illogical jargon.

15.5 Lack of liaison between units & no semblance of pincer movement

Colonel Wilford's O-Group

15.5.1 Colonel Wilford briefed his company commanders and battalion staff on 28th January 1972. Notes prepared for this purpose are at **G94.562**, with the hand-written version at **B968.1**. Wilford states at **G94.562**
"If the march takes place and confrontation becomes hostile, the battalion will deploy forward to break up the rioters and make the maximum number of arrests. At this stage I cannot give a detailed tactical plan. I will give the company deployment in our forming-up position and then give my concept of how I think the battle can go".
The notes are extremely sparse as acknowledged in Colonel Wilford's accompanying note B968.5

15.5.2 In his statement to this Inquiry Colonel Wilford says that whatever option he took it would be a pincer involving all three companies in order to conduct the operation **B1110.027 paragraph 54**.

A Company's planning and movement

15.5.3 Commander of A Company INQ 10 made a statement on 31st January 1972 including a Diary of Operations at **C10.8**. He states that he was given orders at 1612 to "advance into Lower Road and turn East into

William Street to assist Sp Coy in their task of arresting rioters at the William St/Rossville St junction"[7]. He goes on to describe the outcome:

"My movement caused the rioters to my front to run in the direction of Sp Coy, where some of them were arrested".

It is implied in the above entry that A Company's movement was co-ordinated with that of Support Company in the overall scheme of the arrest operation.

15.5.4 However this alleged co-ordination is not reflected in any planning as understood by INQ 10. He says in his statement to this Inquiry at **C10.3 paragraph 17** that he knew that A Company was on the right flank of the operation, and that his task was a simple one:

"'A' Company's task was simple – if there was rioting in front of us then we were to make arrests".

In oral evidence INQ 10 gave more detailed evidence about his understanding of his mission that day:

A. As far as I was concerned, A Company -- as I recall, A Company was -- my task was to arrest rioters to my front, wherever my front might happen to be.

Q. So if one goes back to your operational order at B1343.8, and if one looks at the second sentence:

"... I received orders for an operation in Londonderry from my commanding officer. These operations were to commence on 30th January 1972, and involved my company in a support role. Its task was to arrest any members of the NICRA march who were rioting in my area."

Then you give:

"To this end I gave orders to my to cover.

"Mission. To arrest persons involved in riotous behaviour."

So again, does that operational order tend to

[7] INQ 10 no longer has a recollection of the actual order which came through to him. (**Day 289/16/9 to Day 289/16/12**)

confirm that your function was to arrest rioters who were operating ahead of you or to your front, as you have just indicated?

A. Unless I was ordered to do something -- to operate elsewhere. **Day 289/44/1 to Day 289/44/21**

15.5.5 Furthermore the assertion that A Company's movement caused rioters to run and be arrested by Support Company does not stand up to scrutiny. It is accepted that Support Company did not arrest any rioters at the junction of William Street/Rossville Street. In fact they never stopped at the junction of William Street/Rossville Street. If A Company turned left down William Street, the most they could have seen of Support Company would have been a convoy of Pigs sweeping across the junction from left to right and out of sight. It is most improbable that anyone fleeing snatch squads moving west down William Street would have run in a straight line into the waiting arms of soldiers at the east end given the myriad escape routes offered by Little Diamond, Abbey Street and the various burnt out buildings leading into Columbcille Court. Taken at its highest, on 31st January 1972 INQ 10 could only have guessed in hindsight that some of the people that his company chased from the area of William Street/Lower Road in fact ended up being arrested by Support Company on Rossville Street.

15.5.6 Rather than joining up with Support Company at junction of William Street/Rossville Street (sic) INQ 10's current recollection was that his company ended up among some buildings but not on open ground (**Day 289/27/14 to Day 289/28/1**). His 1972 Diary of Operations puts the distance covered by A Company as 100m, which is only as far as the junction of Abbey Street.

15.5.7 INQ 10 at all times expected to go in on foot. This would have been in accordance with the Operation order **G95.570** In his 1972 Diary of

Operations, under "Crowd control" at **C10.8** INQ 10 ordered as follows:

"a. Snatch squads. To op using cover men (armed with SLR) and baton gun men.

b. Movement. In tactical bounds of no more than 20m.

c. Cover. No movement without cover."

15.5.8 He confirmed in unequivocal terms at **Day 289/18/6 to Day 289/19/2** that he anticipated that the operation would be conducted on foot:

"MR RAWAT: So, to affect these arrests, you would have had to deploy on foot.

A. Correct. Lightly clad, helmets and batons.

Q. So was consideration ever given to A company deploying in vehicles?

A. Well, you would not be using snatch squads -- it is possible to be using snatch squads and vehicles in tandem, but you would normally use the vehicles to get from A to B quickly then debus and snatch. But, you know, it depends on the situation. What I am trying to say here is simple: you cannot lay down -- well, you can and always attempt to lay down a plan as to what will happen. But all you can do in reality is to make sure that everybody is aware what the task is, the main task, and then you deploy according to the situation.

Q. But your recollection as to the operation -- or A Company's role in the operation on 30th January was that you deployed on foot?

A. That would be my expectation. However, if one of the other companies was in -- not so much in difficulty, but was exceptionally busy and needed additional assistance, we may well use vehicles to get to them.

15.5.9 The junction of Lower Road with William Street is some 300 metres away from the junction of William Street/Rossville Street. Given that

INQ 10 had instructed his men to move in "tactical bounds of no more than 20m" it would have involved around 15 bounds with soldiers leapfrogging and providing cover the whole way down William Street to get to the junction of William Street/Rossville Street. The length of time required to undertake such a manoeuvre for all practical purposes excluded A Company from involvement in any arrest operation targeted at the William Street/Rossville Street junction. Rioters would have had adequate time to escape within the time that A Company had made their first few bounds. The simple geography of A Company's position put them out on a limb, incapable of linking with the other companies of 1 Para.

15.5.10 In the event Support Company entered the Bogside mounted in vehicles. They passed the William Street Rossville Street junction and stopped on the waste ground and on Rossville Street. As a result, A Company's advance on foot down William Street was rendered even more detached from Support Company's line of assault. A Company had not been instructed to enter in vehicles to link up with Support Company, and in fact it is submitted that they were not aware that Support Company had mounted their vehicles.

15.5.11 A Company were briefed to use snatch squads to arrest rioters in front of their barrier. They were never intended to be part of any larger manoeuvre.

C Company's planning and movement

15.5.12 Soldier 221A, the Company Commander of C Company does not have a current recollection of any briefings he received prior to 30th January 1972 (**B2168.001 paragraph 4**). He expected that he would have been given limitations and boundaries prior to the operation otherwise it would have just been "a general scrum" (**Day294/185/2**).

15.5.13 However Soldier 221A told this Inquiry that the operation planned was no different from normal snatch operations:

"Q. Do you recall whether this was to be an arrest operation of the kind that you had carried out in Belfast, as I understand it, therefore what might be called a snatch operation; no different?

A. No different.

Q. Was there any concept, as you understood it, that companies of the Parachute Battalion would encircle rioters and arrest them in that way?

A. Not encircle them, but possibly two companies working, co-ordinated together, pushing -- I mean, it was never the case to encircle people so that there is nowhere for them to disperse. The whole point about riot control or dispersing a riot situation is that there should be somewhere for the people to disperse to.

Q. That was why, Major, I asked you the question, because in paragraph 19 of your statement you do talk about going into disperse the rioters and arrest them. Would you like to look at that?

A. Yes.

Q. 2168.003, paragraph 19?

A. Yes, I have it here.

Q. "Two platoons went through the barrier on foot. The First Platoon intended to confront the rioters with the rest of the company following in support. The lead platoon chased the rioters west ..." and so on.

Your recollection now anyway is that the intention was to confront the rioters and disperse them by making them run away and catch as many as you could?

A. That is correct.

Q. Could it be that your memory today is entirely faulty and that there was in fact a known plan which you would have known, to encircle the rioters and, as it were,

draw them back towards the barricades of the soldiers and arrest them in that way?

A. No.

Q. It is not a lapse of memory, you say that certainly was not the position as far as you were concerned?

A. That is correct". (**Day 294/182/4 to 294/183/16**)

There was no co-ordinated plan

15.5.14 From all the foregoing, it is clear that there was no prior planning involving a specific shape to the operation, whether designated stop lines or two pronged pincer movement. Wilford's claims in this regard are best case scenario hindsight planning.

15.5.15 Neither of the company commanders who would have constituted the snapping arms of the pincer or the hammer or anvil had any knowledge of prior planning of a pincer. Nor do they recollect such manoeuvres being co-ordinated over the Company net radio on the day. Their tasks as far as they were concerned were to arrest any rioters directly in front of their barriers.

15.6 Lack of control over operations

15.6.1 MacLellan failed to restrain 1 Para and impose his will on soldiers directly under his command. This was due in part to the pressure he was put under by 1 Para and the presence of Ford and his stated wish to see an arrest operation.

15.6.2 Lieutenant Colonel Steele failed to recognise the full scale of the incursion undertaken by 1 Para and failed to ensure that his order to withdraw was complied with.

15.6.3 Colonel Wilford lost control of his companies and failed to regain control.

15.7 Level of control retained by 8 Brigade over arrest operation

15.7.1 The Operation Order for Operation Forecast is unambiguous as to where the authority for the deployment of 1 Para lay on the day. Under "Tasks" it is stated:
"(1) (a) This operation will only be launched, either in whole or in part, on the orders of the Bde Comd." **G95.570**

15.7.2 It is obvious that in giving his order the Brigadier could not direct every single soldier, nor would he attempt to dictate the deployment and disposition of the individual platoons involved. However the key decision which was required of Brigadier MacLellan was whether he felt the rioting merited a full 3 company launch or a more limited approach.

15.7.3 Furthermore, whatever latitude is given to a subordinate in the implementation of his orders, it is submitted that military practice dictates that a commander never cedes certain portions of his authority. In the ordinary course of army business a commander retains the right to give any of the following orders at any time in the execution of an operation:

(i) to commence the operation (unless a criteria based order has been clearly drafted, specifying exact criteria, which once fulfilled automatically grant authority to commence to the subordinate)
(ii) to postpone the operation, for a set period or indefinitely
(iii) to draft reserves to assist in the operation
(iv) to scale down the force involved in the operation
(v) to vary the objectives of the operation
(vi) to abort the operation, at any time prior to and during the operation

15.7.4 In wartime, the retention of instantaneous tactical and strategic control is essential to the hierarchical functioning of an army. It allows a commander to continuously re-evaluate the overall situation, which a subordinate on the ground cannot do, while also minimising the scope for maverick actions by individuals in the chain of command. It is submitted that in a policing context such as that of 30th January 1972 it was or ought to have been evident to those responsible for planning, that the retention of tactical and strategic control was of even greater importance than in a battlefield situation.

15.7.5 Brigadier MacLellan has not suggested that he was given orders by General Ford or General Tuzo to grant 1 Para any more autonomy than normal and therefore, in theory, he retained full control and responsibility for the arrest operation.

15.7.6 The argument advanced by various military witnesses (MacLellan, Wilford, Steele, Mike Jackson) was that Colonel Wilford was granted extremely wide discretion in the planning and execution of the arrest operation. General Sir Michael Jackson spoke at length on the concept of "mission command". He asserted that the mission to arrest as many hooligans as possible was delegated to 1 Para as a battalion to execute as it saw fit once the order to go had been given.

15.7.7 Whilst it is accepted that Colonel Wilford was the appropriate officer to formulate the details of the plan [albeit, as submitted previously, after consulting local officers from resident battalions] at the point that he submitted his proposed plan to the Brigadier in the form of a request for permission his latitude ended and Brigadier MacLellan's discretion began.

15.7.8 It is submitted that the conduct of the soldiers on the ground does not accord with an understanding congruent with the level of delegation now claimed. The detailed requests by 1 Para outlining the scope and

intended target for their operation indicate a level of subordination on the part of Colonel Wilford incompatible with a claim of complete autonomy. Furthermore the restrictions contained within the alleged order from 8 Brigade when given their ordinary meaning strongly contradict any claim to carte blanche.

15.7.9 If Brigadier MacLellan did indeed concede authority to Colonel Wilford in the manner suggested by General Jackson, his actions constituted a dereliction of duty, and an act of negligence and/or recklessness in all the circumstances.

15.8 ROLE AND RESPONSIBILITY OF WILFORD AND LODEN

15.8.1 8th. Brigade had achieved its professed purpose of containing the march by 4.05 pm. There were still some rioters active in the William Street/Rossville Street area but these could have been dispersed without difficulty. Had the arrest operation not been launched or had it been launched in accordance with the terms of either Operation Forecast, or the Order as reportedly given by 8th Brigade at **W47 serial 159**, which authorised "1 sub unit of 1 Para to do scoop up op through barrier 14. Not to conduct running battle down Rossville St.", then it is probable that the rest of the day would have passed off without further serious incident.

Wilford and Loden were the 2 most senior officers responsible for the command and control of 1 Para on the day.

15.8.2 **Wilford General Responsibilities**

Wilford as the Commanding Officer ought to have been in a position:

i. To receive and comply with 8th Brigade orders;

ii. To co-ordinate the activities of each of the 3 companies directly under him;

iii. To direct their officers to ensure compliance with his precise instructions;

iv. To maintain an overview of everything that was going on;

v. To ensure that communications with each company was sufficient to enable him to have the information necessary to a detailed understanding of the current deployment and engagements of each company and its sub units;

vi. To redirect the disposition of troops in light of developing events;

vii. To determine whether the situation on the ground required any alteration to the original concept of the plan;

viii. To inform Brigade if the original concept had to be altered;

ix. To keep Brigade informed as to any developments, whether in the execution of the plan as devised or adapted;

x. To comply with the orders of Brigade;

xi. To establish a headquarters that would provide a base for achieving the above objectives;

xii. To avoid becoming personally embroiled in a particular aspect of the operation;

To remain in his command post;

xiii To avoid personal action that would jeopardise his capacity to discharge his overall responsibilities.

xiv To provide leadership through the commissioned officers to ensure that the soldiers on the ground remained disciplined and under control.

15.8.3 **Loden's General Responsibilities**

i. To receive and comply with the orders of the Commanding Officer;

ii. To inform and instruct his men on the arrest operation;

iii. To co-ordinate the actions of each of the platoons under his command;

iv. To maintain proper communications with each of his platoons;

v. To maintain proper communications with 1Para H.Q.

vi. To inform 1 Para H.Q. of any developments in the deployment or engagements of his men;

vii. To inform 1 Para H.Q. of anything which might have had significance for the overall execution of the plan for the day;

viii. To maintain proper lines of command and control through his commissioned and non-commissioned officers;

ix. To ensure compliance with the concept of the operation;

x. To ensure that any alterations to the original plan were fully understood and complied with;

xi. To ensure that he understood the precise nature and extent of any order he was given;

xii. To ensure that he gave orders in precise and clearly understood terms to those under his command;

xiii. To set clearly defined parameters to the area of discretion to be exercised by each category of men under his command;

xiv. To direct and control fire by his men;

xv. To maintain a command post and position that would best assist in the discharge of his command functions;

xvi. To ensure compliance with his orders;

xvii. To ensure that his men and their officers understood and respected the rules of engagement under the Yellow Card;

xviii. To ensure that he was aware of the deployment of his men and the reasons for such deployment;

xix. To ensure that his men were at all times under the effective control of their officers;

xx. To prevent a situation developing, which would result in, each soldier being left to make individual judgments as to a proper response to events.

15.8.4 **Support Company in Action**

The theoretical role of Colonel Wilford and Major Loden bears little, if any, resemblance to what occurred on the day.

Support Company entered the Bogside at approximately 4.10pm on Sunday the 30th January 1972. It entered contrary to all orders and expectations.

i. It entered without permission from 8th. Brigade, **W47 serial159;**

ii. It entered in vehicles and not on foot, contrary to Operation Forecast, **G95.570 paragraph 9 (f)**;

iii. No arrest operation was carried out at the junction of William Street/Rossville Street

iv. A running battle was conducted down Rossville Street contrary to 8th Brigade Order, **W47 serial 159**

v. No order was given as to where any vehicle under the command of Major Loden was to stop

vi. It was left to the discretion of the commander of each vehicle where they might chose to stop and debus, **Day 346/40/1 to Day 346/40/22**;

vii. As the vehicles stopped, even temporarily, soldiers discharged rubber bullets without the identifying a particular target **V48/12.26**

viii. No officer expressed any disapproval at the firing of rubber bullets at random, and indeed such action must have been condoned

ix. Shots were fired over the heads of demonstrators, contrary to the Yellow Card, by Lieutenant N and Soldier P

x. Soldiers T and V fired in circumstances which were unauthorised by the Yellow Card

xi. 108 shots were fired by Support Company based upon the individual judgment of the firer rather than under the control or order of a superior officer

xii. Soldiers S and H laid down fire in a particular area contrary to the Yellow Card

xiii. Soldiers failed to cease firing when ordered so to do, **V3/5.30**

xiv. As no officer ordered any individual soldier to fire, no officer can account for any those killed or injured on Bloody Sunday

xv. No contemporaneous explanation supplied by those who fired accounts for 13 deaths and 14 wounded

xvi. To this day there is no explanation as to where the members of Anti-tank Platoon went after they left the low wall at Kells Walk **V48/11.38**

xvii. There is no satisfactory explanation as to why Colonel Wilford should have left his command post and gone to observe events on the ground as opposed to controlling them from a distance

xviii. There is no explanation as to what the officers were doing which prevented them from exercising command and control of their men and the fire in which they were engaged

xix. There is no satisfactory explanation as to the poverty of the communication between Loden and his Platoons, between Loden and 1 Para H.Q., and between 1 Para and 8th Brigade

xx. There is no explanation as to how one soldier could fire 19 shots at 1 target in 1 location and not one other soldier witness or 1 officer comment on this

15.8.5 **Wilford's Responsibility on the Day**

15.8.5. None of the radio logs records any authorisation for Support Company to enter the Bogside or instruction to any of the resident battalions to carry out any collateral act to assist the entry of Support Company. See 8th Brigade log **W47 serial 159**, 1 Para log **W90 serial 31**, or the Porter log **W128 serial 370** .The Porter log records that 8th Brigade is informed at 16.13 that Support Company have moved south through the church to the area of William Street, directly south of the church, **W129 serial 387**.

Major Loden insisted, **Day 345/28/1 to Day 345/28/6**, that he was ordered to take Support Company through barrier 12 in vehicles. Thus it must be that the order for Support Company to go into the Bogside came from, either directly or indirectly, Colonel Wilford. Colonel Wilford had

told the Widgery Tribunal, at **B1110.93 paragraph D**, that Brigade were perfectly aware that he had 2 companies to go through and that he intended to put them through. This may have been his settled intention but it was contrary to the express provisions of Operation Forecast at **G95.570** paragraph 9f which specifically reserved the right to launch the arrest operation "in whole or in part" **to 8th Brigade.**

15.8.5.2 The primary responsibility of Colonel Wilford for what occurred after Support Company entered the Bogside lies in that he launched an arrest operation that had not been authorised in the terms in which a Company, which had not been authorised to take part, executed it, and in an area that had not been anticipated.

The misinformation furnished to 8th Brigade as to how Support Company had entered William Street through the church contributed to confusion and adversely affected the ability of Brigade to exercise proper control over the whole operation. **W129 serial 387**.

15.8.5.3 The last minute alteration to his proposed method of entry for Support Company, if Major Loden's evidence is corrected at **Day 345/25/1 to Day 345/25/25**, meant that Support Company were ill prepared, ill informed as to the situation on the ground and with little opportunity to apprise itself of what, if any, tactics would be appropriate.

Colonel Wilford gave no additional information or orders to the Commanding Officer of Support Company as to:

(i) How he should carry out the arrest operation;

(ii) Where he should be carried out;

(iii) How to co-ordinate his part in the operation with the other companies involved;

(iv) What his precise role was in the scheme of things;

(v) Where the other companies were located;

(vi) How the use of vehicles might be integrated into the plan;

(vii) The nature and the disposition of the crowd, which Support Company had not observed.

He also failed to:

(i) pass on the limitation that no running battles were to be conducted down Rossville Street;

(ii) provide any assistance how in all the circumstances Support Company soldiers could distinguish between those who had been rioting and other members of the crowd.

15.8.5.4 Colonel Wilford's behaviour in abandoning his command post at a crucial moment is inexplicable as he was thereby denying himself the critical input necessary to demonstrate leadership when it was most required. In abandoning his post he effectively abandoned command and control of the operation. His response to questioning on **V3/7.10** demonstrates how hopelessly out of touch he was with events on the ground and, if he was not dissembling, how he was struggling for information that it was his duty to be apprised of as a prerequisite to the discharge of his command.

15.8.5.5 His assertion to the Widgery Tribunal that he checked with the men at Kells Walk wall and that they were in "perfect control", see **B1110.70 paragraph E**, rings rather hollow.

Colonel Wilford's anxiety to carry out an operation was achieved at the absolute failure to calculate the risk to innocent civilians, see **B1110.98 paragraphs B to C**. This failure infected every decision made in relation to the specifics of the execution of Operation Forecast and contributed with singular significance to the subsequent outcome.

15.8.5.6 Indeed the first omission of the day, the failure to inform Brigade that he had moved troops forward of the central blocking points, contrary to the Brigade Operations Order **G95.578 paragraph 7 (e)**, to the Abbey Taxis building where they would attract the attention of the marchers as they

would require to be protected by clearly visible soldiers on the post office flat roof, reflects a failure of understanding of the complexities of the situation that he was dealing with.

15.8.5.7 His failure to inform Brigade that a shot had been fired at his men at a time when he was seeking to put pressure on Brigade to launch an arrest operation into the Bogside cannot be explained away on the basis of lack of appreciation of its potential significance. The knowledge of the presence of armed men, in itself, would have to be weighed by Brigade in making its determination as to whether the arrest operation should proceed.

15.8.5.8 The fact that a shot had been fired at members of Machinegun Platoon would inevitably have lead to Brigade seeking further information as to all the circumstances which surrounded the firing including whether fire had been returned and whether any one had been hit or wounded. Such inquiries would have lead to the revelation of all that occurred in the vicinity of Abbey Taxis. Had such information been made available to 8th Brigade it must surely be problematic as to whether any arrest operation would have been authorised. It is difficult to avoid the conclusion that Colonel Wilford would have been unaware of the implications of the provision of accurate information to Brigade in respect of the "drainpipe shot".

15.8.6 **Loden's Responsibility on the Day**

15.8.6.1 **Prior to entering the Bogside**

15.8.6.2 Colonel Loden, the officer commanding Support Company, emphasised 2 important features of his role on the day, namely to maintain firm control over his men and ensure that he was in apposition to provide meaningful leadership by communication with the officers under his command and with Battalion H.Q.

15.8.6.2 The decision to locate Machine-Gun Company in the derelict building formerly occupied by Abbey Taxis was apparently taken in conjunction with Colonel Wilford, whose primary duty it was to inform Brigade of this change to the Brigade Operations Plan. The decision to locate Machine-Gun Platoon in this building had the collateral consequence of the deployment of some members of Mortar Platoon on the flat roof of the Post Office building to the east, **P201**. This immediately resulted in troops becoming visible and vulnerable to attack given that this disposition was both intrusive into the Bogside and isolated from the protection offered by the resident battalions.

15.8.6.3 At 1550hrs. Colonel Loden claimed that he heard one high velocity shot, fired from the direction of the Rossville Flats, at the Motor Platoon and this shot stuck the drainpipe on the Church, approximately four foot above their heads. A few moments later he heard several shots from the Machine-Gun Platoon and he turned and saw a man fall at the corner of a building on the south of William Street. This man was taken away. He spoke to the Platoon Commander on his forward link and was told that a nail bomber had been shot. See **Day 345/40/9 to Day 345/42/12**.

15.8.6.4 This account of events was never communicated to either 1 Para H.Q. on the battalion net, nor to Brigade on the Brigade net. There is no record of any such communication on the Porter tape.

The implications for implementation of the Brigade arrest operation were clear:

i. There was at least 1 gunman armed with a high velocity weapon operating from the Rossville Flats;

ii. That gunman was prepared to shoot soldiers who were exposed and vulnerable;

iii. There was a possibility that there could be other gunmen in other locations;

iv. That a gunman was prepared to shoot military personnel in spite of the presence of a large crowd of innocent civilians;

v. That there was at least one nail bomber in William Street aided and abetted by others;

vi. That nail bomber was prepared to throw an anti personnel explosive device in spite of the presence of large numbers of innocent civilians;

vii. That there might be other nail bombers in the Bogside;

viii. That there was a reasonable possibility that at least one person had been shot dead by a soldier or soldiers from Machine-Gun Platoon;

ix. That if one person had been shot dead there was a possibility this would in turn provoke a more violent reaction from paramilitary organisations;

x. That 1 Para would be expecting to become engaged in a gun battle if they entered the Bogside;

xi. That innocent civilian lives would be placed at risk if an arrest operation was launched;

xii. That any proposed arrest operation would have to take account of all of the above matters.

Had Brigade been informed of the information in relation to the incidents on William Street then there must have been the real possibility that the arrest operation would have been launched and certainly not without the closest supervision and direct control of Brigade.

15.8.6.5 That such critical information was with held is inexplicable, except on the basis that I Para was so committed to the launch of the arrest operation that it regarded the risk to life as incidental and, therefore, did not wish any information which might jeopardise that launch to be made available. See **Day 345/5320 to Day 345/54/23**. Loden could provide no answer as to why he had not informed his own battalion of what he witnessed.

15.8.6.6 **After entering the Bogside**

The order in which Support Company vehicles entered the Bogside was such as to isolate Mortar Platoon from Composite and Anti-Tank Platoons. This effectively eliminated two thirds of the available troops from having anything other than a peripheral impact on an arrest operation. This order was probably due the hurried alterations to the plan brought about by the unfeasibility of putting large numbers of soldiers over the Church wall, rather than any considered strategic advantage. See **Day 345/61/6 to Day345/63/25**.

15.8.6.7 It did have the direct consequence that Mortar and Anti-Tank Platoons were attacking down Rossville Street when Lieutenant N had already fired over the heads of persons in the area of Eden Place. The sound of such fire would have led them to believe that if firing was in accordance with the Yellow Card that there were hostile elements engaging the soldiers who had deployed ahead of them. This in turn would have led them to interpret the situation as one in which the use of lethal force was necessary.

Indeed their arrival was so delayed that the arrest operation, in the terms envisaged at their briefings, was effectively lost. The only method available to them to detain those who had by this stage gone beyond the range of capture was to shot them.

15.8.6.8 There were a few stragglers left behind by the dispersal of the main body of the crowd and these are shown on **V48/12.40**.

15.8.6.9 However the behaviour of Colonel Loden is extraordinary in that he and his radio operators, if their evidence is to be believed, began to carry out arrests once they had debussed. See **Day 346/9/7 to Day 346/10/22**

This conduct meant that he was out of communication with his units at a time when there was or had been shooting going on and persons had already been killed or wounded, of which he seems to have been totally unaware until much later in the evening. Colonel Loden claims to have regained control quickly, see **Day 346/7/1 to Day 346/7/11**, however the real question is whether or not he was ever in command and control of his company on that day.

15.8.6.10 At **Day 346/43/1 to Day/346/43/15** he stated that his authority was delegated through the platoon commanders, that he communicated with them on the radio and they told him what was going on.

15.8.611 However, in essence this meant that during the 6 to 10 minutes in which 13 people were killed and 14 wounded, in the confined area around Rossville Street, Colonel Loden was not personally aware of the events unfolding before his eyes, but was dependant upon reports from the Platoon Commanders. This in spite of the fact that his command vehicle was positioned in the centre of the area of the alleged engagement, that he can be seen on **V48/12.26** occupying the perspex turret, and that directly in front and to the left of him at least 7 persons were killed and 4 wounded.

Thus for whole period of the shooting " well, short moments, 10 or 15 minutes, the platoon commanders are there, that is their job and they are exercising control".

15.8.6.12 There is no evidence from any source, other than Colonel Loden himself, as to what he was actually doing during the shooting. The radio logs and the Porter tape reveal not merely a dearth of reliable information as to what was happening, but an absence of any information. See **Day 346/21/15 to Day 346/24/15**.

15.8.6.13 His failure to account adequately for his own actions is also extended into an inability to account for the actions of his men. Video 48 at 11.28 shows approximately 18 men from the Anti-Tank Platoon rounding the

wall at Kells Walk. These men disappear in the direction of the entrance of Glenfada Park North. Additional footage and photographs show that they do not reappear, their position is taken up by members of Composite Platoon and that Loden's vehicle moves into the gable of block 1.The movement of this body of men occurs directly in front of the command vehicle. Colonel Loden can offer no explanation as to what these men are doing or where they went. See **Day 346/37/8 to Day 346/37/16**.

15.8.6.14 This movement is totally at odds with the evidence advanced as to the numbers of soldiers who were in Glenfada Park North. It is, therefore, at odds with the accounts furnished by the soldiers as to what happened there. The concept of command and control must surely be predicated upon at least a basic understanding of the deployment of soldiers and the reasons for that deployment. See **Day 346/37/17 to day 346/38/4**.

15.8.6.15 The only record of action being taken that day by Loden to exercise his authority is recorded on **V3/5.30**. This shows an interview to camera by Gerald Seymour and in the background Loden can be clearly heard to shout, "Cease fire". See **Day 346/55/25/ to Day 346/56/23**.

15.8.6.16 His men ignored this order and further shots can be heard. He subsequently repeated the order in fuller terms for the benefit of the camera. The shooting that can be heard on tape was shooting along the eastern pavement of Rossville Street. There does not appear to be any satisfactory explanation in terms of the other evidence for this shooting.

15.8.6.17 Statements taken from the members of Support Company who had fired and the Shot Plot prepared by Colonel Loden later in the day where accepted by him as being as accurate a picture as the honesty of his men and the events of the day would allow. See **Day 346/75/23 to Day 346/80/20**. The loyalty displayed by Colonel Loden in accepting the versions of events as related by his men far from being commendable was precisely the type of loyalty, which could be exploited to mask the

truth of not only what happened but also what Colonel Loden must have known to have happened. The specific reference in the Battalion Log to 2 dead bodies in Chamberlain Street must have come from Loden as he was the only officer in a position to communicate with the Gin Palace. It, therefore, still remains to be explained how such misleading information could have been passed to Battalion and forwarded to Brigade yet neither was informed as to the presence of 3 bodies in a pig beside the command vehicle. See **Day 347/20/2 to Day 347/20/17**.

15.8.6.18 The aspect of command and control that depended upon the provision and receipt of accurate information was undermined to the point at which it was not merely rendered ineffective but impossible. This failure provided a ready excuse for the excesses that took place. Colonel Loden's claim, like that of Colonel Wiford, that he was firmly in command and control of his men as directed through his Platoon Commanders during the crucial period, is little more than casuistry.

15.8.7 Conclusion

Bloody Sunday was the result of a combination of many complex factors. The personal responsibility of Colonel Wiford and Colonel Loden is direct and significant. Their determination to achieve the launch of an arrest operation was at the expense of:

i. Proper planning;
ii. The provision of current and accurate information to Brigade;
iii. The provision of current and accurate information to the Gin Palace;
iv. The exercise of command and control;
v. The specific orders issued by Brigade;
vi. A controlled arrest operation;
vii. Exercising any measure of restraint upon the soldiers on the ground;
viii. Having any regard to the risk to life of innocent civilians.

This comprehensive disregard for their general and specific responsibilities was the immediate cause of the tragedy of the day. It provided the means. It and many other factors provided the reasons.

FS 1 . 942

APPENDIX I

COMPREHENSIVE NATURE OF PORTER TRANSCRIPT

The Adequacy of Porter Transcript

The key items of documentary evidence in the matters of orders and operational control are the Porter Tape and the 8 Brigade log.

It is submitted that the Porter tape recorded all transmissions broadcast over the Brigade net during the material time of the day.

Between 1531 and 1619 (serials 116 to 171) there are 10 entries in the 8 Brigade log which have no corresponding transmission on the porter transcript. They are serials: 118, 121, 138, 140, 142, 144, 151, 159,163, 167, some of which appear in the table below.

Serial	DTG	To	From	Event	Action
118	1533		RRF	Fire Station. Report of 6 youths wanted in connection with shooting incident. Details later	
151	1600		Press	Belfast Telegraph estimate crowd 3000	
159	1609		BM	Orders given to 1 PARA at 1607 hrs for 1 sub unit of 1 PARA to do scoop up OP through barrier 14. Not to conduct running battle down Rossville St.	
163	1612		FATO C	Prisoner hel went to MAIDSTONE as detailed should have been crumlin road	Check with G3 Int + Osborne booked as MAIDSTONE
167	1615		2RGJ	Paddy Devlin passed through road block towards Derry	

From the remaining entries serials 121, 138, 140, 142, and 144 are all sitreps sent to HQNI. They were rear communications which would have been sent via TELEX and would not feature on 8 Brigade Net.

With regard the other non-corresponding entries, press enquiries were normally made over the telephone (151), while helicopter pilots had their own radio frequency (163) [EVIDENCE]. It is likely that the RRF and RGJ communications were given over the telephone from their respective Battalion HQs (118 & 167).
The only outstanding operational communication during this time which is recorded on the Brigade log but does not appear on the Porter tape is serial 159, the alleged order to go in, which was sent over the secure link.

The absence of other entries in the Brigade log from battalion HQs to 8 Brigade demonstrate that (aside from the RUC) MacLellan and Steele had no other source of information for sitreps on crowd movement and rioting. Moreover it reflects the fact that all the units on the ground found it desirable to channel information over the Brigade Net so that any unit involved in the operation on the ground could be apprised of the situation to be ready to deal with unforeseen eventualities.

Consequently, when considered in conjunction with the 8 Brigade log, the Porter transcript provides for all purposes a word for word account of army communications between 1531 (when barriers 12 and 13 were being closed) and 1619 hours (at which time people were running up Westland Street away from 1 Para).

SECTOR 1

16.1 General Introduction and Summary of Submissions

16.1.1 **Damien Donaghy** and **John Johnston** were both shot and wounded in what has been commonly referred to as the 'Laundry waste ground' on William Street. They were the first persons to be shot by the Parachute Regiment on Bloody Sunday, approximately fifteen minutes before Support Company's entry into Rossville Street. It is apparent from the evidence that Damien Donaghy was shot first, followed by Mr Johnston. No other person suffered a gunshot wound in Sector 1.

16.1.2 Two soldiers, Corporal A and Private B admit to opening fire at an alleged nail bomber in the vicinity of the waste ground between the Nook Bar and the Castle Laundry on the southern side of William Street. Corporal A and Private B were part of a group of soldiers of the Machine Gun Platoon who had taken up position in the derelict Abbey Taxis building on the northern side of William Street. This building, with nine windows which face in an easterly direction, can be seen in **P201**.

16.1.3 Corporal A was positioned behind a first floor window and the trajectories of both his shots can be seen in **P1**. Private B was positioned on the ground floor. The trajectories of his three shots can be seen in **P2** and **P3**.

16.1.4 The descriptions provided by Corporal A and Private B of their intended targets do not correspond with the physical descriptions of Damien Donaghy and John Johnston, or the clothing which they were wearing on that day.

16.1.5 **Soldier A** claimed that the alleged nail bomber on whom he opened fire was approximately 5'6" tall, had fair hair and wore a blue cardigan or

windcheater[1]. **Soldier B** told the RMP that the target at which he fired wore a dark coloured windcheater and was of average height. **B12**.

16.1.6 Damien Donaghy confirmed to the Tribunal when he gave oral evidence that his hair was black, and curly, and that he wore Wrangler jeans and jerkin, and a shirt and round neck jumper **Day 070/22/11 to Day 070/23/9**. John Johnston was dressed in an overcoat, a tweed jacket, grey trousers, white shirt and tie and a thick woolly cardigan **Day 048/154/9 to Day 048/154/11**. It would appear therefore, that according to the evidence of the soldiers, neither Damien Donaghy nor John Johnston was shot by a soldier.

16.1.7 Damien Donaghy and John Johnston were then helped from the waste ground to the home of Mrs Brigid "Ma" Shiels at Columbcille Court, where they were treated by Doctors Raymond McClean and Kevin Swords, and Sergeant John Lafferty of the Order of Malta. Father Joe Carolan then transported both to Altnagelvin Hospital separately.

16.1.8 An Official IRA volunteer fired one round from a 303 rifle from the Columbcille Court area in response to the wounding of Mr Donaghy and Mr Johnston at soldiers on the flat roof annexed to the Presbyterian Church. It is submitted that this is in all likelihood the *'drainpipe shot'*.

16.1.9 In our submission, the evidence supports the following conclusions:

(i) Both Damien Donaghy and John Johnston were shot by members of the Machine Gun Platoon.

(ii) Damien Donaghy and John Johnston were unarmed.

(iii) They were shot deliberately – not accidentally – and without any justification.

[1] RMP Statement dated 31st January, 1972 **B1**;

(iv) Damien Donaghy and John Johnston had not handled a nail bomb at any time on Bloody Sunday. In addition, they had not acted in support of any person handling a nail bomb or any other lethal weapon on Bloody Sunday.

(v) Damien Donaghy and John Johnston were not in the vicinity of any civilian bomber when they were shot. Nothing was taking place in the vicinity of the laundry waste ground at the time they were shot which would have led the soldiers in Abbey Taxis to believe that their lives or those of their colleagues were at risk.

(vi) There are no "missing casualties" – Damien Donaghy and John Johnston were the only two persons shot and wounded in Sector 1.

(vii) No one was shot dead in Sector 1.

16.2 Personal details and background

16.2.1 Damien Donaghy

Damien "Bubbles" Donaghy was fifteen years old on Bloody Sunday. He was the first, and also the youngest person to be shot on Bloody Sunday. His parents were both deceased, and Damien and his brother lived with their grandparents in the Creggan. He was an apprentice engineer, attending the local Government Training Centre. He was also a promising footballer with local club Derry Athletic and had the potential to play at a professional level. Damien had no criminal record or political affiliations. He is now married with four children.

16.2.2 John Johnston

John Johnston was 59 years old. He was married to Margaret. They did not have any children. John had worked in the drapery trade for most of his

adult life and in January 1972 was manager of a local drapery store, a position he held until his death in June 1972. He had no criminal record and no political affiliations.

16.2.2.1 Removal to Hospital

16.2.2.2 Father Carolan has given a statement to this Tribunal at **H3.1**. He also gave a statement to the Widgery Tribunal[2] (but did not give oral evidence) and to the Sunday Times[3]

16.2.2.3 His statement to Eversheds was signed on 30 July, 1999, a very short time before he died after having suffered from a long illness. In our submission, the accounts that he provided in 1972 are much more reliable than that offered to this Inquiry. He told the Treasury Solicitor that he had gone to the Creggan to get his car at the request of Dr McClean, who had advised that Mr Johnston be taken to hospital first:

> "...I proceeded to Columbcille Court down William Street, put Mr Johnston into the car and set off for hospital. Castle Gate was sealed off so I went to the top of Waterloo Street to find Butcher Gate was sealed off.
>
> I was ordered by a soldier to try the lower gate – Castle Gate. I did so and was forbidden exit even though I told the Army and R.U.C. members there that I was sent down from the upper gate. I told them that I had a man in the car who was dying...I continued protesting vehemently and it was only when I proceeded to remove the barricade myself that they relented and let me through.

[2] **H3.8 to H3.9**
[3] **H3.12 to H3.18**

After taking Johnston to the hospital I returned and took Donaghy to the hospital[4]..." **H3.9**

16.3 Injuries sustained

16.3.1 Damien Donaghy was wounded on the right thigh. This is apparent from the heavy strapping that is visible around it in **P750**. The Tribunal will be aware, however, of inaccurate reports from Doctor Fenton (**D0740**[5] and **D0762**[6]) which state that Damien Donaghy was wounded on the *left* thigh. It would appear that the most reliable note of the injury Damien Donaghy sustained is at **D0767**[7] which notes that he suffered a wound to the right thigh with comminuted fractures. The entrance wound was to the front of the thigh, and a large exit wound measuring three inches was on the postero-lateral aspect of the thigh. No metal fragments were recovered from his wound.

16.3.2 Dr Shepherd and Mr O'Callaghan commented that the track of the wound through the thigh was more likely to be from front to back than reverse, and that no comment could be made in respect of the nature of the projectile. **E10.004**

John Johnston

16.3.3 John Johnston was wounded on the left shoulder and right hand. He also received a minor wound to his right hand[8] **D0808**

[4] Damien Donaghy's account of his removal to hospital can be found at **AD120.11 paragraphs 14 to 15** and at **Day 070/19/21 to Day 070/20/2**
[5] Entry on 'Record of Admissions', 10 May, 1972
[6] Letter from Doctor Fenton to Dr Cosgrove, 10 May, 1972
[7] Report prepared for DS D Cudmore, 7 February, 1972
[8] Report of DS Cudmore

Mr Bennett noted that John Johnston suffered gun shot wounds of the *right* shoulder and lateral aspect of the right thigh. Both wounds were "through and through", although a small piece of metal was taken from the wound in the leg. (**D0801**)[9] Mr Bennett's remark regarding the wound to John Johnston's right shoulder is inaccurate. This is apparent from **P755** and **P756**.

16.3.4 Two fragments of metal recovered from John Johnston's leg wound were submitted to DIFS for examination by Dr Martin, who concluded that the "copper jacket" was consistent with the base of a 7.62 calibre rifle bullet. (**D0804**) Dr Shepherd and Mr O'Callaghan comment that Dr Martin does not provide any details as to why he arrived at that conclusion. (**E10.005**), and their own views are that the multiple injuries sustained by John Johnston indicate that the bullet (or bullets) were "fragmented prior" to striking Mr Johnston. (*ibid*).

I16.3.5 In May 1972, he was readmitted to hospital, and he died on 16 June, 1972.

16.4 Sequence of Photograph/Video

16.4.1 There are no photographs of Damien Donaghy on the march. The only photographs in which he appears are those taken by Larry Doherty of the *Derry Journal* as he was treated for his wounds at the home of Brigid Shiels, at 8a Columbcille Court:

i) **P751**: Damien Donaghy being treated for a gunshot wound to the right leg in Mrs Shiels' flat in Columbcille Court.

ii) **P750**: shows Damien Donaghy having had his right leg heavily strapped. This would appear to have been taken after **P751**

[9] Letter from Mr Bennett to the RUC, dated 7 February,1972

16.4.2 As with the case of Damien Donaghy, there are no photographs of **John Johnston**, with the exception of those taken by Larry Doherty as he received treatment in Mrs Shiels' flat:

i) **P755** and **P756**: Dr Raymond McClean can be seen examining the wound to Mr Johnston's shoulder;

ii) **P757**: Mr Johnston receiving attention on the floor of the house by Sergeant Johnny Lafferty of the Order of Malta:

16.4.3 John Johnston can also be seen in Video 3 being assisted by Father Joe Carolan to his car as he prepared to take him to Altnagelvin Hospital.[10]

16.5 Civilian evidence

16.5.1 It is clear that Damien Donaghy and John Johnston were shot in the waste ground between the Nook Bar[11] and the Castle Laundry. **P199** clearly shows the position of the waste ground. Some witnesses place Damien Donaghy and John Johnston on the waste ground to the east of Abbey Street, sometimes referred to as the 'Grandstand Bar waste ground'. We would adopt Christopher Clarke QC's suggestion that that may be the result of witnesses confusing one waste ground for another **Day 011/15/14 to Day 011/15/15**.

It is also clear that this confusion has been greatly informed by the presence of a square on the map **Q12** at grid reference K09. This building, it has been suggested was an'ice house' [12] used by public houses to store ice in the

[10] **See V3/6.30 to 7.00**
[11] Also known as Sweeney's Bar
[12] **Day 059/13/20 to Day 059/13/23**

days prior to refrigeration. Other witnesses have suggested it may have been a previous site of a bookmaker's office.[13]

16.5.2 Whatever it was, it had been demolished by January 1972 but for some reason had been depicted on the map. It is submitted that this confused a significant number of witnesses when they came to be interviewed by the Inquiry. At least six witnesses have placed the shooting of Damien Donaghy and/or John Johnston on the Abbey Street waste ground.[14] It should also be noted that Counsel for a majority of the soldiers has also indicated that the area in which Damien Donaghy is not "seriously contradicted".[15]

16.5.3 The fact that some witnesses have almost certainly identified the wrong waste ground is explicable by the mapping confusion. However, this isolated error does not detract from their evidence, which in many other respects, greatly assist the Tribunal.

DAMIEN DONAGHY

16.5.4 **Damien Donaghy** provided a short interview to Detective Sergeant Cudmore **AD120.17**. He also provided a statement to John Doherty, Solicitor's Apprentice **AD120.1** in 1972 and interviews to the Sunday Times Insight Team **AD120.2** and also Fulvio Grimaldi **AD120.26** have been attributed to him, which he does not recollect giving, **Day 070/50/4 to Day 070/50/24**. He provided a statement to the Inquiry at **AD120.9**. He did

[13] **Day 059/90/3 to Day 059/90/5**
[14] See evidence of Paul Coyle **AC105.1 paragraphs 5 to 6** (and map at **AC105.9**) and oral evidence on **Day 152/54/22 to Day 152/55/19**; Columba Donaghy **AD116.6 paragraph 7** (map at **AD116.10**); Jim McDaid **AM166.2 paragraph 17** (map at **AM166.9**) and oral evidence **Day 061/4/17 to Day 061/4/23**; Liam Doherty **AD80.3 paragraph 15** (map at **AD80.6**) and oral evidence **Day 060/97/7 to Day 060/97/20**; Derek McFeeley **AM217.1 paragraphs 4 to 5** (map at **AM217.5**)and oral evidence **Day 061/70/5 to Day 061/70/18**; and Tony William Quigley **AQ7.1 paragraph 6** (map at **AQ7.5**)
[15] Mr Glasgow QC Day **061/118/3 to Day 061/118/6** (questioning of Mr Derek McFeely).

not give evidence to the Widgery Inquiry as he was still in hospital. He gave oral evidence to this Tribunal on **Day 70**.

> *"I did not throw any nail bombs or petrol bombs. Shortly after I went into hospital, my clothes were taken away for forensic examination. Nothing came of this and I was never prosecuted. The clothes were never returned. I view what happened to me as attempted murder. I never saw any gunmen or nail bombers. It was a peaceful march."* **AD120.8 paragraph 19**

16.5.5 He confirmed he attended the march with Alex McGuiness, Sean O'Neill, Liam Doherty, James Shiels and possibly John McGee **Day 70/2/6 to Day 70/3/12**.

16.5.6 He was standing at the Nook Bar when he first noticed soldiers the Abbey Taxis Building **AD120.9 paragraph 5**, **AD120.16**.

16.5.7 He previously provided conflicting evidence in relation to whether or not he threw stones on Bloody Sunday. Upon taking the oath he immediately clarified the position. He confirmed that he was one of a group of boys who threw stones and bottles at soldiers that he could see on the ground floor in the Abbey Taxis building **Day 70/1/20 to Day 70/2/1**. He was asked during his evidence why he had previously stated on occasion that he had not thrown stones. His reply was as follows:

> "At that time I was a bit afraid in a way in case I would be charged with rioting, but another way I was afraid – I thought it might give the soldiers credibility for shooting me, because I threw stones. **Day 070/20/10 to Day 070/20/13**.

16.5.8 There were not many marchers left at this stage and he was approximately 20 to 30 feet from the soldiers **Day 70/7/11 to Day 70/8/18**.

16.5.9 Mutual insults were traded between the soldiers in the Abbey Taxis building and the youths. He was certain that "no petrol bombs or nail bombs were thrown during this period" and that he saw no one with any sort of weapon. As he was about to make his way towards his cousin Catherine Roddy's house at Garvan Place in the Rossville Flats, two rubber bullets[16] were fired and one ricocheted off a wall not far from where he was (See **AD120.27**).

16.5.10 Intending to pick it up as a souvenir, he took about three steps towards the rubber bullet. He had not got to within 20 or 30 feet of where it ended up when he felt a jab in his right leg. In oral evidence he said that he was just into the waste ground **Day 070/14/12 to Day 070/14/16**. He fell immediately onto his back. He was unable to hear any shot being fired beforehand. It is Damien Donaghy's recollection when he gave oral evidence that he was in the vicinity of the gable end of the eastern side of the waste ground near the Castle Laundry when he was shot, **Day 070/24/20 to Day 070/24/12**, **Day 070/30/16 to Day 070/32/2**.

16.5.11 Whilst on the floor he heard two gunshots **AD120.23**, **AD120.6 paragraph 11**, **AD120.2**. These occurred possibly ten or twenty seconds later **Day 070/17/11 to Day 070/17/13**. He did not see John Johnston shot **Day 070/17/24**.

16.5.12 He was then carried to 8A Columbcille Court to Mrs Shiels house. He knows that two of the people who carried him were John McGee and Michael Deakin.

[16] One soldier in the Machine Gun Platoon, INQ 588, admits to firing between 20 to 30 baton rounds from the Abbey Taxis building **C588.4 paragraph 16**

16.5.13 He was placed on the sofa. Within a short period of time, Sergeant John Lafferty of the Knights of Malta arrived and placed a tourniquet on his leg (**P751**, **P750**). Dr McClean arrived later and bandaged him up. Eibhlin Laffery, Jim McDaid, Dr Kevin Swords, Father Carolan and Father George McLaughlin all attended the house as well.

16.5.14 During his oral evidence to the Tribunal Damien Donaghy rejected entirely the allegation of Soldier A:

> "Q. "Two nail bombs were then thrown and they exploded very close to us." Did anything like that happen?
>
> A. That is lies.
>
> Q. Was anything being thrown that might have appeared to be a nail bomb?
>
> A. No.
>
> Q. Were there any explosions or bangs at this stage?
>
> A. The only bangs was the sound of rubber bullets."
>
> **Day 070/21/18 to Day 070/22/3**

16.5.15 Counsel for the Soldiers made clear to Damien Donaghy that he was not suggesting to him that he threw a nail bomb on Bloody Sunday. He explained to him that he would not have been shot unless he, or someone very close to him did something which led two soldiers "almost simultaneously, independently and honestly to believe that you, or whoever it was, was in the process of being about to throw a nail bomb" **Day 070/3029/25 to Day 070/30/15**.

16.5.16 The witness replied to Mr Glasgow, "You have made your position clear, but you are wrong." **Day 070/30/12 to Day 070/3013**.

16.5.17 He also made clear to Mr Glasgow that the only person he saw shot in this area was himself **Day 070/31/17 to Day 070/32/2**.

16.5.18 **John Johnston** provided a statement to the Treasury Solicitor **AJ5.3**. He gave oral evidence to Lord Widgery and provided an interview to the Sunday Time Insight Team **AJ5.1-2**. There is a map attached to the interview that purports to mark the position where he was shot and where he saw Damien Donaghy propped against the eastern gable wall adjoining the Castle Laundry waste ground **AJ5.9**.

> *"I can tell you with all truth, I never heard a shot nor any bomb before I was hit, not a solitary thing did I hear except thr (sic) rubber bullets and the stones. How could anyone pick me as a gunman, there I am walking away with my back to the troops. They were just shooting at anything, like herrings in a barrel."* **AJ5.2**

16.5.19 This view was reiterated in his undated Treasury Solicitor statement:

> "I did not have a weapon of any kind nor did anyone else including the wounded boy, as far as I could see. I cannot see any reason for the troops to assume that any offensive action was being taken against them by a civilian.

> I heard no other shooting and I heard no nail bombs or anything similar." **AJ5.3**, **WT7.77 G**

16.5.20 In his interview with the Sunday Times Insight Team given on 22nd February 1972, John Johnston pointed out that he had never been on a march before and because he was worried about the gas and because of his bad chest, he made sure he was towards the end. Possibly, out of fear of prosecution he denied that he had been on the march when asked at the Widgery Tribunal **WT7.78 B**.

16.5.21 He could see that there was CS gas in the area of lower William Street and therefore decided to cut across to his right to the area of Glenfada Park to see an old man "about 90... He can't get about much and I often go round to make sure his windows are shut tight if there's a lot of CS gas around." **AJ5.1**, **WT7.76 D** On instructions, we can confirm that the man's name was Tommy Duddy.

16.5.22 In his statement to the Treasury Solicitor he said:

> "I saw soldiers in a firing position, in a burnt out house almost opposite to this waste ground and north of William Street. As I was crossing this waste ground I turned and looked at the soldiers I heard a crack of a shot. I was hit in the right leg near the hip and then another shot hit me in the left shoulder. At first I thought I was hit by rubber bullets. Another shot that I believe was a ricochet grazed my hand but I have no idea when this happened. Just before I was hit I saw a boy fall near the corner of the waste ground and William Street." **AJ5.3**

16.5.23 He told the Sunday Times that he went into the open ground (meaning the Castle Laundry waste ground) approximately two thirds of the way across:

> "about level with that old lorry, when there was a big thump on the back of my right leg. I thought, my God I've been whacked by a rubber bullet and went to hobble on, though I couldn't move well. Then a man shouted to me "Christ Mr Johnson (sic), you're shot, you're trousers are soaking in blood." I looked down and so they were, they were light grey and they soaked right through. Some men came to give me a hand and as I was helped away I could see a young lad lying propped up against the wall to my left (this was dogerty, (sic) he had been moved I think). When they got me into Columbcille Court, the shields flats I think, dr mcclean, (sic) discovered I had been hit at least three times; once in the shoulder, another in the left and a graze on my left hand from a ricochet. I'm now told that my big overcoat saved me: what with that, a good jacket and woolly cardigan, the bullet must have been slowed down. It was a grand sunny day, but it was still a bit chilly and I have to look after my dodgy chest." **AJ5.1**

16.5.24 Mr Johnston in his oral evidence to Lord Widgery said that no one had a weapon of any kind **WT7.77 G**. He also confirmed that Damien Donaghy was at most about 10 feet from him when he saw him in the waste ground **WT7.79 D**.

"Mr GIBBENS: I ought to have put to this witness, and I forgot, that before this shooting incident two nail bombs had been thrown.

LORD WIDGERY: I will put it to him. Did you hear any nail bombs just before you were wounded? A. ***Absolutely no, your Lordship. There was no nail bombs, nothing.***

Q. You heard no sound? A. ***I am positive there was not. There was not a sound. There was not a nail bomb, certainly not.***"(Emphasis added) **WT7.80 C-D**

16.5.25 **Betty Curran** was on the march with her husband William. She saw two soldiers inside the Abbey Taxis building on the ground floor. She could see that a rifle was pointed at the people in William Street **AC130.1 paragraph 7**.

"... I saw two or three wee lads opposite to where I was standing (i.e. on the north side of William Street). They were throwing a few stones across at the soldiers on the flat roof...

After they had thrown a couple of stones, the lads turned and walked towards us. As they were coming towards us, I heard a shot. Damien "Bubbles" Donaghy was shot. I did not know him at the time, but learned his name later. He was only about 14 or 15 years old. I remember he had a lovely head of curly hair. He was wearing jeans. He had only been dandering across the road. He was facing me when he was shot, walking on my right hand side as I was facing him. He had just about reached the footpath on the side where I was

standing. I just saw his body falling. He was only a few feet away from me when he fell. I think he fell face down. I remember that he fell onto a piece of ground which had originally been part of a small porch leading into a derelict house because I remember the black and white tiles on which he fell. It had clearly been someone's hallway. I didn't see where the bullet hit him at the time. I saw it bounce of the tiles though, and I realised that it was not big enough to be a rubber bullet. I heard two shots, one straight after the other, and they were the first two I heard that day. I recognised them as live because I saw one bullet bounce off the black and white tiles and I saw Damien Donaghy fall. I would not have known about the particular type of ammunition otherwise. I heard no further shots after that for 10 or 15 minutes... I did not see Damien Donaghy throw any stones towards the soldiers and, as he came towards me with his fellows, there was nothing in his hands. I remember this quite clearly because he had his hands down by his sides and not in his pockets." **AC130.2 paragraphs 10 to 12**.

16.5.26 The witness's husband, **William Curran**, then helped carry Damien towards the Shiels' house. She did not see John Johnston being shot. **AC130.2 paragraphs 12 to 13**, **AC132.3 paragraphs 15 to 18**. William Curran, a pacifist, came from a family with strong links to the British Army **Day 055/65/3 to Day 055/65/14**.

16.5.27 William Curran noticed the soldiers in the area of the GPO office and saw a group of about four or five boys throw stones at them **AC132.2 paragraph 8**. Damien Donaghy was one of the boys who then crossed William Street

towards the witness. Bubbles Donaghy lagged behind. The witness then heard shots. Although he did not see him get shot he then noticed Damien Donaghy on the ground lying on his back **AC132.2 paragraphs 11 to 14**. In his oral evidence he placed in red the position he believed where Damien Donaghy was shot **AC132.17**

16.5.28 The witness thought there were two or three high velocity shots. He stood at Damien Donaghy's feet. He glanced around and saw an older man who he now knows to be John Johnston

> "... coming to help Donaghy as well. When John Johnston was about five or six feet away from me, I saw him clutch his shoulder. I cannot remember precisely where I was in the waste ground when he was shot. I believe that he put his left hand to his right shoulder. I did not hear the shot. I think that he was also hit in the leg afterwards and he hopped away down the waste ground. I did not see where he went and I did not see him again." **AC132.3 parargaph 15**.

16.5.29 In his oral evidence the witness acknowledged that it was assumption on his part that John Johnston was going to help Damien Donaghy **Day 055/60/6**.

16.5.30 When Mr and Mrs Curran appeared on the *Secret History* documentary they were equally emphatic the shooting in his area was completely unjustified:

> "BETTY CURRAN TO CAMERA
> There was no nail bombs in that vicinity, none in that vicinity where Damion (sic) Donaghy was shot there was no nail bombs. None at all.
>
> WILLIAM CURRAN TO CAMERA
> Categorically no nail bombs." **AC130.9**

16.5.31 On Bloody Sunday Patrick O'Carolan **AO6.8** was a forty-year-old Executive Officer in HM Customs and Excise **AM390.1**. In his NICRA statement he said that he was standing the waste ground where Duffy's shop used to be with a former RUC officer, Charles Meehan.

> "Just then a shot rang out from the direction of the rear of Abbey Taxis. A young boy who had been standing at the corner of Sweeny's bar on William St. fell to the ground crying out. I thought he had been hit by a rubber bullet in the leg. A crowd ran to him and shouted that he had been shot by a lead bullet... As I reached Columcille (sic) Court I looked behind and saw an elderly man who was limping and I saw blood coming from his leg. Two men rushed to help him. The Stewards then told everyone to move back towards Glenfada Park... I would emphasise that I did not hear any shots coming from the direction of the Bogside before the first lad fell at William Street." **AO6.8**

16.5.32 This account is consistent with what he told Eversheds **AO6.2 paragraphs 8 to 9** and **AO6.3 paragraphs 16 to 18**.

16.5.33 He confirmed that Damien Donaghy would have been no more than about ten feet away from him when he fell. He was doing nothing that warranted him being shot **Day 060/8/6 to Day 060/8/25**. The witness marked the position where he saw him fall at position "C" on **AO6.6**. He also saw John Johnston come from around the northeast corner of the building that adjoins the waste ground **Day 060/13/5 to Day 060/13/13**.

16.5.34 Again the witness in his account to this Tribunal emphasised that this was the first shot that he heard fired. In fact he said, "If I had heard shooting before I certainly would not have been waiting around in the area." **AO6.2 paragraph 11** In the same vein he continued, "I did not hear or see nail bombs or hear or see any gunmen. I did not see anyone throwing stones." **AO6.3 paragraph 18**

16.5.35 **Charles Meehan**, the former RUC officer who is deceased and did not give oral evidence to the Inquiry but he did make a statement in 1972 that significantly corroborates Patrick O'Carolan:

> "I saw two windows on the gable side of the disused building, previously occupied by Abbey Taxis Ltd., which had formerly been blocked up by the Derry Commission, were now lying open. I saw movements inside the shadows of the building and was amazed to see two paratroopers crouching in a sniping position pointing their rifles in the direction of myself and my friends. Their headgear showed them to be paratroopers.
>
> I said to Pat O'Carolan: "We are in a very exposed and dangerous position if anything like shooting does start." I had hardly finished this sentence when one of the paratroopers in the building lifted his rifle to the shooting position. I pulled Pat O'Carolan into the waste ground on my left and as I did so still looking at the soldier, he fired one shot and hit a youth who had moved into our position. The youth fell and was dragged across the waste ground towards Colmcille (sic) Court. As we ran in that direction a second man

was shot in the shoulder as he ran alongside me. He also fell and was assisted out of the line of fire. I must make it absolutely clear that no one, where I was standing, was involved in riotous or disorderly behaviour." **AM390.1**

16.5.36 The Tribunal is also referred to Charles Meehan's map that he provided to the Sunday Times Insight Team in which the positions where Damien Donaghy and John Johnston fell are marked **AM390.3**.

16.5.37 **John Quigg** **AQ1** and **Day 053** was on the march with Charles Meehan. Whilst he is confused in his Eversheds statement in relation to some matters (such as the age of the man he saw shot in the leg and his position etc **AQ1.1 paragraphs 6 to 7**) his 1972 account marries well with the general body of evidence. He said that he had been taking shelter from tear gas that was being fired from the Rossville Street – William Street area. **AQ1.4**

> "I was along with twenty to thirty other fellows. A shot came from the ruins of Richardsons factory in William Street. A chap alongside me fell to the ground. He had been shot just above the knee in the right leg. He was taken into a house in Colmcille Court (sic) by other people. He had been throwing stones towards the ruins of Richard's Factory but he definitely had no weapon"

16.5.38 **Eugene Lafferty** **AL1** did not make a statement in 1972. He gave oral evidence on **Day 064**

16.5.39 When he was in William Street he heard two shots overhead from the direction of the Presbyterian Church. These were the first shots he heard

that day. Two people to his right were hit and fell to the ground. He incorrectly positioned the men actually on the southern side of William Street itself **AL1.13**, **AL1.8 paragraph 9** however he confirmed in his oral evidence that they could in fact have been shot on the waste ground **Day 064/81/11 to Day 064/81/22**.

16.5.40 The witness recalled that:

> "Bubbles and Mr Johnston were just walking along at the time when they were shot. They did not do anything at all to warrant being shot. I know this for certain because they were so close to me. Bubbles and Mr Johnston were taken away by the Knights of Malta but I did not see where they were taken." **AL1.8 paragraph 10**

16.5.41 In fact one of the Knights of Malta who was to treat the injured men was Eugene Lafferty's father, Johnny.

16.5.42 **Sergeant John Lafferty** in his handwritten 1972 statement recorded that some youths in William Street were even trying to catch the rubber bullets being fired. He attended with some women and girls who were overcome with gas and returned to the area he had previously been. He was called to a boy who

> "had been hit with lead bullets (sic), Lieut McDaid rushed to attend him when another call came, this time it was a man between 50 and 60 who had got shot. Mrs Shiels who lives near hand called to bring them to her house. Capt Day, Lieut McKinney and Lieut McDaid

treated the boy young Donaghy, and Eibhlin Lafferty and myself attended to Mr Johnston." **AL2.3**

16.5.43 **Sergeant Lafferty** accompanied both John Johnston and Damien Donaghy to Altnagelvin Hospital in Father Carolan's VW beetle that had been made into makeshift ambulance. On both occasions the Army and RUC stopped them on the way to and from the hospital **AL2.3**, **AL2.4**.

16.5.44 **Gerry Duddy** (brother of Jackie Duddy) was a friend of Damien Donaghy. He did not provide a statement in 1972. He gave evidence on **Day 59**. He saw approximately six boys on the waste ground to the north of William Street throwing stones and bottles at the soldiers on the roof of the old bakery. He then heard a single shot and saw "Bubbles" yell out that he was shot. The witness assumed, because he saw no blood or obvious injuries, that Damien Donaghy had been hit by a rubber bullet. He saw a number of men help carry him away. As he did so there was a second shot, which hit John Johnston. **AD146.1 paragraph 3**

16.5.45 The witness positioned Damien Donaghy as being on the southern pavement of William Street as it joins the waste ground of the Castle Laundry **AD146.6**.

16.5.46 According to Gerry Duddy:

> "Bubbles was doing nothing wrong, nothing to justify him getting shot... I didn't hear any nail bombs in the area before or after Bubbles was shot. If any nail bombs had gone off everyone would have known about it; they would have injured the crowd as well as any soldiers they might have been aimed at. Nail bombs are made with the intention of causing as much damage as

possible to the immediate area in which they explode."
AD146.2 paragraph 6

16.5.47 **Philip Columba Donaghy AD116** said in his 1972 statement that he retreated up William Street due to the gas. A shot rang out and he saw a youth who was standing near him fell to the ground crying that he had been hit in the leg. He then heard another shot but did not see if that hit anyone. He recalled that the youth was shot in the front of the thigh and the Army were the only ones who could have shot him **AD116.9**. When the witness came to mark the position of Damien Donaghy on the map attached to his Eversheds statement, he mistakenly marked the waste ground that was further west towards Abbey Street. In any event, the witness was clear that if he was carrying a weapon at the time he, he was sure he would have seen it, as he was so close to him. The witness further confirmed, "I am sure I did not see a weapon" **AD116.2 paragraph 7**

16.5.48 **Patrick McCallion AM74** said that he was on the waste ground to the south side of William Street facing the GPO. He heard about three shots from the north. He heard a cry and someone told him that a young boy had been shot. The witness looked to his left (west) and saw his neighbour Damien Donaghy had been shot. According to Mr McCallion, he was approximately five feet away from him at the time he was shot and was lying on the edge of the waste ground. The witness could not say if Damien Donaghy was throwing stones but he had been himself. He then heard another live shot and heard someone shout that John Johnston had been shot, although he does not remember anything further about this, **AM74 paragraphs 11 to 15**. The witness confirmed in his oral evidence that he heard no explosions, saw no one with a nail bomb and saw no one with "a pretended nail bomb" **Day 071/151/13 to Day 071/151/18**.

16.5.49 **Billy McCartney** **AM 87** gave oral evidence on **Day 54**. He recalled that there were youths throwing stones at the soldiers in the derelict building on William Street. Mr McCartney joined in himself. He said that it was not heavy stone throwing and lasted for about five minutes. The soldiers fired the odd rubber bullet in return. **AM87.3 paragraph 9.**

16.5.50 There was then a "sudden salvo of rubber bullet fire – perhaps about six shots in total" from the soldiers in the derelict building. This caused the crowd to run back off William Street and into the waste ground areas. The witness reached a point about half way back onto the waste ground, "near the site of the old laundry" **AM87.3 paragraph 10**, **AM87.6**. Within a few seconds of that salvo, a live shot rang out. Damien Donaghy fell 10-20 feet in front of him, slightly to his left. In 1972 he described this area as where Duffy's bookmakers shop used to stand **AM87.6**. This is near the gable wall at the western side of the Castle Laundry waste ground. In the course of his oral evidence, the witness marked this position with a red arrow **Day 054/172/8 to Day 054/175/1**, **AM87.10**.

16.5.50 Damien Donaghy had his back to him and was facing the derelict house, possibly at a slight angle. There were other people close to him. The witness surged forward to grab him and pull him backwards into cover.

16.5.51 As the witness and others did so

> "within a few seconds of the first shot, another live shot rang out. That was the shot that hit the elderly man, John Johnston. He was behind me, to his right, when he was shot and I do not think he fell to the floor. He was shot about 15 yards from where Damien Donaghy fell and he was a good way from the soldiers and from the action at the time. He was still upright

when I turned to look at him but his arms were around his chest and there was blood on the upper part of his body. Almost immediately, some people closed in on him to help him." **AM87.3 paragraphs 10 to 11**.

16.5.53 Mr McCartney in the course of his oral evidence marked the position where John Johnston was with a blue arrow on **Day 054/174/8 to Day 054/175/10 (AM87.11)**.

16.5.54 The witness did not see either Damien Donaghy or Mr Johnston throw any stones. He was clear that Damien Donaghy would not have had time to collect a stone after the salvo of rubber bullets which caused everyone to retreat. "He had nothing in his hands, which were by his sides." **AM87.4 paragraph 13**

19.5.55 In 1972 **Padraig O'Mianain** was a teacher who attended the march along with **Michael Fox AF26 / Day 59** and Patrick O'Carolan **Day 059/40/1**. When he gave evidence to this Inquiry on **Day 59** he was a precise and impressive witness. He was standing in the area of the Castle Laundry watching three or four teenagers throw stones at soldiers positioned on the roof of the GPO. Rubber bullets were fired and others in William Street were picking them up as souvenirs **AO56.14 paragraphs 9 to 12**. The witness bent down to pick up a rubber bullet and a bullet hit the wall to the west of where he stood **AO56.15 paragraph 13**.

16.5.56 He then heard a young man who he believed was at the gable wall on the northwest side of the Castle Laundry waste ground. The youth called out that he was hit twice. People moved towards him. When the witness reached him he was still standing up and there was blood, possibly on his right thigh.

The witness helped turn him around and others then assisted in taking him away **AO56.15 paragraphs 14 to 16**. See map at **AO56.19**.

16.5.57 Padraig O'Mianain looked over his right shoulder and noticed an older man who looked as if he was on the point of stumbling. The witness placed him in a position somewhat further south into the Castle Laundry waste ground than the youth **AO56.19**. He accompanied the group carrying him further south towards the houses in Columbcille Court **AO56.15 paragraph 17**.

16.5.58 The witness was asked whether he saw a nail bomb or a canister of some sort being thrown in the area. He said that he did not and if he had he would have left "double quick." **Day 059/46/11 to Day 059/46/13**.

16.5.59 **Seamus Bradley** **AB69** gave oral evidence on **Day 064**. This witness was along with his wife Teresa **AB70**. After being overcome by gas they took a position at the Castle Laundry waste ground. Like some other witnesses Seamus Bradley describes it in his 1972 statement as "near the gap where Duffy's bookmakers hut used to be." **AB69.1**

16.5.60 He said that he saw about three soldiers levelling their guns at the crowd beside Ritchie's factory. His wife could not see with the effects of the gas. He grabbed her by the hand and heard bangs. He pushed her into "the opening" at Duffy's and a rubber bullet and a live round went in between the two of them. He looked around and saw a young lad was shot and blood was dripping from his thigh. **AB69.1**

16.5.61 For Teresa Bradley's accounts see **AB70.2 paragraphs 7 to 12** and **Day 064/29/14 to Day 064/32/6**, **AB70.9**. Her marked up photograph is at **AB70.13**.

16.5.62 In his oral evidence the witness marked with a red arrow the position where Damien Donaghy was on a photograph. This is at the northwestern side of the Castle Laundry waste ground **AB69.7 Day 064/7/9 to Day 064/7/17**.

16.5.63 Mr Bradley put his hanky to the boy's leg and helped Sergeant John Lafferty of the Knights of Malta bring him to Columbcille Court **AB69.1**. The witness said that he was unaware of any stone throwing in the area at the time the boy was shot although he was concentrating on getting his wife away from the gas and bullets **AB69.2 paragraphs 6 to 9**. The witness was also unaware of the presence of a gunman in the area of Kells Walk or that his wife claimed to have observed one **Day 064/13/14/5 to Day 064/15/14**.

16.5.64 **Dermot Carlin AC32** and **Day 060** saw a youth, who is obviously Damien Donaghy, just south of the middle of the Castle Laundry waste ground "sitting with his legs splayed out in front of him, at approximately the point D" on map at **AC32.7**. There was another youth on one knee beside him holding him under his shoulders shouting obscenities and for someone to help **AC32.2 paragraphs 10 to 13**.

16.5.65 **Thomas McDaid** (**AM177** and **Day 066**) was on the march with his wife Monica (**AM170** and **Day 065**). Thomas McDaid recalls that he and his wife went into the waste ground at the Nook Bar. He was very familiar with the geography of the area, having previously worked at Brewsters Bakery in Little James Street. He recalls that John Johnston was one of the other dozen or so people standing in the waste ground, all of whom were facing north towards the Presbyterian Church. **AM177.1 paragraphs 4 to 5**. He had heard one rubber bullet fired before hearing a live round **Day 066/33/14 to Day 066/33/15**. His recollection is that there was nobody milling around the William Street area as the first shot was fired **Day 066/34/18 to Day 066/34/25**.

16.5.66 Mr McDaid believes that they were standing there for up to 10 or 15 minutes when he heard a live shot which struck a young boy who was standing against the wall at the corner of the Nook Bar. The witness did not actually see the youth being shot, but did see him standing leaning with his shoulder against the corner of the wall when his legs suddenly buckled, causing him to fall to the ground, immediately after the gunshot rang out. The youth was then carried away by four other youths towards Columbcille Court. Two more shots then rang out and Mr Johnston, who was standing facing north, was shot in the leg and arm. At the time Mr Johnston was smoking his pipe, and he was shot "within seconds" of the boy having been shot. **AM 177.1 paragraph 6**. Mr McDaid had also seen soldiers in the Abbey Taxis building, at the windows close to William Street **Day 066/32/17 to Day 066/32/25**, but they were facing onto William Street, rather than viewing the waste ground area, **Day 066/33/4**. His impression was that both were shot either by soldiers on the roof of the GPO, or by soldiers near the Presbyterian Church **AM177.2 paragraph 8**. It would appear from Mr McDaid's contemporaneous statement at **AM177.6** that he did not witness Damien Donaghy being shot, but he confirmed that he did see his leg buckle under him **Day 066/38/4 to Day 066/38/6**. Mr McDaid's best estimate of the interval between the wounding of Damien Donaghy and the wounding of John Johnston is that it was "seconds rather than minutes" **Day 066/41/15 to Day 066/41/16**

16.5.67 **Monica McDaid** is equally clear about the position that she and her husband stopped at in the waste ground. She recalls that there were 14 to 18 people in that area. She witnessed the shooting of Damien Donaghy in the following terms, which are broadly consistent with the account Mr Donaghy himself has given to the Tribunal:

> "To my left and in front was a young boy...He was leaning against the gable of the derelict building next to him. He kept looking out

on to William Street by putting his head around the corner of the derelict building[17]. I cannot recall seeing anything in his hand or seeing him throw anything." **AM170.2 paragraph 7**.

"We had been standing in the waste ground talking for about 5 minutes when I heard the first shot. I think that this was the sound of a rubber bullet. I assumed it came from the derelict houses...because I had seen the soldiers there earlier [the 'derelict houses' marked by Mrs McDaid on her plan at **AM170.6** include the Abbey Taxis building] **AM170.2 paragraph 9**

"After the shot was fired, the young fellow who had been on the waste ground, turned to retrieve the rubber bullet which had been fired, and then ran away from William Street along the gable of the building on the waste ground. A few seconds later I heard a second shot. I mentioned to my husband that it was another rubber bullet but he said "no it was a lead shot". I saw the young lad stumble as his legs buckled underneath him. I cannot remember if he fell to the ground...It felt unreal that he had been shot with a real bullet. I found out the day after that the young lad was Damien Donaghy..." **AM170.2 paragraph 10**

16.5.67 Mrs McDaid did not see any stones thrown from the waste ground, and did not see any stones thrown by Damien Donaghy **Day 065/117/10 to Day 065/117/12**. She then heard a further two shots and Mr Johnston, whom she also believes may have been smoking a pipe and was approximately ten feet away, started to sway and then slumped. **AM170.2 paragraph 13**. 'A very short interval' had elapsed between the wounding of Damien Donaghy and

[17] Mrs McDaid amended this in oral evidence to say that Damien Donaghy was looking out on to William Street and that he did not put his head around the corner **Day 065/141/16 to Day 065/141/21**

the wounding of Mr Johnston **Day 065/127/25 to Day 065/128/1**. Mrs McDaid did not see any nail bombs in that area. **AM170.2 paragraph 13**.

16.5.68 **Michael McGuinness** was on the march with his brother-in-law, Doctor McClean. He gave a statement to the Tribunal at **AM283** and gave oral evidence on **Day 64**. Mr McGuinness has given evidence which is broadly corroborative of the evidence given by Mr Donaghy:

> "...I heard a rubber bullet being fired. It hit the gable wall marked E on the map[18] on the east side of the waste ground marked D. the sound of the rubber bullet was softer than the gunfire I heard later. I believe the rubber bullet came from a northerly direction. It seemed to hit the wall fairly high up but wasn't aimed downwards. It came from somewhere on the other side of William Street, from the northern side, but I do not know from how far away...People collected rubber bullets at that time and when I saw it I thought it would make a souvenir..." **AM283.2 paragraph 8**

16.5.69 Mr McGuinness then heard at least two sharp cracks as he bent down to pick up the rubber bullets. He did not see who had fired them. As he heard the shots he looked across the gap and saw a boy, who he now knows to be Damien Donaghy, on the western edge of the waste ground. McGuinness' immediately knew that Mr Donaghy had been shot as he saw him lying back holding his right leg. He told Peter Pringle that he "...may be was nearest to him" but other people had passed him on the way to attend to Mr Donaghy **AM283.11**. The witness told Mr Lawson QC that he was not aware of anyone else near Damien Donaghy:

> "...my eye was taken by the boy lying there who was Damien Donaghy. I was not in a mood to concentrate on anything else that was going on...all that took my eye was Damien Donaghy and

when I went to collect him I was aware that other people came along and picked him up." **Day 064/174/6 to Day 064/174/15**

16.5.71 There was not a large crowd in the area of the waste ground and he cannot recall if there was stone throwing in the area, but points out that if there had been, he himself would not have been in the area **AM283.2 paragraph 11**. Mr McGuinness also gave a statement in 1972 to Peter Pringle. He told Pringle that he thought Damien Donaghy had been 'acting the fool' when he had heard him shout that he had been shot, and suspected that he had been throwing stones at the soldiers after they had discharged their baton rounds, but stated that 'there was nothing about him as he fell'. **AM 283.11**.

16.5.72 Mr McGuinness then recalls John Johnston coming into the waste ground. He believes that Mr Johnston would have been moving in a westerly direction along William Street (although this was merely an assumption, **Day 064/148/20 to Day 064/149/4**) and entered the waste ground at its north eastern corner. He was holding his shoulder and was very unsteady, leaning against the wall and appearing to be dazed. Mr McGuinness and his friend Charles McGill[19] then carried Mr Johnston in a "chair lift" to Mrs Shiels' house. **AM283.3 paragraphs 12 to 13**.

16.5.73 Mr McGuinness sums up the mood in Mrs Shiels' house in the following terms:

> "John Johnston was very quiet and I do not remember him saying anything. I don't remember any conversation about how or why the two men had been shot. It had happened in broad daylight, neither was carrying anything and John Johnston was a middle-aged man. It

[18] **AM283.9**
[19] Charles McGill's evidence regarding this sector can be found at **AM230.2 paragraph 14 to AM230.3 paragraph 16**

was therefore obvious that both were innocent and there was no need to comment on it..." **AM283.3 paragraph 15**

16.5.74 **Derek McFeely** was a 17 years old youth in January 1972. It is possible that he is one of the youths referred to by Michael McGuinness and Charles McGill who quickly lifted Damien Donaghy and took him to the safety of Columbcille Court.

16.5.75 He gave a statement at **AM217** and gave oral evidence on **Day 61**. He has agreed that he was at the Laundry waste ground (**Day 061/70/5 to Day 061/75/18**). He recalls that Damien Donaghy was standing to his right, about four or five feet away **Day 061/72/8 to Day 061/72/9**. He knew him as "Bubbles". At the time when the witness saw Damien Donaghy, he was unaware of any stone throwing in the area. **AM217.1 paragraph 5**, but there were a number of youths, possibly on the road in the middle of William Street, and on the footpath, who were jeering and verbally abusing the soldiers **Day 061/72/11 to Day 061/73/4**. He heard a single shot from the north side of William Street and then saw Damien Donaghy lying on the ground **Day 061/75/6 to Day 061/75/9**. He had not seen him engaged in any stone throwing at the time when he was shot, nor was he cat calling at the army **Day 061/75/23 to Day 061/76/3**. The witness did not hear any explosions or other bangs, save for rubber bullets being fired. **Day 061/76/18 to Day 061/76/22**. Instinctively, the witness ran in a southerly direction towards Columbcille Court and then returned with four of five others and carried him away. He did not see John Johnston[20] get shot, but was, however, aware of one or two more shots in the area where he had been standing with "Bubbles" Donaghy **AM217.1 paragraph 5 to AM217.2 paragraph 7**.

[20] His NICRA statement at **AM217.7** would indicate that in 1972 he was aware that the second shot that he heard did in fact strike a second man. He no longer recall this **Day 061/79/11 to Day 061/79/17**

16.5.76 **Peter Mullan** was a 31 years old school teacher. He was a very impressive witness who gave his evidence with candour. He gave a statement to John Barry of the *Sunday Times Insight Team* at **AM450.1 to AM450.4**. He has also given written and oral evidence to this Tribunal. It is apparent from Mr Mullan's evidence that he witnessed three important events:

(i) The shooting of Damien Donaghy
(ii) The shooting of John Johnston
(iii) The argument which followed the incident at Columbcille Court involving a civilian gunman

16.5.77 His present recollection is that he was approximately 10 to 12 feet from Damien Donaghy when he was shot. He witnessed Damien Donaghy's right leg give way and states that at the time that he fell, Damien Donaghy clearly had nothing in his hands. Although Mr Mullan did not see Damien Donaghy throwing any stones, his evidence is that there was plenty of rubble and small stones in the immediate area. He is sure however that "there were no petrol bombs, nail bombs or anything of that type on the ground. I was so close to him and had such a clear view that I am certain I would have noticed..." **AM450.6 paragraph 8**

16.5.78 Mr Mullan also witnessed the immediate aftermath of the shooting of John Johnston. His current recollection is that he had heard a second rifle shot, (**AM450.7 paragraph 11**, but he accepts that his evidence to John Barry that he did not hear the shot is more accurate **Day 152/193/4 to Day 152/193/5**) swung around and saw the elderly man (whom he now knows as Mr Johnston) on the ground. He was on the opposite side of the road from where Mr Donaghy had fallen and was about 10 feet or so from the witness. He recollects that he briefly assisted with the carrying of Mr Johnston to Columbcille Court **AM450.7 paragraphs 11 to 12**; **Day 152/194/1 to Day 152/194/5**

16.5.79 There is no evidence to suggest that Damien Donaghy and John Johnston, or indeed anyone who was in their immediate vicinity, were engaged in any hostile activity at the time they were shot.

16.5.80 Even Lord Widgery found that John Johnston was a truthful witness and essentially an innocent abroad:

> "Evidence from civilians in the neighbourhood, including Mr Johnson himself, is to the effect that although stones were being thrown no firearms or bombs were being used against the soldiers in the derelict building. Having seen and heard Mr Johnson I have no doubt that he was telling the truth as he saw it. He was obviously an innocent passer-by going about his own business in Londonderry that afternoon and was almost certainly shot by accident. I have not thought it necessary to take a statement from Mr Donaghy, who was injured more seriously and was still in hospital when I finished hearing evidence. I am quite satisfied that had he given evidence it would have been in the same sense as that given by Mr Johnson. "
> *Widgery Report p13 paragraph 36*

16.5.81 Specifically in relation to whether or not Damien Donaghy or Johnston were in involved in any activity which would could have caused or contributed to them being shot, Lord Widgery said the following:

"Whether or not the circumstances were really such as to warrant firing ***there is no reason whatever to suppose that either Mr Johnson or Mr***

Donaghy was in fact trying to light or throw a bomb." (Emphasis Added)
Widgery Report paragraph 39

16.5.82 It is clear from the evidence before the Inquiry that there is an element of confusion in respect of the *precise* position in the laundry waste ground where Damien Donaghy was shot and fell. Damien Donaghy has given evidence that he was shot at the northeastern side of the waste ground. The preponderance of evidence, however, would suggest that he was closer to the Nook Bar (i.e. the north western) side of the waste ground. There is no doubt however that neither he, John Johnston, nor anyone else in the vicinity was acting in a manner which would have properly warranted the soldiers to open fire.

16.5.82 In our submission, there is no objective or sustainable reason to provide justification for the shots fired by Soldiers A and B.

16.6 Civilian Gunmen and Gunfire

16.6.1 Introduction

16.6.1.1 The Lawton Team have produced a document entitled "Civilian Gunmen Table," attached to the Memorandum from Counsel to the Tribunal dated 22nd July 2002. Section 4 of this table relates to Columbcille Court and Section 16 to William Street. In accordance with the memorandum, both these sections should be considered together as "evidence under both headings relates to the shot(s) at the soldiers at the Presbyterian Church which, according to that evidence, followed the shooting of Damien Donaghy." It is indisputable that there was a high velocity rifle shot fired by OIRA 1 across William Street at the Presbyterian Church. That being so, the only area that remains for consideration is the timing of this shot and whether or not it followed the wounding of Damien Donaghy and John

Johnston. This matter is considered below under the section entitled, "The Columbcille Court/ "Drainpipe Shot."

16.6.1.2 However, other evidence suggests that in addition to the undisputed .303 shot, a pistol shot was fired in William Street. Whilst it is for the Tribunal to consider the veracity and / or reliability of such evidence, it is clear that there is no evidence from any soldier on the north side of William Street to the effect that they heard, saw or reacted to a shot fired by a pistol man in William Street. It is our submission, therefore, that were the Tribunal to decide that such a shot was fired, it must also conclude that this shot in no way contributed to or impacted upon the shooting of Donaghy and Johnston or what followed in the Bogside.

16.6.1.3 A further, distinct possibility is that those witnesses who refer to a pistol shot have either mistaken (a) a rubber bullet for a pistol shot (b) one of A and B's shots for a pistol shot or (c) OIRA 1's shot for a pistol shot because of:

i) The echo effect, prevalent in the built-up area of the Bogside
ii) An inability to distinguish between high and low velocity shots
iii) The number of rubber bullets, gas grenades and gas canisters being fired at the relevant time
iv) Confusion resulting from the surrounding commotion and the resultant divided attention

For similar reasons, it is clear that a number of witnesses are referring to the sequence of Soldier A and B firing five shots, injuring Damien Donaghy and John Johnston, and OIRA 1 returning one rifle shot but have failed to hear, refer to or remember all five shots fired by Soldiers A and B.

16.6.1.4 **Mr John Barry**

Mr Barry, at **M3.5 paragraph 21**, states:

> " . . . I heard a story – I have no independent recollection of the source – that some in the Provisional IRA had made preparations to ambush the Army at the William Street barricade after the march had dispersed but we were never able to get corroboration of that story and in any event no shooting occurred there."

Mr Barry, having reconsidered the notes of his interview with him, now states that source of this information was Mr Ivan Cooper. **Day 193/104/25 to Day 193/105/9**. The Tribunal is aware, however, that Mr Cooper denies ever having been interviewed by John Barry and rejects the Sunday Times document in its entirety. **Day 419/76/17 to Day 419/76/15**. Further detail is provided below. Considering this fact and Mr Barry's acknowledgement in his statement that there is no corroboration of the story and that there was no such shooting, it is our submission that the Inquiry disregard this evidence.

16.6.1.5 **Vincent Browne**

Mr Browne reported in the Sunday Press, on 6th February 1972:

> "After the second burst of army gunfire the Officials took up positions and one shot was fired by one of the men with the short arms at a soldier in William Street but it missed. No other shot was fired then by anybody until the actual murderous assault on the Bogside by the Paratroopers."

Whilst Mr Browne can no longer remember the interviews that took place with the relevant member/s of the Official IRA, this quote appears in the article subsequent to the description of how Damien Donaghy and John Johnston were shot in William Street and, as such, this would

appear to be an obvious reference to the shot fired by OIRA 1 from Columbcille Court.

16.6.1.6 **Joe Carlin**

This witness is purported to have told John Barry from the Sunday Times, during an interview, that he "heard a single high velocity shot just as it went in off William Street . . . It didn't come from the Bog, in front of me. So we proceeded through to the back and hid behind the wall . . . but nothing seemed to be happening. . . . on the corner the Aggro was still going on . . While we were standing there, a small boy by our side was hit."**AC150.2 to AC150.3**.

16.6.1.7 The witness did not give oral evidence to the Inquiry. The account was put to a Mr John Joseph Carlin who, giving oral evidence on **Day 91/192/25 to Day 91/193/18**, denied that the notes of the interview were anything to do with him.

16.6.1.8 The relevant sequence described in the note is as follows:

i) The witness describes how the single shot he heard was high velocity and that it came from the direction of Little James Street, *not* the Bog [Emphasis added], an obvious reference to one of the shots fired by Soldiers A and B from Abbey Taxis. **AC150.2**

ii) He sees a small boy fall beside him with a wound in his leg, an obvious reference to Damien Donaghy. The young boy was taken to Columbcille Court **AC150.3**

iii) There was then a shot from the upstairs window of a house, in Columbcille Court, facing the flat roof of the sorting office immediately afterwards. **AC150.3**

16.6.1.9 Albeit that the witness is confused in referring to one high velocity bullet rather than the five fired by Soldiers A and B, it should be noted that:

i) This witness describes rubber bullets whistling all over the place and the firing of, what could have been, gas canisters in the area at the relevant time. The noise produced disguised the sound of five high velocity bullets being fired so that the witness heard only one. The witness actually states that "people said afterwards that they had been trying to synchronise rubber bangs and rifle shots." **AC150.3**

ii) The witness acknowledges that "the strange part was that I didn't hear the shot which hit him. I heard rubber bullet noises but no the shot, though it must have been close." **AC150.3**

iii) The witness himself describes the sequence of events as "The news of the little boy shot and the news of the shot in return." **AC150.4**

iv) Whilst the assertion by the soldiers' representatives is that this high velocity shot was from a civilian source other than OIRA 1, it is apparent, in our submission, that this witness is describing the shots fired by Soldiers A and B and the return fire by OIRA 1. It should also be noted that it was, of course, impossible to test this information further by examination in oral evidence.

16.6.1.10 **Ivan Cooper**

In respect of the Sunday Times notes Ivan Cooper has said

> "I have read some typewritten notes which I am informed were prepared by the Sunday Times Insight team. I have never seen them before making this statement. I find this account poisonous and disturbing and I reject it in its entirety. The manner in which it is written smacks of British security intelligence operating; it is for the most part, factually incorrect. There are many examples of factual inaccuracies in the articles. I therefore wish to reject this document in its

entirety and will not even begin to give it credibility by addressing it in more detail." **KC12.30 paragraph 97**

16.6.1.11 Even if the Tribunal was to find that Cooper have an interview with John Barry and in all likelihood made these remarks, we respectfully refer the Tribunal to the following. **AM208.10 paragraph 17**:

> "Ivan Cooper is a fantastic liar he is the sort of person that I have always wanted to and have tried to avoid. I would take anything he says with a "pinch of salt". The statement that he made to the Sunday Times is a fabrication. I suspect he made the statement to make himself sound like an important politician for the journalists."

In these circumstances it is submitted that this extract from the statement cannot be relied on.

16.6.1.12 Ciaran Donnelly

In his 1972 statement, Mr Donnelly merely describes how a pistol man fired one shot from the crowd and that no fire was returned, the obvious inference being that he saw the man fire the shot in question, **M22.1**. It becomes clear at Widgery and during his testimony to this Inquiry that Mr Donnelly did not in fact see a man armed with a pistol nor a man fire a pistol as illustrated by the extract below. Mr Donnelly clarified his initial statement at Widgery affirming that he "heard a loud bang which *appeared* to be a revolver shot." [Emphasis added] **M22.5 D-E** Yet in his Eversheds statement, Mr Donnelly describes a man firing a shot at a derelict house as follows: "The firearm he *was holding* was a small handgun or possibly a starting pistol. I remember thinking that this man appeared to be drunk. . . .I can't remember where he was standing when he fired the shot but I do remember that *he was aiming toward* a bricked up derelict house. This was the only shot *I saw fired by a civilian* all day." **MC22.20 paragraph 4.** [

Emphasis added]. It would seem from reading this passage that, contrary to what he said at Widgery, Mr Donnelly did in fact see a man aim a pistol and fire a shot at a derelict house. Mr Donnelly accepts, however, at **Day 071/16/10 to Day 071/17/11**, that he did not actually see the man holding or firing a pistol:

> Q. This is part of your evidence to Widgery.
> At D you said this:
> "At some point at the time, which was about
> 20 minutes before the paras ever appeared on the scene,
> I heard from somewhere nearby one shot, which I *assumed*
> at the time to be fired from a revolver."
> The next question was this:
> "Did you see any weapon in anybody's hand?
> Answer: No, just heard a loud bang which
> *appeared* to be a revolver shot.
> Question: And that was in the crowd?
> Answer: I *assumed* at first in the crowd,
> everyone in the crowd with me *assumed* it was from the
> crowd and most of the people, not wanting to be
> connected with the gunman, ran away."
> That evidence appears to suggest that you
> heard a shot which you *assumed* came from the crowd,
> rather than see a man actually fire?
> A. Yeah.
> Q. You did see him, did you?
> A. *No, I did not see him fire.* I *heard* the shot
> and when I went over to the crowd there was a general
> melee and people were gathering round this guy and sort
> of hustling him away. By that time there was no sign
> of the gun, he must have put it back in his pocket or

someone took it off him. Then he was hustled away from the crowd. I asked what had happened and they said so and so had fired a shot or something. [Emphasis added]

Mr Donnelly attempts to explain further:

A. He was holding the gun, but I think the gun was in his pocket. His hand was like this, his hand was in his pocket.

Q. You demonstrate with your right hand, your right hand by your trouser pocket --

A. It was a coat pocket.

Q. You remember seeing him holding something?

A. Well, he had his hand in his coat pocket.

Q. Was that after you had heard the noise?

A. Yes. I did not see the gun actually appear

Day 071/71/5 to Day 071/71/14

16.6.1.13 Mr Donnelly's evidence is based upon a great deal of his own supposition, and that of others, as illustrated by the italicised words above. Considering the number of rubber bullets and gas canisters being fired in the vicinity, along with fact that there was no immediate reaction of any sort, **Day 071/16/6 to Day 071/16/7**, it appears that Mr Donnelly has wrongly associated the sound of a rubber bullets or a gas canister being fired with the noise of a pistol. This incorrect correlation coupled with the unfounded belief that the man was holding a weapon in his pocket cannot be relied upon as proof of a civilian gunman. In all likelihood this man was, rather than being hustled away by the crowd as suggested at **Day 071/17/9 to Day 071/17/11**, was part of a group of people who, overcome by the effects of gas, were leaving the area.

16.6.1.14 **Martin Hegarty**

Mr Hegarty describes in his statement how, having reached the junction of Abbey Street and William Street as seen at **AH62.7**, he heard a high velocity shot which he recognized as being from an army weapon and which the people around him believed to have come from the direction of the soldiers positioned in the old factory on the north side of William Street. **AH62.2 paragraphs 8 to 9**. It is possible that, not having heard the five shots fired by Soldiers A and B, Mr Hegarty then heard the shot fired by OIRA 1. However, considering the direction from which he heard the shot and that he recognized it as an army weapon, the Tribunal should, in our submission, as he concludes himself, find that what Mr Hegarty heard was the shot which hit the first man, i.e. what he heard was one of the five shots fired by Soldiers A and B which hit Damien Donaghy and John Johnston. The reason that he cannot account for the other four shots is simply because:

i) He cannot remember having heard all five shots particularly without the assistance of a contemporaneous statement

ii) Mr Hegarty concedes in later questioning that he could possibly have confused rubber bullets for high velocity bullets: "Um, no, because I mean -- well, it could have been, it could have been rubber bullets certainly." **Day 288/ 51/7 to Day 288/51/8**. It is, therefore, plausible to suggest that, vice versa, whilst in William Street, he did not hear the remaining four shots over the copious rubber bullets being fired as well as the 15 CS gas grenades and 65 CS canisters that had been discharged by the army.

16.6.1.15 **Derek Humphry**

Mr Derek Humphry, a journalist in Derry, spoke to an Official IRA man who claimed to have, in breach of his orders for the day, **Day 217/176/24 to Day 217/176/25**, fired one pistol shot at soldiers stationed in a derelict building on the north side of William Street near the GPO building in response to the shooting of Damien Donaghy. **M43.2 paragraph 10**. It is

Mr Humphry's suggestion that it was after this pistol shot was fired that Mr John Johnston was shot, however, we know that, in accordance with the majority of the available evidence, Mr Johnston and Damien Donaghy were shot almost simultaneously. Mr Humphry's evidence is not only inconsistent with the majority of other available civilian evidence, it is internally inconsistent as pointed out by Mr Clarke QC, to the extent that Mr Humphry's is no longer certain whether the information in the article can be relied upon:

> Q. There is a slight difference between what appears in the article, which is a reference to shooting at soldiers on the GPO sorting office roof and what appears in paragraph 10 of your statement, which is shooting at soldiers stationed in a derelict building on the northern side of William Street near the GPO building.
>
> Are you able to explain what has happened?
>
> A. No, I cannot. I -- with the passage of time I cannot recall why there is a difference there.
>
> Q. Should we assume that what was entered in the article is more likely to be correct?
>
> A. I *think* so.
>
> Q. Apart from that episode, somebody firing a pistol towards either the GPO sorting office roof or possibly soldiers in a derelict building nearby, did you become aware of any other incident in which fire had been directed at the soldiers other than at the very end of the whole business?
>
> A. The only evidence I picked up was the one shot.
>
> **Day 217/160/20 to Day 217/161/13**

It is apparent that what Mr Humphry's is describing is the shot fired by OIRA 1, in response to the shooting of Damien Donaghy and John Johnston, that he is mistaken when he states that this was a pistol shot and that this evidence should be juxtaposed with that outlined in the section on Columbcille Court/ Drainpipe Shot, below.

16.6.1.16 **Sheila Ingram**

Ms Ingram, in her Eversheds statement, at **AI1.2 paragraph 7**, states that when she reached a point on William Street opposite the GPO Sorting Office a high velocity shot rang out from the direction of the GPO, as marked by an arrow on the map attached to her statement at **AI1.6**. Whilst Ms Ingram did not "address her mind at the time to whether the shot was an army shot or a civilian shot," we know that the army did fire 5 high velocity rounds from the direction in which she indicates and at the relevant time. It is clear, therefore, considering that Ms Ingram was not aware of the fact that rubber bullets were being fired at the time or of the noise of a riot, **Day 417/71/25 to Day 417/72/4** and admits that her memory is "not great," **Day 417/73/19**, in regard to some matters, that either:

i) The shot to which Ms Ingram is referring is that fired by OIRA 1 after the five shots fired by Soldiers A and B, which she must not have heard.

ii) Ms Ingram did not hear, because of the noise of riot and rubber bullets, the further four high velocity shots fired by Soldiers A and B from Abbey Taxis resulting in the wounding of Damien Donaghy and John Johnston.

iii) Ms Ingram simply did not recognise the sound of the other four shots as rifle shots

iv) Ms Ingram, without the benefit of having made a statement in 1972 cannot now remember that she heard five rounds coming from the general direction of Abbey Taxis.

16.6.1.17 **Philip Jacobson**

A memorandum written by this witness, dated 3rd February 1972, **ED20.30-31**, states that a source informed them that the Official IRA fired a single shot from a .45 pistol at an army sniper on the roof of the post office sorting building on William Street after Damien Donaghy and John Johnston were shot. This sequence of events is correct, however, the reference to a pistol rather than a rifle shot is incorrect as accepted by Mr Peter Pringle who states that they were informed of various accounts ranging from pistol shots from a burnt-out building on the corner of William Street and Rossville Street to shots from a second floor in Columbcille Court from behind some wooden slats and an account of a shot fired actually from the premises in Columbcille Court to which the injured men had been taken. **Day 191/9/25 to Day 191/10/21**. Mr Pringle clarifies further:

A. The second one had the most corroborative evidence, if that is what you are asking me.

Q. Insofar as the Insight article was concerned?

A. Yes.

Q. Which, you have been good enough to say in your paragraph and an affirmation yesterday, you are satisfied with everything in it and indeed with the conclusions, you stand by those?

A. Yes.

Q. To the best of your knowledge, your conclusion was that the middle of the three ranges of accounts was correct, namely: a shot with a rifle?

A. Correct.

Q. From the second floor of Columbcille Court?

A. Correct.

Q. Probably behind the wooden slats?

A. Correct **Day 191/11/6 to Day 191/11/25**.

This note is, in effect, a clear reference to the shot fired by OIRA 1 from Columbcille Court after the shooting of Damien Donaghy and John Johnston and cannot be considered a separate incident in any way. It is submitted the Tribunal should hesitate to base a finding of fact on uncorroborated material that was not of sufficient quality to print or publish in 1972.

16.6.1.18 **Thomas Mullarkey**

Mr Mullarkey is not definitive even in his 1972 statement when he describes hearing about four or five shots followed by "a single shot, loud, a revolver I thought, but I could not place where it came from." **AM452.2**. This is an obvious reference, in terms of location and timing, to the rifle shot fired by OIRA 1 after Damien Donaghy and John Johnston were shot. Mr Mullarkey, who no longer remembers this shot **AM452.6 paragraph 31.5**, was obviously mistaken in his belief that it was from a revolver because of:

i) The echo effect prevalent in the built-up area of the Bogside

ii) A possible inability to distinguish between high and low velocity shots

iii) Confusion resulting from the commotion surrounding him and the resultant divided attention

iv) The number of rubber bullets being fired around this time which Mr Mullarkey claims not to have heard **Day 69/12/14 to Day 69/12/22**

16.6.1.19 **Chris Myant**

Mr Myant has a memory of a very young girl approaching him to say that she had seen a man fire a pistol in William Street. **M91.4 paragraph 13**. He has no evidence to corroborate this, he does not know the girl's name, the girl did not make a statement, Mr Myant considered her to be

"hysterical," "in a state," that her memory was playing tricks on her, **Day 122/177/6** and he felt that the incident she described did not occur on Bloody Sunday, **Day 122/177/15 to Day 122/177/16**. Mr Myant's view of this incident is as follows:

> A. She came in, she was one, you know, there is a big queue of people. She came in and said, "I want to talk about this, I seen a man fire a handgun in William Street", but she had nothing else, she could not tell me anything else about the incident or anything around it, and she did not want to make a formal statement, she said. So whereas other people were telling me, "I have done this, I have been here, I saw that, this happened", as you can see from my notebook, you know, they are trying to tell you and step by step process of what they had seen. She did not have that kind of information at all.
>
> So my feeling about her was that, like a lot of people, who were quite hysterical the following day when I went down to Rossville Street itself. People were just standing there in tears and I felt that that was the state that she was in. **Day 122/178/8 to Day 122/178/24**

Considering this analysis of the situation and that the evidence is otherwise completely untested, we submit that the Tribunal should attach no weight to this evidence.

16.6.1.20 **Anna O'Donnell and Grainne O'Donnell nee Lynch**

Ms Anna O'Donnell, now deceased, referred, at **AO20.1**, to a man firing an old rifle from behind the taxi office in William Street hitting nothing. He

was advised to put the gun away by bystanders which he did immediately. She did not see him after this. Ms Grainne O'Donnell elaborates on this evidence based on what her Mother told her of the incident, namely "after the person was wounded she saw a gunman come out of the house somewhere in the region of GRJ8/K8/7 carrying an old style gun. He fired a shot into the air. The people around him told him to put the gun away as he would draw army fire." **AO30, paragraph 25**

16.6.1.21 This is an obvious reference to the shot fired, following the shots fired by Soldiers A and B, by OIRA 1 and its aftermath. Ms A O'Donnell is obviously mistaken when she suggests that the shot was fired from the ground into the air and her account is at odds with the majority of available evidence in this regard. It should also be noted that when she witnesses Damien Donaghy fall, having been shot by either Soldier A or B, she refers, mistakenly, to having heard only one shot rather than five. This evidence is completely untested, except by Ms Grainne O'Donnell to whom her Mother repeated the same mistaken account, and should, in our submission, be disregarded as such albeit significant that Ms Grainne O'Donnell does suggest that her Mother told her that she had seen the gunman in a derelict building. **Day 105/140/1to Day 105/140/2**.

16.6.1.22 **David Tereshchuk**

It is clear, from his accounts at **M77.1** paragraph 5, **M77.3F-G**, **M77.7E-F** and **M77.12 paragraphs 7 to 9**, that what Mr Tereshchuck is referring to the shot fired by OIRA 1 and that he has not remembered, or heard, the previous five shots fired by Soldiers A and B because of the confusion emanating from the commotion around him, including being overcome with gas and the resultant divided attention. **Day 71/109/1 to Day 71/109/10**.

16.6.1.23 **Teresa Bradley**

According to the witness there was a gunman on the first floor walkway of the western side of the Kells Walk maisonettes towards the northern end.

> "The man was standing completely alone and was pointing a handgun straight in front of him with arm outstretched, and was firing it in the direction he was facing." **AB70.2 paragraphs 12 to 13**

16.6.1.24 Mrs Bradley said that the man fired several times and the crowd shouted for him to stop. He then disappeared. According to Mrs Bradley, he had been shooting in a northerly direction after the shooting of Damien Donaghy and John Johnston.

16.6.1.25 The witness claimed that she had told the statement taker about the gunman on 4th February 1972. This was a schoolteacher called William Smyth. The witness accepted at **Day 064/73/1 to Day 064/73/4** that she possibly did read the 1972 statement through before signing it. Neither did she tell anyone about her unhappiness about that statement except her husband **Day 064/73/8 to Day 064/73/11**. The witness's husband however said that they had not discussed it. **Day 064/14/7**. William Smyth gave evidence on **Day 083/181/14 to Day 083/182/12**. He strongly refuted the suggestion that he had deliberately left out a reference to the gunman in Kells Walk in Teresa Bradley's 1972 statement[21].

16.6.1.26 It the Tribunal accept that this incident occurred, it is clear that it took place prior to the deployment of Support Company **Day 064/61/3 to**

[21] We refer the Tribunal to the remarks by Chief Superintendent McCullough in relation to the standards of honesty of the schoolteachers in Derry. **Day 231/164/15 to Day 231/164/23**

Day 064/61/12. It is unclear at what the gunman was firing at but the army did not observe him.

16.6.2 **The Columbcille Court/ "Drainpipe Shot"**

16.6.2.1 **OIRA1** fired a shot from Columbcille Court from a .303 rifle. It is likely to have been the shot that struck the drainpipe at the Presbyterian Church.

16.6.2.2 **OIRA1** maintains that this shot was a retaliatory action taken after it became apparent that the Army had shot two civilians, namely Damien Donaghy and John Johnston. OIRA1 was on a balcony in the Columbcille Court flats when he heard three shots **AOIRA1.27 paragraph 18**. He also heard shouting to the effect that two civilians were had been shot and he formed the impression that soldiers positioned at the Presbyterian Church were responsible. He fired one shot at the Army. **AOIRA1.6 paragraphs 16 to 21**. He maintained this in the course of oral evidence on **Days 395** and **Day 396**.

16.6.2.3 **OIRA2** accompanied OIRA1. His evidence is to similar effect. He said that whilst on the Columbcille Court balcony he heard two or three shots and then heard shouts that two people had been shot by the Army. OIRA1 then fired one shot at "Army sniper in the Presbyterian Church area" **AOIRA2.3 paragraphs 8 to 12**, **AOIRA2.15 paragraphs 9 to 14**. He maintained this in the course of oral evidence on **Day 392**.

16.6.2.4 There was then a heated argument with Sean Keenan - Provisional IRA Explosives Officer, PIRA1 and RM1.

16.6.2.5 There is a large body of evidence to suggest that OIRA1's shot did follow the shootings of Damien Donaghy and John Johnston. This is not intended to be a comprehensive list, but is a selection:

(i) **Peter Mullan** in our submission was the most compelling, persuasive and clear witness in relation to the sequencing of the shooting of Damien Donaghy and John Johnston and the incident with OIRA1. The witness knew and recognised OIRA1. The events, including the heated argument with others present is set out in considerable and convincing detail in his Sunday Times interview at **AM450.1 to AM450.3.** His Sunday Times interview is completely consistent with his Eversheds statement **AM450.6 paragraphs 8 to 24**. .

(ii) **Eamon Gallagher** gave oral evidence to the Tribunal on **Day 66.** He also provided a detailed account to the Sunday Times Insight Team. In that account he heard that two men had been shot and saw a crowd carrying two bodies to Colmbcille Court. This must be a reference to Damien Donaghy and John Johnston. He also saw the BBC camera crew that were in the area. A man appeared with a rifle and said "I'm going to get on this roof and shoot,..." because these other people had been shot". There was then a tug of war with the gun **AG8.7**. This account has clear echoes of the OIRA1 incident and the argument with Sean Keenan, PIRA1 and RM1.

(iii) **Anthony Martin** gave oral evidence to the Tribunal on **Day 176**. He was formerly a L/Cpl in the UDR and spent 12 years in the Navy. In his Sunday Times interview to Peter Pringle dated 29th March 1972 he said he was along with **Peter Lancaster AL4**. When they came out of a friend's flat at Kells Walk he heard two high velocity shots "from the direction of the Richardson's factory or the Presbyterian Church. A few seconds later I distinctly heard the thump of a .303 right beside us on the corner of Columbcille Court was fired – one round. I know the thump of the .303 very well... I want to make the point that it is a racing cert. that the

.303 replied to the first two shots... after the shot had been fired I saw an argument going on between the gunman, who I later learnt was an Official and some Provisionals. The Provos were trying to get the gun from the Official and stop him firing because of the crowd." **AM24.3**, **AM24.11 paragraphs 19 to 20**

(iv) None of the civilians who were throwing stones in the area of the waste ground north of William Street at the soldiers in the Abbey Taxis building or on the roof of the GPO refer to a shot passing northwards over or past their position towards the Presbyterian Church

(v) **Damien Donaghy** was in the area for some time before he was shot. He was involved in stone throwing in the waste ground to the north of William Street. He said that the first shot he heard fired in this area was when he was picking up a rubber bullet and was himself shot in the leg **AD120.1**. He heard no shooting prior to this.

(vi) **Billy McCartney** gave oral evidence to the Tribunal on **Day 84**. He also had been in the area for some time and was involved in some of the stone throwing. The first shot he was aware of was that which struck Damien Donaghy. The second shot he heard struck John Johnston **AM87.3 paragraphs 10 to 13**.

(vii) When **Eugene Lafferty** was in William Street the first shots he heard were two SLR rounds that came from the direction of the Presbyterian Church. These shots struck Damien Donaghy and John Johnston **AL1.2 paragraphs 7 to 8**.

(viii) **Father Carolan** in his 1972 account was in William Street "a short distance from Rossville Corner". He saw a few young men throwing stones at the army on the roof of the GPO. He then made his way into what must be the Castle laundry waste ground. A crowd was moving through this space and "shots rang out from the direction of the sorting office roof. I ducked at the sound of

gunfire then I lifted my head to see about ten yards from me two men being helped, one old, one young." The witness then assisted in helping them to the Shiels' house. **H3.8**. These appear to be the first shots that he heard in the area.

(ix) **Charles Meehan** in his 1972 account provides further evidence. He said that along with **Pat Carolan** he stood in the area for "a while trying to clear our heads and eyes from the effects of gas". He observed the soldiers in the Abbey Taxis building and saw the soldier who shot the youth **AM390.1**. It is submitted that this is clear evidence in relation to who opened fire first. **Pat Carolan's** evidence corroborates Mr Meehan. He commented after setting out his recollection of seeing Damien Donaghy shot in his statement to Eversheds "That single shot was the first I heard. If I had heard shooting before I certainly would not have been waiting around in that area" **AO6.2 paragraphs 8 to 11**. **Day 060/9/1 to Day 060/9/4**.

(x) **Frank Hone** made a statement to NICRA but did not give oral evidence to this Inquiry. He said in 1972 that he heard shooting and heard two civilians were shot. He then heard a heavier shot three minutes later, which was close to him in Kells Walk. There is no reference to this in his Eversheds statement **AH80.1**, **AH80.2 paragraphs 23 to 34**.

16.7 Overview of Military Evidence in Sector One

16.7.1 Introduction

16.7.1.2 This section deals, in the main, with the evidence of the soldiers in Machinegun Platoon whose evidence is appraised on an individual basis and collectively. The evidence of those in Wilford's OP in William Street,

Harrison's Garage and the Embassy Ballroom is also evaluated in broad terms.

16.7.2. **Wilfords Observation Post in William Street**

16.7.2.1 The exact whereabouts of the observation post in William Street where Colonel Wilford took up position prior to Support Company's deployment through Barrier 12 is not known. Following an exchange between Colonel Wilford and Mr Clarke QC it seems probable that the observation post was in a three-storey building situated to the north east of the Presbyterian Church from where it was possible to see the march and the vehicles moving into the Bogside. **Day 313/1/3 to Day 313/3/25**. This building can be seen in **P493**. What is certain is that it is no distance at all from Abbey Taxis.

16.7.2.2 The occupants of this observation post, at the relevant time, were Colonel Wilford, Captain Mike Jackson, INQ 1152, INQ 1940 and INQ 1171. According to INQ 1940 there was an excellent view of the riot. He describes a scene of screaming, shouting and stone-throwing. **C1940.2 paragraphs 8 to 9** and **Day 315/104/1 to Day 315/104/24**. Captain Jackson was observing for a longer period, yet he made no mention of any nail bombs.

16.7.2.3 Not one of these witnesses claim, in their statements or on **Day 313**, **Day 318**, **Day 334**, **Day 315** respectively, to have heard nail bombs explode in William Street as alleged by Soldiers A and B. (INQ 1171 did not give oral evidence). Major Loden, also in the observation post could not offer any plausible explanation for his failure to hear these supposed nail bombs. **Day 345/49/2 to Day 345/51/3**.

16.7.3 **ECHO OP Embassy Ballroom**

16.7.3.1 The clear view from the Embassy Ballroom can be seen in **P233.69A**, **P233.69**, **P279**, **P402**, **P403**, **P404**, **P406**, **P407**, **P408** and **P409**. Not one of those positioned on ECHO OP, except for INQ 877 dealt with below, namely Lieutenant 009, who was in charge of the ECHO OP, INQ 877, INQ 883, WO INQ 1164, INQ 1252, Soldier 108, Captain 021, Lance Bombadier 118, Soldier 123 and Soldier 157, refers to having heard explosions and/or nail bombs or of having seen any nail bombers at the time relevant to the shooting of Damien Donaghy and John Johnston. This is despite the fact that there was a clear view of all of the Bogside from the top of the Embassy Ballroom, **C1025.5 paragraph 17**. General Ford, Captain INQ 2 and Lieutenant Colonel Ferguson who claim not to have been on the Embassy Ball Room at the relevant time, were within the vicinity of Barrier 14 in William and do not refer to having heard nail bombs at this time.

16.7.3.2 INQ 877, who was not called to give evidence, believes that he heard the sound of explosions coming from the Rossville Flats, **C877.2 paragraph 13**. INQ 877 is clearly confused in this regard as he remembers radio traffic relating to this issue, none of which appears on the available logs. It is obvious that he has mistaken the sound of rubber bullet guns, CS canisters and/or CS gas grenades, none of which he realised had been fired on the day, for the sound of nail bombs.

16.7.3.3 **Soldiers in Harrison's Garage tasked to protect Stevenson's Bakery/Abbey Taxis**

INQ 117, INQ 146, INQ 312 and INQ 480 were given the specific task to cover Stevenson's bakery. Yet they did not hear two nail bombs that supposedly exploded on the waste ground nor do they see the consequences of their having done so. They also fail to hear five high velocity shots from the Abbey taxis building. Importantly, and in common with all the other

soldiers, they fail to see a man behaving in the manner described by A and B and they fail to see a young boy and an elderly man shot.

16.7.4 **Introduction to Machinegun Platoon**

16.7.4.1 The only sergeant in the Machine Gun Platoon who was present at Bloody Sunday was Sergeant INQ 441. He was acting Platoon Commander in charge of Machine Gun Platoon because the resident Commander, INQ 1851, was on a course in America **Day 303/68/5 to Day 303/68/10**. His acting platoon sergeant was Corporal INQ 1686. **Day 303/91/9**. The platoon consisted, thereafter, of two Corporals, one of whom, **Soldier A**, fired live rounds on the day, three Lance-Corporals and fourteen Privates one of whom, **Soldier B**, fired three live rounds on the day. The platoon seems, on the evidence available, to have been divided into two sections. One section was commanded by Corporal A, the other by Corporal INQ 1686 whose second in command was Lance Corporal INQ 275. Soldier 005 and INQ 439 drove the two Machinegun Platoon Pigs. **C439.1 paragraph 4**.

16.7.4.2 Of the twenty-one members of the platoon who were present on Bloody Sunday only three made statements to the RMP, Soldiers A, B and 005, and only two to the Treasury Solicitor, Soldiers A and B. INQ 441 was the only platoon commander in Support Company not to have made a statement in 1972. Soldiers A and B were the only two members of the Machinegun Platoon to give evidence to Lord Widgery, on Day 12, and only nine members of the platoon gave oral evidence to this Inquiry. We have received no statement from INQ 1523, who could not be traced within the Inquiry's jurisdiction, or INQ 1686 who is deceased.

16.7.4.3 According to the order of the day "an arrest force [was] to be held centrally behind the check-points and launched in a scoop-up operation to arrest as many hooligans and rioters as possible." The Machinegun Platoon was to

play an instrumental role in the purported arrest operation by acting as one of the arms in the pincer movement that was to close off the rioters around the junction of Rossville, William and Little James Streets. **Day 046/18/1.**

16.7.4.4 The reality of what happened on Bloody Sunday bears little resemblance to this order and the debacle that was the Machinegun Platoon's involvement in the day supports the contention that the operation was not planned or controlled in order to minimise to the greatest extent possible the risk of the use of lethal force. The role of the Machinegun Platoon in the day's events highlights:

i) The danger of using troops whose lack of knowledge of the geography of an area contributed to an atmosphere of disorientation and chaos leading to an increased risk of gunfire.

ii) The fact that, once a decision had been made to use 1 Para, they should have been appropriately briefed by 8 Brigade in relation to: the geography of the area; locations from where 1 Para could launch an effective arrest operation; how Derry rioters operated and how the general body of marchers would be likely to behave.

iii) The fact that no arrest operation should have been launched in the circumstances which existed on the day. This is subject to our primary contention that 1 Para in fact went into the Bogside without an Order from 8 Brigade.

16.7.4.5 It was Colonel Wilford's intention that troops would deploy from the area of the Presbyterian Church across the waste-ground and in, a pincer movement, close off any rioters somewhere in the junction of Rossville Street/William Street/Little James' Street. The original plan was for the troops to go through the yard of the Presbyterian Church and over a wall. According to some accounts soldiers were to use a Pig to drive through the wall next to the little building, with a flat roof to the east of the church, in order to get into the waste ground to the south leading onto William Street.

A subsequent plan was devised, when, after a 'recce' on arrival in Derry, it became apparent that it was not feasible to get through the churchyard.

The actual deployment of Machinegun Platoon was achieved by putting some soldiers through a number of buildings on to the first floor of a derelict building commonly known as Abbey Taxis. According to Major Loden's diary of operations, at **B2212**, at 1540 approximately:

> "In view of the difficulty in approaching the disused building by a concealed route, which involved climbing two by twelve foot walls, I ordered the Machine Gun Platoon to move forward to this building, in anticipation of trouble at William Street on which a NICRA march was now moving. At the same time the Mortar Platoon cuts the wire on top of the wall and the Composite Platoon under my command was given a warning order to deploy 5 or to the open ground south of the Presbyterian Church to arrest rioters."

16.7.4.6 From the evidence of the members of Machinegun Platoon it seems that, in order to gain access to the building, they had to overcome very substantial physical obstructions including, at least, two high walls, one of which was topped with barbed wire. It was from this wall that the radio operator, INQ 455, is claimed to have fallen sustaining injuries that disengaged him from the operation and, as a result, continuing his role as signaller.

16.7.4.7 Soldiers A and B fired two and three rounds, respectively, from Abbey Taxis, however, they fired these live rounds, not at a nail bomber but at two innocent people, Damien Donaghy and John Johnston. As outlined in greater detail below, no member of Machinegun platoon, with the

exception of four soldiers whose evidence cannot be relied upon, either saw or heard nail bombs. Only one member of the platoon, other than Soldier A, makes reference to a single shot having been fired towards their position, INQ 153, before shots were fired from within the derelict building. In effect, not one member of Machinegun Platoon corroborates Soldier A's or Soldier B's version of events. See Table 1 at Appendix 1.

16.7.4.8 We will, therefore, ask the Tribunal to conclude that Soldiers A and B lied both at Widgery and to this Inquiry when they maintained that they had seen and fired at a nail bomber. Neither the supposed sighting of a nail bomber nor the fact that live rounds had been fired were reported over the radio despite the fact that it could have had a dramatic influence upon any decision that the company commander had to make in relation to the deployment of other platoons and/or companies, a fact conceded by INQ 441. **Day 303/87/4 to Day 303/87/9** and **Day 303/100/25 to Day 303/103/2**. The reason for this is that there were no nail bombs.

16.7.4.9 It was whilst the Machinegun Platoon was in Abbey Taxis, at approximately 1555 according to Major Loden's diary, **B2212**, that a single shot is purported to have been fired at a wire cutting party, consisting of members of Mortar Platoon, hitting a drainpipe. Again according to Major Loden's diary:

> "A few moments after this a member of the Machine Gun Platoon observed a man preparing to ignite a nail bomb at the corner of the building on the south side of William Street. The Platoon Commander then gave orders to a corporal and a soldier to open fire as the bomber prepared to throw".

This shot, from Columbcille Court, actually occurred after the shots fired by Soldiers A and B. The timing of this shot is not relevant in any way to the shooting of Damien Donaghy and John Johnston but is, within the context of Sector 1, dealt with further below.

16.7.4.10 There is conflicting evidence as to whether the entire platoon went into Abbey Taxis although it does seem likely that the whole platoon entered the building except for Soldier 005, and presumably INQ 439 although he has no real memory of the day, who remained guarding his Pig and drove it through Barrier 12 into Rossville Street in the convoy of Support Company, the deployment of which is as follows:

"The Mortar Platoon first; followed by my company headquarters and my ACV, escorted by Ferret scout cars, Armoured Command Vehicle; then the two empty vehicles of the Machine Gun Platoon, two 4-tonners of the Composite Platoon, and the two Pigs containing the Anti-Tank Platoon." **B2251**

16.7.4.11 According to Major Loden this deployment occurred at 1600 hours:

"A warning order was received to be prepared to assault the rioters in William Street through the barrier in Little James Street. Accordingly I ordered the company to return to their vehicles. The Machinegun Platoon were unable to extricate themselves due to the final drop of 25 feet from the first floor of a disused building which had been used to gain covered access to their present position. I ordered the Platoon Commander to remain where he was and informed him that I would bring his vehicles to his position via Little James Street and William Street when the company assaulted through barrier number 12." **ED49.11**

There is, however, no evidence of this order on the radio which suggests that Major Loden did not in fact make this contact and that this is an attempt to give the impression that he was in control.

16.7.4.12 Major Loden's false assertion is further exposed by Soldier 017 who says in his statement to Eversheds:

> " I have seen a statement from Major Loden which suggests that he ordered me to take two empty Pigs back towards William Street to extricate the Machine Gun Platoon from a derelict house and that I did this. I did not take Pigs to pick up the Machine Gun Platoon. I think it more likely that Major Loden indicated to me that he wanted to get the Machine Gun Platoon extricated using two empty Pigs and that I then found soldiers to carry out this order." **B2111.017 paragraph 113**

16.7.4.13 The reality of the situation seems to have been that, without informing INQ 441, the vehicles were sent back to collect Machinegun Platoon so that only those who happened upon them by chance were transported down Rossville Street to the area of the Rossville Flats in a vehicle whilst the remainder went on foot. It is not clear whether all members of Machinegun Platoon reached the area of the Rossville Flats but it is clear that those who did arrived there towards the end of Support Company's deployment into Rossville Street.

16.7.5 **Individual Members of Machinegun Platoon**

Soldier A

16.7.5.1 Soldier A says in his first RMP statement; "About 1530 hours on 30th January 1972 I was with other soldiers who moved from St James Street towards William Street, Londonderry. We moved across rooftops at the

west side of the Presbyterian Church" **B40.14**. The only explanation he can provide for having used the term "rooftops," knowing that he had gone over walls, is that he was perhaps tired or perhaps believed the walls he had gone over in gaining access to the derelict building to have been roofed. **Day 297/60/22 to Day 297/60/5** .

16.7.5.2 Soldier B's RMP statement is made ten minutes after Soldier A's, uses exactly the same terminology and also places Soldier B outside the derelict building. Soldier B's RMP statement says:

> "About 1530 hours on 30th January 1972 I moved with other soldiers across rooftops between St James Street and William Street, Londonderry." **B21**

When this is put to him, Soldier A, again, fails to provide a plausible explanation. Despite Soldier A's denial, it is obvious that Soldiers A and B's RMP statements, and subsequent statements, were made as a result of a co-ordinated effort between them. **Day 297/66/3 to Day 297/66/6**.[22] For people to get accounts identically right may mean that they are accurate but when they get them identically wrong it gives rise to enquiries.

16.7.5.3 **B3**, the trajectory map that Soldier A marked as the area from which he fired completely correlates and matches the information in his first RMP statement. Soldier A has indicated that he was on waste ground *outside* the derelict building. Whilst he rectified this mistake by the time he made his statement to the Treasury Solicitor, at **B20.025**, he is unable to provide an explanation, other than that he was tired, as to how it came about. **Day 297/61/8 to Day 297/62/10**. The account provided to Major Loden for inclusion in his list is also patently incorrect although Soldier A can provide no explanation. **Day 297/88/1 to Day 297/90/7**.

[22] Soldier B concedes that he and Soldier A discussed the shooting incident after the event, **Day 311/36/12 to Day 311/36/15** and Soldier A states that they discussed it in the Pig. **Day 297/76/4 to Day 297/76/8**

16.7.5.4 Further evidence that Soldier A sought to suggest that he was on the waste ground rather than in the derelict building is that, rather than describing his position behind the window, he used the term "low walls:"

> "Two nail bombs were then thrown and they exploded very close to us. We did not sustain any casualties as the majority of the troops were *behind low walls*." **B20.14**.

16.7.5.5 Soldier A agrees that there was nothing to prevent him from saying that he actually saw two nail bombs in flight rather than using the above terminology and can provide no explanation as to why he did. **Day 297/68/9 to Day 297/68/20**.

16.7.5.6 In 1972 he described how he:

> ". . . saw a man in an alleyway directly opposite my position on the other side of William Street. He was about 50 metres away. The man was wearing a blue cardigan or windcheater and was about 5 feet 7 inches tall and had fair hair. He was of average build." **B20.14**.

16.7.5.7 When asked by Counsel for some of the Families whether to confirm that this is not a description of John Johnston or Damien Donaghy, Soldier A provides no comment other than that this was a description of the man he shot. **Day 297/69/5 to Day 297/70/12**. He maintains that he shot only one man, that he saw only one man fall and that he saw only one man being taken away. Yet it is clear from the following concessions that Soldier A could not have made a mistake:

i) He was shooting to kill **Day 297/70/15 to Day 297/70/17**

ii) That he should not have missed his target at a distance of 50 yards **Day 297/70/22 to Day 297/71/6**

iii) He had 10 years' experience in the Parachute Regiment and had previously been involved in hostile action **Day 297/77/18 to Day 297/77/24**

16.7.5.8 A soldier with 10 years' experience in the Parachute Regiment would obviously realise the importance of reporting the presence of nail bombs in the area, let alone his having shot a nail bomber, prior to the launching of an operation. To suggest, therefore, that he did not communicate the fact that he had shot dead a "nail bomber" because he assumed that his supposed warning shout would have been sufficient caution to the platoon commander, is completely implausible.[23] **Day 297/77/18 to Day 297/77/24**. He accepts that he was at fault for this failure at **Day 297/79/11 to Day 297/79/12**.

16.7.5.9 It is clear that, having immediately embarked upon a course designed to obscure the truth, Soldier A has had real difficulty in recollecting with precision the actual inaccurate account that he had originally supplied. In our submission, the following aspects of Soldier A's evidence undermine his account and only serve to support the suggestion that Soldier A did not shoot a nail bomber but shot, without justification, John Johnston, Damien Donaghy or both:

i) That the map on which he marked his alleged target is incorrect in exactly the same way that Soldier B's is incorrect **Day 297/72/1 to Day 297/73/12**

ii) Whilst in 1972 he states that the object he saw in his target's hand caught fire *like* a match, he evidence is now to the effect that it was clearly a very distinctive type of match. **Day 297/73/13 to Day 297/73/24**

[23] No other member of the platoon refers to having heard a warning shout about nail bombers from Soldier A

iii) The inconsistencies contained in his various statements and evidence to Widgery, outlined in Counsel's Reports Numbers 2 and 3

iv) Soldier A mentioned for the first time in his evidence to this Inquiry, with no plausible explanation, that he heard gunfire before they moved into the derelict building **Day 297/112/19 to Day 297/115/14**. He accepts, however, that he is possibly wrong about the timing of this incident, **Day 297/118/9** in which case it would have provided no reason for him to be in any way 'hyped up.'

v) He cannot account for having missed a target with his first shot **Day 297/80/17 to Day 297/80/21**.

vi) He cannot account for not having seen John Johnston and Damien Donaghy being removed from the area.

Soldier B

16.7.5.10 Soldier B fired three rounds from the ground floor of the Abbey Taxis building in William Street. He made a statement to the RMP, one to the Treasury Solicitor and gave evidence to Widgery in 1972. He now claims to have no memory of firing on Bloody Sunday. He underwent brain surgery in 1986 after which he suffered some short-term memory loss. However, he states that he is fully recovered so this cannot be relied upon as the reason for his having forgotten such a significant moment. **Day 311/1/19 to Day 311/1/4**.

16.7.5.11 Soldier B exhibits very defined views on civil rights marches and no go areas. He describes how civil rights marches were used by terrorists as screens for throwing petrol or nail bombs and for sniping at soldiers or police. **B43.001**. The Inquiry will be aware that no such example has ever

been found and Soldier B admits that he had never actually been present at civil rights march before and cannot provide any such example. **Day 311/3/12 to Day 311/3/14** and **Day 311/3/20 to Day 311/4/10**.

16.7.5.12 It "sticks in [his] mind," more so than firing three live rounds incidentally, that Derry was a "no-go area run by terrorists," **B43.002 paragraph 5**, and that he and his colleagues wished that they could go up to Creggan, recover a lot of IRA ammunition and weapons and effectively stop the no-go area and restore law and order to that part of Derry. **Day 311/9/16 to Day 311/10/9**. By the end of his oral evidence this desire has changed from being just "back room talk," **Day 311/9/16**, to talk before moving into the Bogside and a belief, when positioned at the Rossville Flats, that this was what the operation involved. **Day 311/92/4 to Day 311/92/14**. Indeed, the fact that he did believe the operation to be one to clear the no go areas is confirmed when he states that he imagines that he was disappointed that the Bogside remained, after the operation, a 'no go' area. **B43.004 paragraph 19**.

16.7.5.13 Soldier B's interpretation of the yellow card is questionable to say the least:

> Q. At the bottom you say:
> "If one is in an area where there is shooting going on or explosions taking place if I see anyone carrying a petrol bomb or a nail bomb or any weapon I would shoot him without warning."
> Was it your understanding at the time you were permitted to do that within the terms of the Yellow Card?
> A. Yes. **Day 311/8/10 to Day 311/8/17**

16.7.5.14 He also describes, in his 1972 statement, how he cocked his rifle when taking up his position because, since stones were already being thrown, he

suspected that explosive missiles may also be thrown shortly. **Day 311/32/1 to Day 311/32/6**. He does not know why he did this but hazards the guess that he "*probably*" felt under threat. He also believed that it was permissible even if a group were just throwing stones. **Day 311/70/24 to Day 311/71/18**.

16.7.5.15 Soldier B now remembers how he, with seven or eight of his colleagues, moved over ruined buildings into a derelict building where, having climbed down a wall to the ground floor, he positioned himself near a wall that had been partly demolished and was more open and exposed than the wall with the windows which appear in the photos. It was during this process that INQ 455 fell and injured himself. **B43.002 paragraphs 7 to 9**. Soldier B accepts that he may have confused the exposure of the large windows in the Abbey Taxis buildings for a partly demolished wall, **Day 311/26/7 to Day 311/26/10**.What he is able to remember clearly, however, is that he felt that this was an area in which they could easily get slaughtered by someone planting a bomb by the solid wall. **B43.002 paragraph 10**.

16.7.5.16 Soldier B, in his first statement to the RMP stated:

> "At about 3.30 I moved with other soldiers across roof tops between St James St and William St. to the West of the Presbyterian Church. We took up position close to William St. on ground where derelict houses have been broken down." **B43.009**

This implies, in much the same way that Soldier A had suggested in his RMP statement and trajectory photograph, that he was outside the building at the time that he fired. Both Soldiers, coincidentally, amended their evidence when making a statement to the Treasury Solicitor to reflect that they had

actually been inside the building when they fired. **Day 311/16/21 to Day 311/17/7**

Soldier B makes a significant, internally conflicting comment in his Eversheds statement:

> There were people in the area throwing things at us. Stones, petrol bombs and the odd nail bomb, but I have no specific recollection now of nail bombs going off and cannot describe this further." **B43.003 paragrah 11**.

When asked to account for this he suggests, in our submission absurdly, that he probably thought that the dust he saw rise was a nail bomb. He concedes that he has no specific recollection of other missiles being thrown. **Day 311/30/15 to Day 311/31/3**.

16.7.5.17 In his 1972 statements, Soldier B was a lot more precise. He described a man to whom he had paid *"particular attention"*[Emphasis added]:

> I observed a person to whom I paid particular attention. This man was of medium height and wearing a dark coloured windcheater...[24]in the alleyway of William St looking towards our position as if trying to locate the nearest soldier. I then saw him bring his hand his right from behind his back .He had a dark object in his hand ..appeared to fill his hand..other hand he brushed downwards against a wall. He had a lighted flame in his left hand .He was looking down at his hands and started to bring them together. **B143.009**.

[24] His evidence changed to a man wearing a light coloured windcheater at the Widgery Tribunal – See Counsel Report No. 3 and **B43.018C**

16.7.5.18 Giving evidence to Lord Widgery, Soldier B stated that the man seemed to be communicating with those behind him. **B26**. Soldier B aimed at the man's chest, and fired three shots. He saw the man fall to the ground and two people came and took him away. The object in his hand presumably rolled away. Soldier B remembers none of this now but accepts that his 1972 statement makes it clear that he did not make a mistake on the day maintaining that he actually shot and hit a man whom he had identified as a nail bomber: **Day 311/80/8 to Day 311/80/16**:

i) He was familiar with the sound of nail bombs and does not believe that he could have mistaken the sound of a rubber bullet, or the explosion of a gas canister for a nail bomb **Day 311/34/1 to Day 311/34/25**.

ii) The man chose to light a nail bomb in full view of the soldiers. **Day 311/72/8 to Day 311/72/12**

iii) There was no impediment that could have led him to make a mistake. That wearing a respirator should not make any difference to his aim as they are taught to fire wearing a respirator. **Day 311/73/8 to Day 311/74/4**

iv) That he had a good clear unobstructed view of the man he shot so much so that he saw him in the process of lighting a nail bomb, saw that his first shot missed but that the second one hit the man at whom he aimed, that the man fell and that people took him away. **Day 311/75/6 to Day 311/75/14**

v) That this took place over a period of time during which this individual was drawing attention to himself through his actions **Day 311/79/10 to Day 311/79/15**

vi) States that he did not shoot Mr Donaghy and Mr Johnston **Day 311/76/17 to Day 311/76/20**.

vii) That Soldier B was considered to be a "hot shot" and represented his battalion in Bisley. **Day 311/89/5 to Day 311/89/11**

16.7.5.19 Considering the above, it is clear that Soldier B cannot possibly be considered to have made an error. Nor can he account for the fact that Mr Johnston and Mr Donaghy were shot and removed for the area without his seeing it. All he can rely upon, therefore, is the theory that people who were justifiably shot that day were spirited away so that the bodies were never found. He claims that the nail bomber he shot must be one such 'missing casualty.' **Day 311/86/16 to Day 311/86/10**. This is a completely implausible suggestion and, in our submission, completely undermines Soldier B version of events in 1972 and his current claim that he cannot remember the events of that day. This, in turn undermines the evidence of Soldier A particularly in view of the fact that Soldier B makes it clear that he and Soldier A discussed the shooting incident after the event, **Day 311/36/12 to Day 311/36/15**. Soldier B describes how he considered the Widgery Inquiry to be "just a big game" to him. **B43.006 paragraph 25**. The Tribunal could not be faulted for finding that he has viewed this Inquiry in much the same way.

Sergeant INQ 441

16.7.5.21 INQ 441 was called to give evidence, limited to "briefings and events in/around Abbey Taxis," on **Day 303**.

16.7.5.22 INQ 441 had been acting platoon commander of Machinegun platoon for the period of just a few weeks before 30th January. **Day 303/68/10 to**

303/68/12. Prior to this, INQ 441 had been the platoon sergeant of the Anti-tank Platoon, also Support Company. With all the platoon commanders, INQ 441 attended a briefing given by Major Loden on the 29th January 1972. The briefing sticks in INQ 441's mind by reason of the fact that it " was one of the most full and thorough briefings" he had ever been given during which he was shown maps and plans of the area. **C441.1 paragraph 5.** Despite this vigorous assertion INQ 441 is unable to remember:

i) Having been shown photographs of the area into which he was going.

ii) Having been informed of what to expect would happen in Derry.

iii) What other companies apart from Support Company would be doing.

iv) Having discussed the details of an arrest operation.

Day 303/68/5 to Day 303/69/25 .

As a result of this he claims that he is also unable to remember what information he passed on to his men during his own briefing. **Day 303/70/1 to 303/70/14.**

16.7.5.23 INQ 441's memory of his position on the day not only varies between that given to Eversheds and that to the Tribunal during oral evidence but is not held by any other member of his platoon. According to his Eversheds statement, at **C441.4 paragraph 18,** INQ 441 "entered the derelict house" at the middle floor, and, because there were no stairs, it was necessary to scale or jump down the remaining brickwork, one man at a time, by leaning out of the window and dropping to the ground floor, **Day 303/80/12 to Day 303/80/19**. It is his memory that, with the possible exception of the driver or drivers of the Pigs and possibly a sentry for the Pigs, the rest of Machinegun Platoon also made their way to Abbey Taxis. **Day 303/87/9 to Day 303/87/13.**

previously of cancer of the spine. She had 14 children aged between 16 and 10 months old. The family lived in the [redacted] area of Creggan but by the time she was released from hospital on 29th May 1972 the family had moved to Creggan Heights. She was to wear a calliper on her left leg until she died in 1988. She had no criminal record or political affiliations.

17.5.1.2 **Relevant Photographs**

Photo Ref. #	Description of Photograph	Relevant Witnesses Depicted in Photograph
P748	Inside 33 Chamberlain Street receiving first aid.	Otto Schlindwein
P749	Inside 33 Chamberlain Street receiving first aid.	N/A

17.5.1.3 **Summary**

An event such as a Civil Rights March on a Sunday afternoon would have been an opportunity for her to escape from the full time demands which rearing a family of fourteen children would have entailed. The opportunity to exchange family gossip and neighbourly news would have been shared between her and her sisters who accompanied her on the march:

> "I remember a friend of my mother's called **Peggy McLaughin** and two of our cousins, **May** and **Rita Nichol**, came round to call for my mother. She had not really been out of the house since my father died and Peggy, May and Rita were insistent that she come out and participate in the march. She had certainly never been on any previous marches." **AD32.1 paragraph 4**

Despite this she would not have been exempt if it were alleged that at some point during the course of the afternoon that she participated or was

clarification was, at best, completely confused as illustrated below, **Day 303/98/24 to Day 303/99/22**:

> Q. Your recollection now, for what it is worth, is that all of the men, apart from A and B, were in an area behind the derelict building?
> A. You said behind the derelict building.
> Q. Yes, behind the derelict building?
> A. No, I have got them looking into the waste ground.
> Q. Looking into the waste ground?
> A. Where the nine windows show, on to the waste ground.
> Q. Where were the men who were outside the building, where were they looking?
> A. They would be looking into the waste ground, as far as I can recall now.
> Q. In other words, what you recollect is that those people had a clear view of the waste ground?
> A. In front of the building, yes.
> Q. And a clear view, therefore, of the rioters who were on the waste ground?
> A. I cannot recall that now.
> Q. But would they have been able physically to see people on the waste ground?
> A. Yes.
> Q. Would people on the waste ground have been physically able to see them?
> A. I cannot recall.

16.7.5.27 This supposed confusion digressed to concession when, having been shown Soldier A's marked up photograph, **B20.009,** by Counsel for some of the Families, INQ 441stated that he could not recall exactly where his men

were and that at the time he made his statement he "was to believe they were in a building . . . having gone along the wall." **Day 303/108/7 to Day 303/108/17**

16.7.5.28 Finally, the plausibility of INQ 441's suggestions that he was outside the building when Soldiers A and B fired is completely undermined by the fact that he claim "heard the hard extractions whilst *we* were *in* the derelict building when Corporal A and Private B fired at nail bombers." [Emphasis added] **C441.6 paragraph 29**.

> "Hard extractions" are then described as occurring:
> " . . . when a weapon is cocked and the trigger is pulled, but it does not fire properly because two bullets have gone into the breech. One of the bullets is simply expelled from the breech of the rifle rather than being fired from it." **C441.6 paragraph 29**.

16.7.5.29 Whilst INQ 441 was unable to assist any further as to what this would entail, Counsel for the Inquiry's understanding of the term "hard extraction" was that when two bullets go into the breech, one bullet is fired but the other is not, so that the forward bullet is simply expelled without any firing while the latter is fired and discharged in the normal manner. **Day 303/92/2 to Day 303/92/8**.

16.7.5.30 It seems that INQ 441, in concocting this version of events, may have been trying to suggest that Soldiers A and B did not fire all the rounds that they claimed, but mistakenly ejected them onto the floor and, having been negligent in not collecting them, were forced to say that they had fired more rounds than they actually did. **Day 303/93/25 to Day 303/94/6**. The evidence of the more credible witnesses who heard Soldiers A and B fire, summarised below, does not support this scenario.

16.7.5.31 Also, despite having no memory of hearing Soldiers A's and B's shots, INQ 441 claims that he can "*distinctly* remember hearing that *some of* my platoon had hard extractions on their rifles earlier in the day." [Emphasis added] **C441.6 paragraph 29**. What INQ 441 is sure of is that there was nothing to indicate that there had been a hard extraction other than the sound of a round pinging off the floor. **Day 303/92/9 to Day 303/92/19**.

16.7.5.32 This evidence cannot stand because if he were outside the building as he claims to have been, INQ 441 could not possibly have heard the ping of a round off the floor. Having been challenged on this point, both by counsel to the Inquiry and Counsel for some of the Families, INQ 441's only response was "I cannot recall but that is what I felt when I made my statement." **Day 303/93/10**. This attempt was frustrated in any event by Counsel for some of the Families in response to whom INQ 441 conceded that, although he could not remember having done so, had this occurred he would have ordered his men to pick up the extracted bullets.

16.7.5.33 It is our submission that this entire, weak concoction was an attempt by INQ 441 to conveniently distance himself from his responsibility in relation to the shots fired by Soldiers A and B which, although he assumes that he did hear them on the day, he claims to be no longer able to remember. Nor can he remember telling them to shoot if they identified a target nor having ordered them to ceasefire. **Day 303/83/5 to Day 303/83/15**. Yet, although he was not in a position to instruct them and had no knowledge of what they were firing at, being outside the building whilst they were inside, INQ 441 claims, nonsensically in our submission, that he would have told Soldiers A and B to ceasefire even if they had already done so by the time he saw them again. **Day 303/85/20 to Day 303/86/7**.

16.7.5.34 INQ 441 accepts that it would be highly irregular for one of his soldiers not to have immediately informed him that he had discharged live rounds in the belief that they had seriously injured or killed someone. **Day 303/101/19 to Day 303/102/4.** Whilst he can no longer remember it, INQ 441 concedes that, because of the dramatic influence upon decisions which the company commander had to make in relation to the deployment of other platoons and/or companies, it was his duty to have reported to Major Loden if members of his platoon had come into contact with persons who were either firing or throwing nail bombs at them particularly if the contact had resulted in a person actually being shot. **Day 303/87/4 to Day 303/87/9** and **Day 303/100/25 to Day 303/103/2**. Indeed, he claims to have radioed the company commander to inform him that he had an injured man, INQ 455, a situation that one would have imagined would have been subsidiary to live rounds being fired and nail bombs thrown. **Day 303/82/11 to Day 303/82/14**. Major Loden's evidence, on **Day 345** is that he was informed by the machine gun platoon commander that the machine-gun platoon had shot and killed a nail-bomber. If this is correct and the evidence of A, B and 441 is incorrect, then the failure to tell Brigade of this significant engagement lies with Major Loden.

16.7.5.35 INQ 441 claims that his assertion on the "World in Action" film in 1972, **X117.15**, that his platoon had nail bombs thrown at them and that one of his men shot a man in the process of throwing a nail bomb is evidence enough of the veracity of Soldier A and B's claims. This is a ludicrous suggestion put forward by someone who is clutching at straws and who himself admits that he believed the program to have been sanctioned by the Commanding Officer "in order to get the propaganda machine going in our favour before there was too much propaganda against us." **C441.7 paragraph 35.**

16.7.5.36 Under questioning by Counsel for some of the Families, INQ 441 accepted that Soldiers A and B would have been aware that the Royal Military Police

would be interested in whether they had been justified in firing shots and whether they had a specific target. He acknowledges that it would be a natural instinct for anyone, in those circumstances, to compare notes among themselves in order to determine whether:

(a) They fired at two separate targets or at a single target.

(b) The target at which they had fired was wearing the same of different clothing

(c) The target at which they had fired was engaged in the same actions or different actions

In spite of this concurrence, INQ 441 knowingly stops short of accepting that it would be natural to ensure that their stories married. He himself remembers having made a statement about the events of Bloody Sunday to what could have been the Royal Military Police but the statement has not been found. **Day 303/95/6 to Day 303/95/20**.

16.7.5.37 Although, due to the limitations, it was not open to the parties to question him about it, INQ 441 claims to have broken cover onto the open ground in front of the derelict house with a view to "following up the rear of the march and pick up stragglers" in accordance with his memory of what was the plan for the day. **Day 303/81/18**. He claims to have chased one such straggler into "a very dark and dingy bookmakers," arrested him and handed him over to a member of Guinness Force. INQ 588 has "no recollection of this at all" and states that his memory is of leaving the derelict building when the crowd had already dispersed. **C588.5 paragraph 23**.

16.7.5.38 As bookmakers shops do not, open on a Sunday it is possible that the building to which he refers is City Taxis where Patrick O'Donnell was arrested. Alternatively, INQ 441 has invented this incident in order to explain away the fact that he had no idea where the remainder of his platoon was. It does not fit easily with the fact that INQ 441 was an experienced platoon commander, having previously commanded the Anti-tank Platoon.

Rather, it seems convenient that, as with the story about INQ 455, the platoon commander undertook tasks better placed with a subordinate. However, as explained, we were unable to clarify this point any further.

16.7.5.39 INQ 441 claims that he went to Rossville Street on foot, **Day 303/90/1 to Day 303/90/14** though he cannot recall whether some of the platoon may have gone down Rossville Street in Pigs. **Day 303/87/14 to Day 303/87/22**. Again, we are unable to test the veracity of INQ 441's claims that he lent Soldier R, from Mortar Platoon, a pair of long johns that he had in his pig so that he could wear them under his trousers which had been splashed with "with a corrosive or acid" so much so that there were holes and burn marks all around the bottom of his trousers. It is open to us to question, however, the plausibility of a soldier changing his trousers on open ground in a hostile area. Also, INQ 1919, despite having spoken to Soldiers R and T, has no recollection of their being in pain or mentioning that they had acid thrown at them, **Day 296/22/10 to Day 296/22/15** and neither does Soldier 005, another member of INQ 441's platoon. For the reasons outlined above we would also suggest that the evidence of INQ 441 is completely unreliable.

16.7.5.40 Finally, it is noteworthy that INQ 441 accepts that, whilst it was possible to obtain private supplies of ammunition, the practice would be "*frowned* upon by the Platoon Commander." [My emphasis] **C441.7 paragraph 39**. Where is the reference to how serious an offence this was, how the commanding officers would not stand for it and, that at the mere mention of such a practice, a full investigation would be commenced and suitable punishment meted out in order to ensure that this habit was stamped out? In our submission, this apparent tolerance, laissez-faire attitude from a platoon commander about such a serious matter.

INQ 455

16.7.5.41 INQ 455 has severe memory problems as the result of temporary oxygen starvation to the brain suffered during surgery and as such is of little or no

help in relation to the events of the day. He can remember falling from the top of a wall, falling through some barbed wire and falling on his back. **C455.1 paragraph 8**. Because he has no memory of anything after that until he was in hospital, INQ 455 believes that he was knocked unconscious by the fall. **C455.1 paragraph 8** . He is uncertain of the source of the shooting that he can remember having heard, **C455.1 paragraph 5**, and cannot remember having carried a back pack radio on the day, **C455.2 paragraph 11,** What is certain is that he is unable to clarify whether, as asserted by INQ441, he fell outside the building.

INQ 1805

16.7.5.42 INQ 1805, who was not called to give evidence, believes that INQ 1851 was in command on Bloody Sunday and can no longer recall the details of a briefing or what their mission was to be on that day. **C1805.1 paragraphs 4 to 6.** He can, however, remember his section of four or five men moving through some derelict buildings and taking up a position in what was possibly a house for some time. **C1805.3 paragraph 16**. He has no memory of having seen any other soldiers but states that it is possible that INQ 624 or Corporal A was with him. **C1805.3 paragraph 20.**

16.7.5.43 As INQ 1805's field of vision was very restricted, because of the walls surrounding, the thrust of his evidence is based mainly on what he could hear. He can remember that, at some stage whilst in the derelict building, he heard some shots. He could not, and cannot, distinguish whether the shots were enemy or friendly fire because of the echoes which resonate in a built up location, but he did not have any sense that his section was under fire and there were no rounds striking close by. He also cannot remember hearing any explosions nor a single shot. **C1805.3 paragraphs 17 to 18.** Although we have not had the opportunity to ask him, it is our submission that this witness, who was able to hear the sound of a crowd at some point, like that at a football match, **C1805.3 paragraph 19**, would have been able

to hear the sound of nail bombs exploding and, as with the gunfire, would have remembered them had they done so.

INQ 275

16.7.5.44 INQ 275 was a Lance Corporal, second-in-command to INQ 1686, deceased, who was the section commander on Bloody Sunday. **Day 340/169/20 to Day 340/170/4**. He can remember nothing of a briefing, but surmises that approximately six to twelve men were ordered to take up position in the derelict building, **Day 340/171/24 to Day 340/172/2**, to keep an eye on the crowd and to stand by. **Day 340/179/24 to Day 340/180/5**.

16.7.5.45 It is INQ 275's recollection that he gained access to the derelict building by going over one wall, moved forward to the right and went in through a door at the ground level. **Day 340/171/7 to Day 340/172/6**. This runs contrary to the evidence of his colleagues and, for what it is worth, Major Loden's diary at **ED39.11**:

> The Machinegun Platoon were unable to extricate themselves due to the final drop of 25 feet from the first floor of a disused building which had been used to gain covered access to their present position.

16.7.5.46 As INQ 275's memory relating to his entry to the building and going up stairs to a room on the first floor, **C275.3 paragraph 15**, is clearly flawed, his evidence in relation to whether INQ 445 fell within the building or outside the building is of little assistance. When he says that INQ 455 fell to the other side of the wall to where he had started to climb, it does seems reasonable, therefore, to presume when his evidence is considered with that of the majority of the platoon that, contrary to the evidence of INQ 441, INQ 455 fell to the floor inside the derelict building. **Day 340/173/9 to Day 340/174/3**.

16.7.5.47 Similarly, his evidence to the effect that, whilst he was astride the wall he heard two or three rifle shots, should be treated with caution. **C275.2 paragraph 11**. When questioned by counsel for the Inquiry, INQ 275, unaware at the time that rubber bullets were being fired in the area, admits that he quite possibly mistook these rubber bullets for live gunfire. **Day 340/173/1 to Day 340/173/8**.

16.7.5.48 Across the road on a patch of waste ground INQ 275 could see a crowd of youths hurling abuse and *clearly* throwing stones in the direction of his platoon. INQ 275 stresses this point by adding that he did not see the youths throw anything that was obviously *not* a stone and that he cannot recall hearing the sound of nail bombs or explosions. [Emphasis added] **C275.3 paragraphs 16 to 17**. INQ 275, it seems in support of his colleagues, is reticent about drawing the definitive conclusion that he would have heard a nail bomb had it exploded outside the derelict building, as illustrated by the flowing exchange:

> Q. In the circumstances that applied on 30th January 1972, when you were in that derelict building, do you think it possible that a nail bomb or nail bombs could have exploded in close proximity to the building without you hearing it?
>
> A. With the amount of noise that was going on, it could have, not too near.
>
> LORD SAVILLE: What sort of noise do you recall going on at that time.
>
> A. It is a big mixture that you get at all riots. It is, it is a terrible noise; people screaming, shouting and whatever else goes on, rubber bullet -- bullet guns going off. The thing is, you just cannot sort of stand there and listen to an individual noise.

LORD SAVILLE: That is true, but it might be suggested that if a nail bomb went off in close proximity to you, you would be likely to hear it and remember it.

A. If it was very close, yes.

MR ROXBURGH: Could we look again at photograph P201, please. I know you cannot be sure exactly where you were, let us just assume that you were somewhere around that first floor window in the derelict building, do you think it possible that a nail bomb could have exploded anywhere in the area of that waste ground immediately in front of the window while you were in the building without you hearing it.

A. If it was close enough, um, I would have picked it out.

Q. Would it have been close enough for you to hear if it had exploded in that waste ground, do you think?

A. It all depends on what the size of it was. Nail bombs come in different sizes.

Q. If it had been a normal-sized nail bomb; perhaps you do not know what a normal-sized nail bomb is. Do you think you could have failed to hear it?

A. It is possible. **Day 340/180/22 to Day 340/182/6**

16.7.5.49 Whilst he earlier stated that he had not known that they had been fired, **Day 340/173/1 to Day 340/173/8**, INQ 275 is now using the noise of the rubber bullets as a potential reason for his not having heard nail bombs explode. Predictably, accepting that he would have expected a soldier who saw a nail bomber to shout a warning to the platoon, having stated that he cannot remember hearing a warning being shouted, he allows his colleagues an escape route with the qualification "it is possible that I would have forgotten." **Day 340/182/7 to Day 340/182/22**.

16.7.5.50 INQ 275 cannot remember hearing army fire from the derelict building despite the fact that he was within feet of either Soldier A or B and claims to have learnt that Soldier A had fired only on his return to camp. It is possible, however, as put by counsel to the Inquiry but not accepted by INQ 275, that the gunfire he claims to have heard when astride the wall was actually heard at some other time on the 30th January 1972. **Day 340/172/16 to Day 340/172/18**.

16.7.5.51 Our submission that it is not plausible and is less than honest for INQ 275 to suggest that he did not hear the shots fired from within the derelict building is exemplified by his incoherent agitated response to Counsel to the Tribunal and Lord Saville, the only explanation for which could be that he saw a soldier fire in circumstances where it was not justified:

> Q. If a number of live rounds were fired from within that building where you were, do you think that is something that you could simply have failed to hear at the time?
>
> A. With all the mayhem that was going on, um, it is possible, um, that I failed to hear them.
>
> LORD SAVILLE: The Chairman again: I understand you saying that in one sense, but you would have been a very few feet away from an SLR being discharged, and it has quite a report; has it not.
>
> A. It has, but, um, one has to be in a riot situation to understand the sort of noises that are going on and that you are -- in some cases you are looking after, or (a) for your own life. As I said before, you do not stand there listening for individual noises.
>
> LORD SAVILLE: I follow that entirely, but if one of your colleagues in that building, a few feet away from you, discharged two or three rounds, I am finding it a bit odd, but of course you were there and I was not, you

might not have heard it because of the noise of a riot taking place tens of yards away. You see my puzzlement?

A. Yes.

LORD SAVILLE: Because on one view of the evidence, one of these soldiers who says he has fired, who have been probably no further away than you are from me at this moment. I am a bit puzzled that these shots fired from this building were ones that you might not have heard.

A. I, I can only recall that, um, I -- I cannot remember. I cannot recall, um, hearing anybody shooting. I am not saying that nobody --

LORD SAVILLE: I follow that.

A. Yes. **Day 340/184/19 to Day 340/185/24**

INQ 588

16.7.5.52 It is the recollection of this witness that, having reached the yard of the Presbyterian Church, he heard *shots* fired in the distance. These were the first shots he heard that day and he is clear that none of the fire was directed at him or his colleagues nor were the shots being fired in his vicinity. **C588.2 paragraph 8**. It was, in his mind, after this incident that his whole platoon, **C558.3 paragraph 11**, made their way through what seemed like an assault course of walls and barbed wire into a derelict building. **C588.2 paragraph 9**. It was as they jumped to ground level, having entered the building at the first floor level, that INQ 455 fell, landing on his back. He seemingly injured himself to such a serious extent that he was lapsing in and out of consciousness.**C588.3 paragraph 12**. INQ 588 took up a position on the ground floor with Soldier B to his right although he cannot remember having been ordered to do so by INQ 441. **C588.4 to C588.5 paragraph 15**. He has no recollection of Soldier A being near him during this period nor of witnessing his actions. **C588.5 paragraph 20**.

16.7.5.53 INQ 588 remembers having seen a mass of people in front of the building at some stage and, just after INQ 455 fell, he believes that they came under stoning from youths in William Street. His memory is of being exposed to the stone-throwing youths who were approximately 40-50 metres away opposite the front of their location. It is his memory that, as "the room we were in was very small (approximately 10" x 10") and with nothing to take cover behind," the platoon had no choice but to face the youths. **C588.3 paragraph 13.** As no other member of his platoon remembers having been exposed in this way, it is probable that INQ 588 is mistaken in this regard, perhaps confused by the windows which were large and contained no glass.

16.7.5.54 It was during this time that INQ 588 could hear firing in the background that was near to, though not aimed at, his position. He is clear that it sounded like high velocity, 7.62, single rifle shots with no machinegun or small calibre fire. Significantly, it is as he was firing 20-30 baton rounds at the rioters that INQ 588 saw Soldier B also firing with his baton gun. When Soldier B's statement was pointed out to him, INQ 588 presumes that he must be wrong even though his recollection seems clear. **C588.4 paragraph 16.** We submit that this soldier thinks that he was wrong in the sense that Soldier B must not have fired anything or that Soldier B must have been firing not a baton gun but a rifle.

16.7.5.55 INQ 588 emphatically states that he did not see any nail bombs, any missile being thrown that could be construed as a nail bomb nor a smoking or fizzing missile. He did not see the nail bomber as described by Soldiers A and B and does not recollect having heard any explosions. **C588.4 paragraphs 17 to 18.** He does not recall anyone shouting, "Nail bombers" or "bombers" nor INQ 441 saying "If you see a target, shoot" or issuing a cease-fire order. He saw no civilian gunman at any time during the day. **C588.5 paragraph 24.**

16.7.5.56 Whilst INQ 588 is obviously not willing to lie about what he saw from his position in the derelict house he is showing an unwillingness to place his colleagues in a critical light. This is illustrated by his readiness to put forward possible scenarios to explain why his evidence does not corroborate theirs, for example:

i) "It is possible that nail bombs were thrown past me and exploded but, because of the general confusion, background shooting noise, the noise from the baton guns and the noise from the crowd, I did not hear them." **C588.4 paragraph 17**

ii) In relation to his not having seen Soldier A and B's nail bomber]: "This may be because I was further west along William Street than where Soldiers A and B say they were and my field of view did not extend as far east along William Street as the location of the nail bomber described by them." **C588.4 paragraph 18.**

iii) In relation to not hearing orders or warning shouts]: "Because of the reasons stated above about the level of noise in our location at that time it is possible that orders were shouted and a soldier from my unit fired in our defence without me hearing it."**C588.4 paragraph 19**

iv) "My hearing may have been impaired because of a stone hitting me." **C588.5 paragraph 21**. This is undermined by the fact that INQ 588 has already explained that this incident left him only momentarily stunned and that he resumed his duties after 2-3 seconds when he regained his senses. **C588.3 paragraph 13.**

v) "I personally did not witness [Soldier A's] actions, nor afterwards hear of anybody talking about it." **C588.5 paragraph 20**

vi) "I did not mix with the other Platoons and I have no recollection of hearing what had happened from other soldiers." **C588.6 paragraph 27**.

This attitude is another example of the army's cultural ethos, as described in Section 5.2, prompting a soldier to close ranks against criticism. Whether it is a case of hopefully presuming that his colleagues were honourably justified in firing live rounds, as per Soldier 160's comment at **B1956.5 paragraph 31**, or whether this soldier actually saw and heard Soldier B fire live rounds but has chosen not to state as much will have to be determined by the Inquiry.

INQ 896

16.7.5.57 INQ 896 expresses a view prevalent amongst members of the Parachute Regiment i.e. "The Royal Artillery were unable to cope with the amount of people expected to attend the march" **C896.1 paragraph 5**, and, having joined 1 Para as a boy soldier, INQ 896 had more reason than most to be proud of his regiment. This would perhaps explain why he displays a tendency to surmise when he has no actual memory or experience of a particular incident provided it would support the army's actions on the day, for example:

(a) "I do not believe it was possible to obtain private supplies of ammunition. Of course, anything is possible but I do not think it happened." **C896.2 paragraph 13**

(b) He was not aware of anyone tampering with or altering ammunition and yet can comment that he does not think it was possible to do this without anyone finding out. **C896.2 paragraph 14**

16.7.5.58 His understanding of the plan for the day was that Machinegun Platoon would move on the right flank with Anti-tank Platoon and Mortar Platoon forming one part of a pincer movement to cut off the rioters and C and D Companies moving along the left arm of the pincer. **C896.3 paragraph 20**. He remembers having to undergo what seemed like an obstacle course in order to gain entry to a derelict building. He states that "it was as we were

going through the building I suddenly heard some shots fired." **C896.3 paragraph 22**. Although his memory that it was Soldier E who fired these shots is clearly incorrect it is significant that, contrary to the evidence of INQ 441, INQ 896's memory is of actually being in the building on the ground level, **Day 341/7/21,** and that he first heard "*two or three* shots" [emphasis added] not one. **C896.4 paragraph 24** He did concede that he was not absolutely sure that the individual he saw in a firing position was Soldier E, **Day 341/9/1**,

16.7.5.59 INQ 896 is eager to state that his impression was that Soldier E could see a target because he had his rifle in a position which suggested as much. **Day 341/10/4** His version of what he could see when he looked in the direction in which Soldier E was aiming does not correspond with the bulk of the civilian evidence or indeed soldiers' evidence. Contrary to his claim that he "did not stop to see what [Soldier E] was looking at," **C896.4 paragraph 24** INQ 896 claims, in oral evidence, that, 200 metres away, there was a large, congested crowd standing around. **Day 341/10/9 to Day 341/11/5**. Significantly, he does not refer to having seen anyone with a nail bomb but is reluctant to rule out this possibility altogether responding, when asked whether he had heard a nail bomb or anything like it exploding, "there were a lot of noises and such like, yes, but, um, whether I would have said it was a nail bomb, I do not know." **Day 341/11/9**

16.7.5.60 By the time INQ 896 left the derelict building and made his way into Rossville Street it is apparent that he was arriving as the events of the day were reaching a conclusion. He is, again, eager to emphasise that he believed some of the shots that he heard to have been fired from the Rossville Flats in his direction, even going as far as to say that he could hear the crack and thump. **C896.4 paragraph 28** A final example of INQ 896's loyalty to his regiment is to be found at **Day 341/13/20 to Day 341/16/22**. INQ 896 maintains that his recollection is that shots were fired

from the direction of the Rossville flats at which point fire was returned. **Day 341/15/8 to Day 341/15/12**. This view cannot be sustained considering the following concessions on his part:

(a) He had very little idea of what was actually happening in the sense of why shots were being fired or who was firing at whom.

(b) That he did not have a clear picture of what was happening

(c) It can be very difficult to tell, in an urban environment, where gunfire is coming from or in what direction a weapon is being fired

(d) That he probably could not really distinguish between enemy fire and return fire

(e) That he is in doubt about having heard the crack and thud sound

(f) That he cannot remember where he was or what he was doing in the ten minutes during which the "return fire" was going on.

(g) That his conclusion that "the return fire sounded as though it was being aimed at dedicated targets" is based solely on the fact that they were single shots,

16.7.5.61 It is because of this unshakeable belief in his regiment that INQ 896 feels able to say "I remember that our reaction to the news was jubilant. We were in a theatre of war and there to do a job. No one had briefed us to kill people, but if our lives were put under threat, then we returned fired. I believe all the soldiers who fired that day had identified targets and returned controlled and disciplined fire." **C896.6 paragraph 44**.

It reminds us of Soldier 160's comment at **B1956.5 paragraph 31**:

> "The thought that the Paras must have been shot at developed like osmosis. The virtues of loyalty and honouring the Code were drilled into us in training and we

did not question whether the Paras had been fired upon – that's where the loyalty comes in, we all simply assumed that they had been fired at. We knew that the Yellow Card did not permit us to fire at anybody unless we positively identified a gunman. To us, it had to be the case that if the Paras fired they had been fired upon."

INQ 153

16.7.5.62 The thrust of INQ 153's evidence, which was read, is that he heard a shot whilst climbing over a wall, presumably into the derelict building. He believes that the shot came from south of his position but is uncertain as to whether it was high or low velocity, guessing at the latter. **C153.1 paragraph 7 to C153.2 paragraph 7**. Significantly, INQ 153 does not refer to anything that could be construed as being the shots fired by Soldiers A and B. Indeed the next gunfire to which he refers was "particularly heavy [exchange of] gunfire" whilst he was in the back of a pig presumably around the Rossville Flats although his evidence is not very clear as to the location. **C153.2 paragraph 11**. He states that he is unable to remember whether he heard any other gunfire between this and the single shot heard earlier.

16.7.5.63 This witness refers to having seen a rioter break away from the crowd to shout abuse at them from the middle of the waste ground beside the derelict building, **C153.2 paragraph 8**. It is possible that INQ 153's memory is of Damien Donaghy attempting to retrieve the rubber bullet and is, therefore, significant that he makes absolutely no reference to having seen or heard nail bombs being thrown or exploding on Bloody Sunday.

INQ 1354

16.7.5.64 INQ 1354's evidence is rather confused but, in light of the fact that he was a "read" witness, we make the following observations.

16.7.5.65 INQ 1354's memory of the briefing was that Mortar Platoon was to proceed down a road in vehicles, Anti-tank were to come, in vehicles, from the left and Machinegun Platoon from the right on foot. **C1354.1 paragraph 5.** He can remember scaling a wall although has no idea of whether it was part of a house or a building. **C1354.2 paragraph 9.** He has no memory of either INQ 455 falling off a wall nor of Soldier A and B firing live rounds but believes that, having deployed onto some open ground, he heard the sound of gunfire lasting for one or two minutes. **C1354.2 paragraphs 9 to 10.** Whilst he is unable to say whether the fire was incoming or outgoing, he is clear that the weapons he hear were "mainly semi-automatic, that is one shot weapons . . . I am certain that there was no automatic fire as automatic weapons produce a long burst of shots and I did not hear anything like that." **C1354.2 paragraph 11.** Another feature that he is certain of is that he did not hear any explosions amongst the gunfire. INQ 1354 believes that he may have ended up in the area of the Rossville Flats and remembers seeing Colonel Wilford and Soldier 202 walking down the road together at a stage at which "it was all very calm." **C1354.3 paragraph 17.**

It is significant that, in reference to the Widgery Tribunal, INQ 1354, instead of saying that he was not required to give evidence, sceptically states that he "did not play any part in it" almost as though he were glad not to have been called.

INQ 1544

167.5.66 According to the nominal roll, although he makes no reference to it, INQ 1574, who was not called to give evidence, was the platoon's intelligence officer. INQ 1544 repeats the predictable Para rhetoric such as that, despite not having been in Derry before, he knew that there were no go areas in the city where the soldiers and the police tended to leave the civilians alone to get on with it rather than anyone doing anything about the situation and that

the Rossville Flats were considered troublesome. **C1544.1 to C1544.2 paragraph 7**.

16.7.5.67 He is of no assistance in relation to what happened in Sector One, as his memory comes in flashes of specific incidents, the first of which is being in the area of the Rossville Flats guarding the vehicle. **C1544.2 paragraph 11.** Although he later found out that INQ 455 had been badly hurt having fallen over a wall in attempt to get into a building, **C1544.5 paragraph 36,** INQ 1544's memory is of INQ 455, carrying his manpack, leaving his location with the other men from his platoon. **C1544.3 paragraph 16.** Despite a clear memory of watching the Rossville Flats for gun flashes or snipers, **C1544.3 paragraph 19,** INQ 1544 cannot remember having seen any activity coming from the flats. **C1544.3 paragraph 20.**

16.7.5.68 INQ 1544 has a recollection of hearing sporadic gunfire, although none in his immediate vicinity. Whilst he cannot place it in sequence, INQ 1544, no stranger to gunfire, did not feel the need to cock his weapon, is clear that it was not automatic fire but single shots, that it did not sound like a gun battle and that he heard no explosions. **C1544.3 paragraphs 22 to 23**. It seems that INQ 1544 was not alone in feeling that he was not in danger as illustrated by his description of a couple of 'squaddies' standing in the road guarding civilians:

> "They were standing at ease. One was holding his rifle up, pointing towards the sky and the other had the barrel of his gun resting on the toe of his boot and was leaning on the other end." **C1544.4 paragraph 29**

16.7.5.69 INQ 1544 observes that, "it is strange but almost all of my recollections of that day are of being on my own, but I know I could not have been and I think that might just be my memory playing tricks." **C1544.4 paragraph 27**. It could also be suggested that the fact that he cannot recollect

discussing the day's events or of knowing that two members of his platoon had fired shots is equally strange. It is apparent that INQ 1544 is extremely loyal to the army, asserting that the Paras were the "cream of the British Army as far as the infantry was concerned" **C1544.1 paragraph 3** and that all of the guys he was with were excellent, professional soldiers, most of whom went on to join the SAS. **C1544.1 paragraph 4**. A plausible alternative, therefore, to a genuinely bad memory is that this witness is being deliberately unhelpful in attempt not to betray his friends who acted illegally.

INQ 624

16.7.5.70 This witness commences his statement with typical Parachute Regiment bravado stating that they were being sent to retake the Bogside in order to remedy an unacceptable situation in which the forces of law and order were unable to enter certain places. **C624.1 paragraph 4**. Although his memory in relation to INQ 1851 being in charge of the platoon and of going up the stairs is defective, considering the bulk of the evidence of Machinegun Platoon, he is clear that the whole platoon, presumably minus Soldier 005 and INQ 439, had to overcome a number of obstacles in order to take up their position. **C624.2 paragraph 12**.

16.7.5.71 It was as he was tackling one of these obstacles that he says he gave his rifle to a soldier whom he refuses to name but who is clearly, through a process of elimination, Soldier A. Soldier A then, shouting out that there was a gunman and a nail bomber and from a "squatting position on the roof of the outhouse, brought his rifle to his shoulder, looked down the sight and fired . . . one or two shots." **C624.3 paragraph 15**. INQ 624 presumed that Soldier A, a friend of his **C624.1 paragraph 8**, believed there to be imminent danger from a target but makes no mention of having seen a gunman or bomber nor of hearing an incoming shot/s or explosions at this.

16.7.5.72 They were then ordered to go further into the Bogside to the area of the Rossville Flats, he can only assume on foot because he cannot remember getting into a vehicle, during which time he could hear a mixture of low and high velocity shots but no explosions. Considering that he volunteers the fact that he cannot recall any shots passing over his head and that the direction of the shooting was unclear because of the reverberation of the sound around the buildings it is more than likely that INQ 624 would have accepted that he may have been mistaken about anything other than army SLR fire. **C624.4 paragraphs 22 to 24**.

16.7.5.73 INQ 624 presumes that his rifle was sent off to forensics but, as he cannot remember having made a report to anyone to say that his rifle was fired, he believes that it is possible that he accounted for the ammunition that had been fired from his rifle by replacing them with extra rounds given to him by other soldiers, **C624.5 paragraph 31** , which were available from the firing ranges. **C624.6 paragraph 33**.

16.7.5.74 The use of private supplies of ammunition ought to be unusual, rare and significant let alone the use of a rifle by another soldier. It is therefore inconceivable that such an incident as that referred to at **C624.3 at paragraphs 14 to 16** and **C624.5 paragraph 31** could be due to an erroneous recollection of the events of the day. The general accuracy of INQ 624's other recollections would also tend to confirm that his memory of events is reliable. The most significant part of his evidence is further strengthened and corroborated by the responses of Soldier A when cross-examined on **Day 297/135/11 to Day 297/137/4**.

16.7.5.75 It is truly significant that Soldier A's immediate response, when asked about the accuracy of this suggestion by INQ 624, is, not that such a thing could not have happened, but "I have no recollection of that." **Day**

297/135/19. Then, when the matter had been pursued at length, Soldier A further asserted that if a soldier was to lend his rifle to another who discharged it, that there was no necessary duty to report the incident to his Platoon Commander or even the Company Commander. **Day 297/136/19 to Day 297/137/4**. The correspondence between INQ 624 and the Inquiry may cause the Tribunal to treat this evidence with caution. **C624.9 to C624.21**. However, whether this is in fact what happened it or not, it does confirm the general attitude amongst the members of Support Company that rules and regulations designed to ensure compliance with proper procedures may in fact be used to mask breaches rather than reveal them and further illustrates the lack of candour from the other members of Machinegun Platoon. It serves to demonstrate the lack of enforcement of adherence to such rules and orders that may have existed to ground personal responsibility on individual soldiers for their actual actions.

INQ 439

16.7.5.76 INQ 439 drove a pig with the registration number 15BK54, **C439.1 paragraph 4.** His memory of the day is so poor that all he can say for certain is that he heard shooting at some point as he waited in his pig. However, he is not able to be more specific other than to say that:

i) He knew nothing of a shot hitting a drainpipe or of any civilians being hit by fire **C439.2 paragraph 10**

ii) He did not see any shots fired **C439.1 paragraph 8**

iii) He cannot say how many were fired or whether they were fired close by **C439.2 paragraph 8**

iv) He did not know from where the shooting was coming **C439.1 paragraph 8**

v) It sounded like a high power weapon, not a Kalashnikov **C439.2 paragraph 8**

vi) He did not hear a Thompson sub machinegun **C439.2 paragraph 8**

vii) He does not recall any incoming fire **C439.1 paragraph 9**

INQ 513

16.7.5.77 This is a very confused account upon which, in light of the fact that he was not called to give evidence, we make the following observations.

16.7.5.78 Although Corporal INQ 513 commanded a section of Machinegun Platoon he is not able to recall of whom it was comprised nor can he recollect any briefing in relation to the march. In fact, it is INQ 513's memory that his section were tasked to concentrate on the Rossville Flats from where, they were told, snipers were firing. **C513.2 paragraph 6**. He then, with his section, debussed through Barrier 14 on foot, past Chamberlain Street, through McCarry's Lane onto the waste ground on Rossville Street whereupon, because some of the crowd were still at the William Street end of Rossville Street, he decided that they should return to the pig. He stayed there until he saw Fr Daly come from Chamberlain Street carrying an injured person. **C513.3 to C513.4 paragraphs 11 to 14**. This is inconsistent with all of the available evidence in relation to the movements of Machinegun Platoon and it seems that this witness has, over time and having watched television footage of the day, a completely flawed version of his movements and that of his section that day. Whether this is genuine or convenient, in that he is not placed in the position of being asked questions the answers to which would be potentially critical of the actions of this colleagues on the day, is impossible to say without having questioned him. What he is clear about, importantly, is that it was very difficult to tell from where the shots that he heard were coming because the area was very built up producing an echo, **C513.2, C513.3 paragraph 7**, and that he did not hear or see any nail bombs or blast bombs explode during the day. **C513.4 paragraph 13**.

INQ 1553[26]

16.7.5.79 Like INQ 624, INQ 1553 states that they were told to ignore the fact that the Bogside was a "No-Go Area" and that they should follow the crowd into the Bogside. Other than that, although he has given it some thought and cannot understand why, his orders were very vague. **C1553.2 paragraph 5**.

16.7.5.80 He remembers that INQ 1851 was in America at a Rangers course, **C1553.2 paragraph 7** , that they had to climb over what seemed to be a roof to get into a derelict building and that INQ 455 fell whilst attempting the climb. **C155.3 paragraphs 9 to 10**. Soldier A was supposed to help INQ 1553, who was in clear view of the rioters below, into the building but, instead, he cocked his rifle and, without shouting a warning, fired one or two shots, the first shots of the day. It was INQ 1553's belief that Soldier A had fired at a nail bomber and can vaguely remember someone saying as much **C1553.3 paragraph 11**.

16.7.5.81 Shortly after, having reached the inside of the building, INQ 1553 heard someone fire a single shot from the ground floor. **C1553.4 paragraph 13**. INQ 1553 saw no one with a nail bomb but surmises that one may have hit the outside of the building. It is possible, if not probable, that this witness has mistaken the sound of stones hitting the side of the building and of rubber bullets being fired in the area, including from within the derelict building itself, with the sound of a nail bomb.

16.7.5.82 When in the area of the Rossville Flats guarding the pig containing the bodies, which were just piled on top of each other, see Section 18, INQ 1553 did not see any civilians with weapons, did not particularly feel that he was in danger, heard no explosions and believed that all the gunfire he heard could have been friendly fire. **C1553.4 paragraphs 17 to 18**. Before

[26] This draft statement was released by Eversheds on 10th October 2003 and received by us on 21st October 2003, ten days after Soldier A's oral evidence.

their return to Belfast Colonel Wilford congratulated them. **C1553.5 paragraph 22**.

16.7.5.83 The evidence of this witness reveals the propensity for a soldier's colleagues to immediately assume that when he fired he was justified in so doing irrespective of the fact that they have seen nor heard anything which would have warranted such action. Indeed, the firing by their colleagues immediately increases their own sense of vulnerability and their own necessity to make a similar response.

INQ 1917

16.7.5.84 INQ 1917's memory of his platoon having been briefed to act as snatch squads varied during his oral testimony. In response to Counsel to the Tribunal he could remember only a short briefing, involving no examination of maps or photographs or reconnaissance, given on their arrival in Derry on the day of the march, **Day 288/50/2 to Day 288/50/12** and **Day 288/86/1 to Day 288/86/4**, By the end of his testimony, however, in response to Mr Bradley BL, INQ 1917 answered as follows:

> Q. One final question, please: do you recall when it was you were first told that the platoon was going to be involved in an operation in Londonderry?
>
> A. From memory, it was the day before the operation.
>
> **Day 288/125/7 to Day 288/125/10**

16.7.5.85 INQ 1917's next memory is of the entire platoon, **C1917.2 paragraph 8**, having been ordered into a derelict building which he entered from ground level, **Day 288/56/18**, climbing to the first floor, **Day 288/56/14**, from where he could hear the people marching past, quite close to the building. **Day 288/58/17 to Day 288/59/2**. This former point contradicts a substantial body of evidence to the effect that the platoon entered via the first floor and descended to the ground floor.

16.7.5.84 It was as he was still making his way to the interior of the building, although he was on the first floor having been in the building for only a few seconds, that INQ 1917 claims to have heard shots. **Day 288/61/3 to Day 288/61/20.** INQ 1917 accepts the possibility, put to him by Counsel to the Tribunal, that this may have been the noise of baton guns being fired, **Day 288/62/2 to Day 288/62/5** and that, unable now to say whether it was a gun or a baton gun, that he presumed they were under fire, **Day 288/62/10 to Day 288/62/13,** although he did not feel that his life was in danger. **Day 288/63/1 to Day 288/63/2.**

16.7.5.85 Counsel for some of the Families informed him that prior to and in the minutes that followed Machinegun Platoon's entry into the derelict building, between 200 and 250 baton rounds had been discharged from Barrier 14, a total which rose to 324 by the end of the afternoon. **Day 288/92/8 to Day 299/92/12**, Notwithstanding his earlier concession to Counsel to the Tribunal INQ 1917 refused to acknowledge the possibility that these figures could account for his having misidentified the sound of baton rounds as that of live rounds. This despite the fact that;

(i) The entire situation had made his adrenaline levels go up. **Day 288/91/15**

(ii) It was his first ever experience, at the age of twenty, of coming under fire. **Day 288/93/8**

(iii) He did not see the strike of any shots. **Day 288/62/24 to Day 288/63/2**

(iv) He has no memory of baton rounds having been discharged from he derelict building. **Day 288/90/16 to Day 288/90/19**

(v) His memory of the order in which events occurred is hazy now due to the passage of time and also due to the fact that things seemed to happen so fast. **C1917.2 paragraph 12**

(vi) That it was impossible to recollect *detail* and sequences of events due to the passage of time. [My emphasis] **Day 288/85/1 to Day 288/85/4**

(vii) He was in a situation with which he was totally unfamiliar and events were happening quite quickly.

In addition, it is significant that INQ 1917 states that he did not hear one high velocity round fired from the direction of the Rossville Flats at 1555 as referred to in Major Loden's diary of operations. **Day 288/101/6 to Day 288/101/11**.

16.7.5.86 From his position he could see out of the window and said that he saw a group of people, mostly males in their twenties and thirties, running in various directions and throwing objects, some in his direction. He states that he cannot remember specifically what they were throwing but certainly makes no reference to a fizzing object, a match or anything that resembled a nail bomb. He then heard the sound of two explosions, similar to the sound of grenades, which, he claims, he can now identify, from later experience, as being nail bombs. **C1917.2 paragraph 12**.

16.7.5.87 He conceded to Counsel to the Tribunal that, at the time, he had no idea at all about what had caused these bangs or explosions, **Day 288/64/23 to Day 288/65/1** and, in his statement, says, "they were loud bangs which I did not recognise as having been caused by a particular weapon. The noise was similar to the sound of *grenades*, a low thud. From later experience, I do not think they were grenade but *possibly* nail bombs." [Emphasis added] **C1917.2 paragraph 12**.

16.7.5.88 Again, however, although he was unaware that 15 CS gas grenades and 65 CS canisters had been discharged by the Army, **Day 288/94/6 to Day**

288/94/20, and although he was unfamiliar with the sound of nail bombs at the time, INQ 1917 dismisses the suggestion by Counsel for some of the Families that he may have mistaken the sounds of these weapons for that of nail bombs. He rejects outright the suggestion that he may have attributed what he heard to Soldier A and B's story about having shot a nail bomber. **Day 288/95/9 to Day 288/95/19**.

16.7.5.89 INQ 1917's next memory is of between two and five shots fired from within the building and of seeing two of the soldiers in his platoon in a firing position pointing their weapons towards the open space where he had previously seen the group of people throwing objects. **C1917.2 paragraph 13.** He does not recall INQ 441 giving an order to Soldier A and B to fire. **Day 288/101/19 to Day 288/101/21.** Corporal A subsequently informed him that he and Soldier B had fired at a nail bomber. **Day 288/70/4 to Day 288/70/7.** However, the two soldiers he saw were at ground level, **Day 288/69/5**, whereas it is Corporal A's evidence that he fired from the first floor. INQ 1917 conceded that it is possible that Corporal A was in close proximity to him on the first floor **Day 288/73/2**. Given that INQ1917 was adamant that he had never seen or heard Corporal A firing, it was suggested by Counsel for some of the Families, but not accepted by INQ 1917, that this demonstrated the extreme difficulties in identifying firing on the day. **Day 288/97/21 to Day 288/98/3**. INQ 1917 then saw a group of people on the waste ground approximately 100 yards from the derelict building, tending to somebody on the ground.**C1917.3 paragraph 14**.

16.7.5.90 It is INQ1917's memory that he returned on foot with his platoon to their Army vehicles before being driven to a position approximately 100 yards from the Rossville Flats.**C1917.3 paragraph 17.** On debussing and taking cover behind the vehicle he was conscious of high-velocity sniper fire from the direction of the flats, but did not see any muzzle flashes, anyone firing

or any bullets striking their target. **C1917.3 paragraph 21**. It was his evidence that four or five such shots were fired from the flats over the space of a minute. INQ 1917 was not aware that members of other platoons in the area had opened fire and was therefore willing to acknowledge that he could not be 100% sure that the firing that he heard was not army fire. **Day 288/80/2 to Day 288/80/17**. With concession and the fact that he remembers having heard an order to ceasefire, **C1917.4 paragraph 22**, it is our submission that this soldier in actual fact heard was the other members of Support Company firing live rounds. This was at a stage after the three bodies had been moved, in the pig, to the north end of Block 1 of the Rossville Flats, **C1917.3 paragraph 21**, and is therefore likely to have been the shots fired by Soldiers F and G at the Rossville Flats.

INQ 1874

16.7.5.91 Having joined the regiment when he was twenty, **C1874.7 paragraph 2**, INQ 1874 was 23 years old at the time of Bloody Sunday. **C1874.1 paragraph 2**. From the outset of his oral testimony, INQ 1874 demonstrated a clear reluctance to give oral evidence or to adopt his Eversheds statement, which he claims not to have recognised, as evidence. **Day 298/21/8**. It seemed that this witness did not realise the consequence of the statement-taking process, i.e. that the statement would be relied upon evidence by the Tribunal and that he would actually have to give oral evidence. It appears, in our submission, that based on the belief that it was more of a dialogue with two people **Day 298/22/3**, the witness was prone to exaggeration, presumption in favour of the army or even untruths. Examples of this are illustrated below and include his claim that he saw someone with a rifle, that shots were directed at the derelict building in which he was positioned, some of which went over his head and that there were explosions.

16.7.5.92 INQ 1874 postulates that, although he us unable to remember having attended a briefing or being specifically told about an arrest operation, **C1874.1. paragraph 3**, the Parachute Regiment would have been sent in to quell trouble when other soldiers there couldn't and that "they wanted us to show a strong presence since they knew the Paras would not take any crap. They sent us in expecting trouble," **C1874.1 paragraphs 4 to 5**. This attitude, which is common amongst the Parachute Regiment, illustrates the pride they felt in being a part of it and bolsters our argument that this witness makes presumptions in favour of the army.

16.7.5.93 Although he cannot identify specifically which one, it is clear from his description of the building, having to climb over walls to get there, of having been there with the rest of his platoon and of INQ 455 injuring himself falling over a wall that INQ 1874 was in Abbey Taxis on Bloody Sunday and we proceed on that basis. **C1874.2 paragraph 11**.

16.7.5.94 From his position on the ground floor of the building INQ 1874 saw civilians run out now and again from behind walls and, having seen things thrown and then hearing explosions, assumes, again in favour of the army line, that the people were throwing nail bombs (saying later that he could hear nails hit the walls, **C1874.3 paragraph 17**) despite the fact that:

(i) He is unable to recall that there was a road between these people and his position or anything else about their location. **Day 298/28/12 to Day 298/28/23**

(ii) He did not see anyone with what could be described as a fizzing object in their hand **Day 298/28/8 to Day 298/28/11**

(iii) He only *thinks* that he is familiar with the sound that nail bombs made **Day 298/29/15 to Day 298/29/20**

(iv) In his view a nail bomb is not necessarily very loud although he could not give an exact description "after all these years."**Day 298/30/ 3 to Day 298/30/8**

(v) He did not know that baton rounds were being fired from inside or anywhere near the derelict building although he denies that, had that occurred, there would have been a very loud noise. **Day 298/33/12 to Day 298/33/21**

(vi) Despite conceding that if a baton round went off at the same time as a rifle shot, it may be hard to distinguish between them he will not accept that may be difficult to distinguish between a baton round and an explosions. **Day 298/34/2 to Day 298/34/9**

16.7.5.95 INQ 1874's evidence varies throughout his written and oral testimony as to the number of explosions that he heard. Firstly, in response to Counsel to the Tribunal, INQ 1874 states as follows:

> Q. Can you give the Tribunal any idea of the sort of quantity of *explosions* that you heard during the time that you spent in the derelict building? [Emphasis added]
>
> A. I would class it as sporadic. I mean, a dozen-plus shots *as well* were fired. [Emphasis added]
>
> Q. Something like a dozen over the total period you were in the building?
>
> A. Yeah, that is not exact, that is, you know, just a guess. **Day 298/30/15 to Day 298/30/23**

16.7.5.96 It may be, as he later suggests, that INQ 1874 mistakenly thought that he was being asked about the number of shots which he does put at twelve. **Day 298/42/3 to Day 298/42/12.** If this is the case, the question arises as to why this witness did not answer the question actually put to him. Then, after having told Counsel for some of the Families that he does not recall twelve explosions, he states that he cannot say how many explosions there were and then that it could have been two, **Day 298/42/15 to Day 298/42/25.** In his statement INQ 1874 refers to "the *first few* explosions," [emphasis added]. **C1874.3 paragraph 17.**

16.7.5.97 INQ 1874 claimed that, at the same time as the explosions, gunfire was directed toward the derelict building consisting of at least twelve, high velocity, single shots that mainly passed overhead, those that were level with them hitting the outside wall of the building. **C1874.2 paragraphs 15 to 16** and **Day 298/37/22 to Day 298/37/25**.

16.7.5.98 Similar to that in relation to the explosions, INQ 1874's evidence regarding these shots reveals a strong degree of uncertainty:

He conceded that it can be difficult to tell from where bullets are coming when in a built – up area but suggests that the Bogside is not a built-up area **Day 298/38/2 to Day 298/38/15**

(i) He is no longer certain if twelve shots were fired saying it could have been more or less **Day 298/38/16 to Day 298/38/21**

(ii) He was not aware that substantial amounts of baton rounds and gas cartridges were discharged by the army a very short distance away. **Day 298/48/20 to Day 298/48/22**

(iii) Despite his suggestion to Eversheds that he was confused as to whether some of the people were holding guns or broomsticks, **C1874.3 paragraph 18**, INQ 1874 accepts, in response to Counsel to the Tribunal, that he did not see them holding either. **Day 298/40/17 to Day 298/40/22**. It was presumably as a result of this response that Lord Saville refused to entertain Mr Eilias's request that the restrictions upon this witness be expanded to include questioning on INQ 1874's assertion, at **C1874.3 paragraph 25**, that he saw someone carrying what looked like a rifle in the Rossville Flats area although "if someone walked through a door with a broom under their arm then it looked something like that." **Day 298/40/24 to Day 298/41/10** Incidentally, the witness also claimed to have heard explosions, seen bullets hitting the road as though from the Rossville Flats

and of having seen a pig containing what could have been thirteen bodies around this time. **C1874.3 paragraphs 22 to C1874.4 paragraph 29**.

16.7.5.99 After this the witness heard shots fired from within the building but cannot say how many nor did he see who fired. He did not hear anything being shouted by any other member of his platoon, **Day 298/39/24 to Day 298/40/2**, nor see anyone fall. What is significant is that INQ 1874 accepts that it was a general attitude amongst the Parachute Regiment that if you saw someone with something that looks like a gun, you would have no alternative but to shoot. **C1874.3 paragraph 18**, **C1874.4 paragraph 25 to 26**.

16.7.5.100 INQ 1874's evidence in relation to the degree of danger in which he felt himself to be varies considerably throughout his evidence. What follows is his response to Counsel to the Tribunal in relation to this matter:

Day 298/34/10 to Day 298/35/8:

Q. Did you think you were at risk of being killed or injured by these nail bombs?

A. All the time I was there, yes.

Q. May we look at paragraph 17 on the next page where what is written in your statement is:

"I just tried to take no notice of what was happening -- it is all the same after the first few explosions, unless they are really close, and these were probably too far away to hit us."

Is that right?

A. It is a question that can be taken a few ways, is it not? I mean, I tried to take no notice of it. I was in the thick of a trouble spot and if I started panicking or worrying about what was going to happen, I would not

have been able to do my job.

Q. What about the last bit of that sentence:

"These were probably too far away to hit us."

A. Some of them may have been, but others were getting close.

Q. Then you go on:

"If the people throwing the bombs had been close enough for the bombs to have reached us, then we probably would have shot them."

A. That is true.

Whilst in response to Counsel for some of the Families he states as follows:

Q. Did you and your other colleagues feel particularly vulnerable?

A. They may have done.

Q. Did you?

A. I did not -- I felt vulnerable because of what was happening, what I thought or knew to be bombs and bullets flying around.

16.7.5.101 The Tribunal may believe that the time spent on INQ 1874's evidence is of little value considering the contradictions and unsupportable, uncorroborated assertions. Whilst we would also be of the view that this evidence cannot be relied upon, it does, in our submission, serve to illustrate that, despite what they saw on the day or remember of the day, an inherent characteristic of the military evidence is the interpretation or construction of the days events in such a way as to shore up the version of events put out by the army in 1972. In this specific case it is our suggestion that INQ 1874 perhaps feels justified in doing this because he feels that the army is being used as a scapegoat, **C1874.6 paragraph 45**.

INQ 1919

16.7.5.102 INQ 1919 is eager to explain, devoting three paragraphs to the subject, what a thorough brief he and his colleagues would have received in relation to Bloody Sunday. He explains that they received a general briefing on the 29th January 1972 when they were given a broad outline of the area into which they were to be deployed and of what other army units and the police would be doing although they were not informed, at this stage, as to their specific roles. **C1919.1 paragraph 9**. It was at the briefing, at Company level, on the morning of 30th January 1972 that they informed of the intention to stop a march and at a platoon briefing that they were told they were to act as snatch squads. **C1919.2 paragraphs 10 to 11**. INQ 1919 accepts, in response to Counsel to the Tribunal, that he cannot remember actually remember any briefing at all and was saying what normal practice would have been. **Day 296/1/19 to Day 296/2/24**. Here is a witness who is doggedly determined, from the outset, to present the army, or at least his regiment, in a positive light. Contrary to his statement where he asserts, at **C1919.1 paragraph 5**, that he had no view as to how Derry was being handled before 30th January 1972 by the units stationed there he agreed, during his testimony, that the Paras felt that they controlled Belfast but that in Derry local troops took 'a lot of stick' and could not do much about it. **Day 296/47/16 to Day 296/47/20**.

16.7.5.103 INQ 1919 definitively states in his statement to Eversheds that, even before gaining access, from above, to the derelict house, he could hear explosions some distance away, **C1919.3 paragraph 17**, interspersed, he says for the first time in oral evidence, with quite a bit of rifle fire. **Day 296/8/20 to Day 296/8/21**. He goes on to say that, although it was not obviously part of the plan, they had to enter the derelict building by crossing a flat roof, in all likelihood an upper floor of the derelict building as per the majority of the evidence from this platoon rather than a roof, which drew them to the attention of the crowd. **C1919.3 paragraphs 16 to 18**.

16.7.5.104 It was as the crowd started pointing and jeering that the platoon radio operator, INQ 455, became entangled in the barbed wire at the top of the wall and fell off taking the wire with him. What is significant about this evidence is that, contrary to that of INQ 441, INQ 1919 states that INQ 455 fell to the ground *inside* the building and that it was he and INQ 1686, who is deceased and is also known as UNK 194, not INQ 441, spent some time trying to untangle and help INQ 455 who was not seriously injured. **Day 296/11/23 to Day 296/12/3**.

16.7.5.105 After a few minutes, throughout which the younger elements in the crowd moved towards the derelict building throwing stones and missiles some of which were reaching them, he heard more gunfire. He claims that he also heard a number of bangs and explosions including nail bombs and petrol bombs, although he did not see anyone actually throwing them. There was then a verbal exchange between INQ 441, Corporal A and Private B, during which a nail bomb was mentioned. One shot rang out, and then a further two which he believed to have been fired by Soldiers A, who claimed a hit, and B, both of whom appeared to were aiming towards the same target area. He then saw a youth lying on the ground on William Street around whom a number of people had gathered. He could hear explosions as the shots were fired but at no stage did he see anybody with a nail bomb nor hear any order being given. (It could be suggested that the verbal exchange was a dispute over the fact that there was no justification to fire and that this is why INQ 441 wants to distance himself from the situation by now placing himself outside the building). **C1919.3 to C1919.4 paragraphs 21 to 23** and **Day 296/17/3 to Day 296/17/5**.

16.7.5.106 However, on being questioned by Counsel for some of the Families who pointed out that this series of shots and explosions are not mentioned in Major Loden's diary, INQ 1919 concurs that, after thirty years, it is possible

that he may be confusing this episode for shooting that happened at a later stage in the day, that he would cannot now explain how he could distinguish whether an explosion was a nail bomb and that he may have been confused by the media coverage of the event. He accepts that, as he did not see Soldiers A or B, their target or an explosion he may have been influenced by what they told him of the event afterwards and by his belief that soldiers would not discharge live rounds unless there was a good justification for doing so. **Day 296/33/23 to Day 296/36/22**.

He further concedes:

> Q. And when you heard the sounds of CS gas being discharged by -- or felt the effects of it, as well as hearing the sounds; those are the circumstances when you would have anticipated that perhaps nail bombs and petrol bombs would have been used against the Army; is that correct?
>
> A. Yes.
>
> Q. In fact, is that what occurred on this particular occasion, that when the sound of gas was heard and its effects seen, that the people in Machine Gun Platoon basically had expected and anticipated the worst; that you were stuck in an outcrop of a building; it was difficult to move in it and if you were attacked by blast bombs and nail bombs, I am afraid all of your lives would have been in grave jeopardy; is that not the case? Is that not the case? **Day 296/41/16 to Day 296/42/4**

16.7.5.107 Whilst he cannot remember having heard rubber bullets being fired by members of his platoon INQ 1919 recognises, based on previous experience, that had a rubber bullet been fired from within a derelict building it would have made a bigger bang than one that had just been fired out in the open. In fact, he acknowledges that the sort of bang produced in

such circumstances might be confused or mistaken for a nail bomb by a soldier who is unaware of what is happening. **Day 296/43/6 to Day 296/43/20**. Incidentally, INQ 1919 was aware some people picked up rubber bullets as souvenirs and occasionally sought to entice soldiers into firing them in acts of bravado just as Damien Donaghy had been doing. **Day 296/42/22 to Day 296/43/5**.

18.7.5.108 Although INQ 1919 believes that, due to INQ 455's fall, the radio suffered some damage, the fact that an ambulance arrived for INQ 455 would suggest that the radio was, in fact, in working order and had been taken over by someone else when INQ 455 had become incapacitated in accordance with standard procedure. **Day 296/19/6 to Day 296/19/19**. The rest of the platoon got into the Machinegun Platoon Pigs and made their way to the Rossville Flats.

18.7.5.109 The story that particularly sticks in his mind in relation to this time is that Mortar Platoon had been fired upon from the Rossville Flats, **Day 296/25/10 to Day 296/25/12** . INQ 1919 did not hear any explosions or gunfire nor see any civilians with guns or explosives whilst at the Rossville Flats. **C1919.6 paragraph 35** . He can remember having spoken to Soldiers R and T but has no recollection of their being in pain or mentioning that they had acid thrown at them, **Day 296/22/10 to Day 296/22/15.** He claims that they mentioned only that there were bodies in the back of the pig that they were guarding. He claims that an ammunition check was carried out on more than one occasion after they left the derelict building. The first of them took place before they pulled out of the Bogside and before he spoke to Soldiers R and T. **Day 296/23/4 to Day 296/23/17**. This assertion should be reflected upon with caution considering INQ 1919's apparent inability to distinguish between what actually happened on the day and what should have happened according to procedure as illustrated by his concessions, above, in relation to the briefing.

SOLDIER 005

16.7.5.110 This is a perfect example of a soldier whose main purpose in giving evidence, like so many others and not only in 1972 but also in 2000, was to support the version of events put forth by his colleagues or what he presumed would be the army case. Not having deployed with the rest of Machinegun Platoon to the derelict building, Soldier 005 had remained guarding his pig until he got a message that his platoon had been cut off and he needed to go and extract them. He was then ordered to drive the second Machinegun Platoon Pig, i.e. the sixth vehicle in the convoy, into the Bogside on Bloody Sunday. **B1374.001 paragraph 15**. Before this order he had heard no shots or explosions but, thereafter, claims, in his Eversheds statement, to have:

(i) Heard low velocity incoming fire as he went through the barrier **B1374 paragraph 9**

(ii) Heard several high velocity shots as his vehicle stopped in Rossville Street

(iii) Heard a bomb go off as he took cover behind his Pig in Rossville Street. **B1374.001 paragraph 12**

(iv) Seen a man in the act of throwing something, possibly a nail or petrol bomb, from either the ground or first floor of the Rossville Flats. Having seen puffs of smoke and Soldier R firing at him, Soldier 005 believed that acid bombs or something similar was being thrown. **B1374.002 paragraph 15**

(v) Seen, according to his RMP although he cannot now remember the incident, a man located on the first floor veranda running between blocks one and two of the Rossville Flats fire two shots from a pistol. Soldier R, Soldier 005's friend since they were in junior Para together as kids of fifteen, **Day 338/194/13 to Day**

338/194/19, returned 2 rounds at the man. **B1374.004 paragraphs 31 to 34**.

(vi) Heard pistol shots, which he calls "pepperpot shots" and some low velocity fire around the time that Major Loden was shouting to his men, in no uncertain terms, to stop firing. **B1374.002 paragraph 16**

(vii) Heard low velocity fire coming from the direction of the Rubble Barricade and from the Rossville Flats area into the car park which, judging by the "tap, tap, tap" sound, he presumed to be a pistol **B1374.002 paragraphs 16 to 17**

16.7.5.111 Soldier 005's oral testimony was consisted of looking at various photographs, documents and maps and, allowing for the confusion arising through memory loss, appearing to help Counsel to the Tribunal to best of his ability. What transpired by the end of his evidence, however, was that Soldier 005 took responsibility for lying to the RMP in 1972 about seeing a man with a pistol. **Day 338/165/8**. When he made his statement to Eversheds he was maintaining a lie:

> Q. When you got into the witness box today you knew it was wrong and you could not have seen this at all. But the first question you were asked was whether or not this statement was true to the best of your knowledge, and you said it was.
>
> A. I am trying my best.
>
> Q. But you were not trying your best, were you, because you knew this to be wrong?
>
> A. Well it is wrong, yes.
>
> Q. When you said it was right, you knew it was wrong?
>
> A. Okay, yes.
>
> Q. And that was a lie?
>
> A. Yes, I suppose so.

Q. So you have lied to this Tribunal today?

A. Yes, okay.

Q. You say "yes okay" in that casual way, do you not think it is a significant matter for you to lie to the Tribunal under oath?

A. I am trying my best not to lie. **Day 338/178/14 to Day 338/179/7**

16.7.5.112 It is, therefore, reasonable to suggest that the Tribunal should accept with caution Soldier 005's internally contradictory evidence to the effect that he was concentrating on driving and not paying attention to what they were saying *and* that there was a partition between them and he so that he could not hear their conversation. **B1374.003 paragraph 22**. Also, according to Bernard Feeney, the Knight of Malta, there was no partition between the front and back of Soldier N's pig which, presumably would have been the same as those issued to the Machinegun Platoon:

> "I remember that there was a soldier sitting in the passenger seat of the Saracen (there was no division between the front and back of the vehicle). He was sitting sideways across the seat with his back to the passenger door and his legs stretched out very casually into the back of the Saracen. His legs would have been very close to the head of the middle body." **AF 8.5 paragraph 29**.

16.8 Conclusions

16.8.1 At, or around, 3.30pm on 30 January 1972, soldiers from the Machinegun Platoon of Support Company, under the command of INQ 441, moved into position in the former Abbey Taxis building on Willliam Street. A number

of these soldiers were visible to the marchers and there followed an exchange of insults. This progressed into some minor stone-throwing involving a group of youths. Many of these stones did not reach their intended target.

16.8.1.2 At all material times, the crowd was under the constant observation of soldiers on the Embassy building, the roof of the GPO Sorting Office, soldiers positioned in Harrison's Garage and on the flat roof annexed to the Presbyterian Church. At least one soldier from the Abbey Taxis responded with up to thirty baton rounds.

16.8.1.3 According to their evidence, Soldier B was in a position behind a window on the ground floor of the Abbey Taxis building whilst Soldier A was positioned behind the first floor window. Both Soldiers A and B claim to have fired two and three shots respectively at an alleged nail bomber on the waste ground. Their descriptions of the alleged nail bomber do not match that of Damien Donaghy or John Johnston.

16.8.1.4 Damien Donaghy was shot in the right leg, John Johnston in the left shoulder and right leg. He also received a minor hand injury. There is no objective evidence to support the version of events offered by Soldiers A and B.

16.8.1.5 The evidence clearly and indisputably establishes the following:

(i) Damien Donaghy was shot and wounded by Soldier A or Soldier B who were located in the Abbey Taxis building.

(ii) John Johnston was shot and wounded by Soldier A or Soldier B, or both, who were located in the Abbey Taxis building.

(iii) Neither John Johnston or Damien Donaghy was armed and no action was taken by them which could have justified the use of lethal force by Soldiers A and B.

(iv) No action taken by Damien Donaghy or John Johnston posed a threat, or could have been perceived as posing a threat, to the soldiers in the Abbey Taxis building.

(v) The members of Machinegun Platoon were not attacked by nail bombs or gunfire on taking up their positions in the Abbey Taxis building.

(vi) Soldiers A and B shot two individuals whom they knew to be unarmed

(vii) There were no nail bombers in William Street.

(viii) Neither A nor B believed that there were nail bombers in William Street.

(ix) There was no action by any member of the crowd on the laundry waste ground which either posed a threat, or could have been perceived as posing a threat such as to cause A or B to believe that they were justified in firing shots.

(x) Neither A nor B believed that either Damien Donaghy or John Johnston posed any threat to them to justify their firing.

(xi) Neither A nor B believed that any person in close proximity to Damien Donaghy or John Johnston was acting in such a way as to pose a threat to their lives or that of another.

(xii) OIRA 1 fired a shot at soldiers near the Presbyterian Church *after* Damien Donaghy and John Johnston were shot.

(xiii) Nobody other than Damien Donaghy and John Johnston were shot in William Street. Rather, these are two injured persons for whom Soldiers A and B have failed to account.

16.8.1.6 **Role & Responsibility of Soldiers of 1 Para**

Based on the evidence, the role and responsibility of the individual soldiers involve in Sector 1 can be summarised as follows:

16.8.1.7 **Corporal A**

i) Corporal A fabricated accounts of seeing a man with a nail bomb, hearing nail bomb explosions and civilian gunfire in order to justify his own use and his colleague's use of lethal force.

ii) Corporal A fired at least 2 live rounds, in circumstances which were wholly unjustified, in the direction of the Castle Laundry waste ground where significant numbers of unarmed civilians were gathered.

iii) Corporal A may well have shot Damien Donaghy, John Johnston or both. He did so without any justification.

iv) In order to cover up the attempted murders of Damien Donaghy and John Johnston, Corporal A fabricated accounts of seeing a nail bomber, hearing nail bomb explosions and hearing incoming fire.

v) Corporal A failed to explain how he did not see Damien Donaghy and John Johnston being shot or removed from the area of the Castle Laundry waste ground.

16.8.1.8 **Private B**

i) Private B fabricated accounts of seeing a man with a nail bomb, hearing nail bomb explosions and civilian gunfire in order to justify his own use and his colleague's use of lethal force.

ii) Private B fired at least 3 live rounds, in circumstances which were wholly unjustified, in the direction of the Castle Laundry waste ground, where significant numbers of unarmed civilians were gathered.

iii) Private B may well have shot Damien Donaghy, John Johnston or both. He did so without any justification.

iv) In order to cover up the attempted murders of Damien Donaghy and John Johnston, Private B fabricated accounts of seeing a nail bomber, hearing incoming fire and hearing nail bomb explosions.

v) Private B failed to explain how he did not see Damien Donaghy and John Johnston being shot or removed from the area of the Castle Laundry waste ground.

16.8.1.9 **INQ 441**

i) INQ 441 failed to take any necessary steps to acquire sufficient understanding of the conditions in Derry and in the Bogside in particular, before the launch of the arrest operation.

ii) He failed to take any necessary steps to obtain clear guidance and instructions about: the purpose of the operation to be undertaken by his battalion; his own role and that of his platoon; any restrictions and constraints imposed on the operation, and the geographical limits of their deployment particularly in view of the fact inter alia that they were ordered to a position ahead of the remainder of Support Company.

iii) He failed to give any appropriate briefing to the members of his platoon concerning these matters and did nothing to temper their aggression.

iv) In briefing his platoon INQ 441 failed to disabuse members of his Platoon of the notion that: they were being sent to Derry to break the No-Go areas or that they were being sent to Derry to teach 8 Brigade a lesson.

v) He failed to ensure proper discipline and conduct amongst members of his platoon; ensuring that they did not cock their rifles before it was justifiable to do so and, emphasising that they were not free to respond to any real or perceived threat by firing at civilians rather than disengaging in an orderly fashion.

vi) The consequences of the failures detailed above were that mostly young, relatively inexperienced, overly-aggressive members of his platoon deployed in an unfamiliar, unfriendly environment in

a heightened state of tension and under a misapprehension about the nature of the threat facing them.

vii) INQ 441, as Platoon Commander, failed to exercise any supervision, command or control over Machinegun Platoon even when it became apparent that they were shooting unarmed civilians.

viii) While positioned in the Abbey Taxis building, INQ 441 watched as members of his platoon fired live rounds at unarmed civilians in William Street and failed to take any steps to stop them.

ix) Following the shootings, he covered up, and is still attempting to cover up, his and his men's criminal behaviour.

x) As leader of the platoon whose members wounded Damien Donaghy and John Johnston, INQ 441 bears a personal responsibility for their attempted murder or, at least, grievous bodily harm with intent, contrary to Section 18 of the Offences Against the Persons Act 1861.

16.8.1.10 **INQ 275**

i) INQ 275 did not fire any shots.

ii) INQ 275 was less than forthright and honest with the Inquiry in an attempt to conceal the unjustified shooting of others.

16.8.1.11 **INQ 876**

i) INQ 876 has invented a false account that shots were fired from the Rossville Flats.

16.8.1.12 **INQ 624**

i) This subparagraph has been removed by order of the Tribunal.

ii) This witness had a complacent attitude towards the rules and procedures put in place to regulate and account for the firing of live ammunition. He had, at some time, access to ammunition above the amount issued to him.

16.8.1.13 **INQ 1544**

i) This witness' statement is remarkable more for what he failed to see rather than what he actually saw.

16.8.1.14 **INQ 1917**

i) INQ 1917 has invented a false account of having heard nail bombs explode in William Street in an attempt to justify the shooting of others.

ii) INQ 1917 has falsely denied witnessing Soldiers A and B shooting unarmed civilians.

16.8.1.15 **INQ 1874**

i) INQ 1874 has fabricated an account of seeing gunmen in William Street and Rossville Street, of incoming shots and of nail bomb explosions in an attempt to justify the shooting of others.

16.8.1.16 **INQ 1919**

i) Has invented a false account of having heard explosions, including nail bombs and petrol bombs, in an attempt to justify the shooting of others.

16.8.1.17 **Soldier 005**

i) Soldier 005 invented false accounts of hearing incoming fire and explosions in order to justify the shooting of others.

ii) He was involved in collusion with Soldier R and/or the RMP and invented an account of a man throwing what looked like a nail/ petrol or acid bomb in order to justify Soldier R's use of lethal force.

iii) Soldier 005 was involved in collusion with Soldier R and/ or the RMP and invented an account of a man armed with a pistol in order to justify Soldier R's use of lethal force.

iv) Soldier 005 provided false evidence to Eversheds in the knowledge that it would be considered by the Inquiry and the Tribunal.

16.8.7.18 **Concluding Section**

Finally, all of the soldiers of 1 Para identified in this Sector perverted the course of justice, individually and collectively, in relation to the events of Bloody Sunday by concealing the criminal behaviour of their colleagues in Support Company and ensuring that they would evade prosecution for their crimes. Those who gave dishonest evidence on oath also committed perjury.

Appendix 1

FS 1. 1067

Section 16 Appendix 1

SECTOR 1 SOLDIERS' EVIDENCE
MACHINEGUN PLATOON
TABLE 1 - CIVILIAN GUNMEN AND BOMBERS

Soldier	Heard single shot first	Heard shots first	Bullet strikes or passed over head	Saw Civilian with armalite	Heard shots from within derelict building	Saw Soldier A fire	Saw Soldier B fire	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode
Soldier A	Yes	No	No	No	No	-	No	Yes	Yes	Yes	No
Soldier B	No	No	No	No	No	No	-	Yes	Yes	Yes	No
INQ 441	No	No	No	No	No[1]	No	No	No	No	No	No
INQ 455	No	No	No	No	No	No	No	No	No	No	No
INQ 1805	No	Yes[2]	No	No	No	No	No	No	No	No	No
INQ 275	No	Yes	No	No	No	No	No	No	No	No[3]	No
INQ 588	No	Yes	No	No	No	No	Yes[4]	No	No	No	No
INQ 896	No	No	No	No	Yes	No	Possibly[5]	No	No	No	No

[1] He does claim to have heard hard extractions – the ping of a bullet off the floor **Day 303/92/9 to Day 303/92/19**

[2] He could not, and cannot, distinguish whether the shots were enemy or friendly fire but he did not have any sense that his section was under fire. He cannot remember having heard explosions **C1805.3 paragraphs 17 to 18**

[3] This witness is reticent about drawing the definitive conclusion that he would have heard a nail bomb had it exploded outside the derelict building **Day 340/180/22 to Day 340/182/6**

[4] INQ 588 saw Soldier B also firing with his baton gun. **C588.4 paragraph 16**. Because this witness was designated as a "read" witness by the Inquiry, we have not had the opportunity to establish whether he thinks that he was wrong in the sense that Soldier B must not have fired anything or that Soldier B must have been firing not a baton gun but a rifle. We submit that it must be the latter.

[5] His memory that it was Soldier E who fired these shots from ground level, he did concede that he was not absolutely sure **Day 341/9/1**,

FS1.1068

Soldier	Heard single shot first	Heard shots first	Bullet strikes or passed over head	Saw Civilian with armalite	Heard shots from within derelict building	Saw Soldier A fire	Saw Soldier B fire	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode
INQ 153	Yes	No	No	No	No	No	No	No	No	No	No
INQ 1354	No	Yes	No	No	No	No	No	No	No	No	No
INQ 1544[6]	No	No	No	No	No	No	No	No	No	No	No
INQ 624	No	No	No	No	Yes	Yes	No	No	No	No	No
INQ 439	No	No	No	No	No	No	No	No	No	No	No
INQ 513[7]	No	No	No	No	No	No	No	No	No	No	No
INQ 1553	No	No	No	No	Yes	Yes	No[8]	No	Possibly	Possibly[9]	No
INQ 1917	No	Yes	No	No	Yes	Yes[10]	Yes	No	Yes	Yes[11]	No
INQ 1874[12]	No	Yes	Yes	No	Yes	No	No	Possibly	Yes	Yes	No
INQ 1919	No	Yes	No	No	Yes	Yes	Yes	No	Possibly	Possibly	No
Soldier 005[13]	No	No	No	No	No	No	No	No	No	No	No

[6] His first memory is of being in the area of the Rossville Flats guarding the vehicle. He refers to nothing in Sector One
[7] There has been no opportunity to test or clarify, through questioning, what is a very confused account
[8] , INQ 1553 heard someone fire a single shot from the ground floor. **C1553.4 paragraph 13**
[9] INQ 1553 saw no one with a nail bomb but surmises that one may have hit the outside of the building
[10] The two soldiers he saw were at ground level, **Day 288/69/5**, whereas it is Corporal A's evidence that he fired from the first floor.
[11] He concedes to counsel for the Tribunal that, at the time, he had no idea at all about what had caused these bangs or explosions, **Day 288/64/23 to Day 288/65/1**
[12] Our analysis of this evidences reveals this witness to be prone to exaggeration, presumption in favour of the army or even untruths
[13] Soldier 005 did not deploy into Abbey Taxis but remained with his vehicle and then entered Rossville Street in the convoy of vehicles.

FS1.1069

Appendix 2

FS 1.1070

Section 16 Appendix 2

Statement in which the "drainpipe shot is first mentioned by a particular Soldier	**Number of Soldiers**
RMP dated 2 February 1972	1
RMP dated 4 February 1972	7
RMP dated 5 February 1972	1
SA dated 27 February 1972	2
SA dated 5 March 72 (Overbury present)	3
SA undated (but after 31 January 1972)	3
1975 (Interview)	1
Total	18

Identity of Soldier	**Page Reference**	**Attacked by Gunfire**
Soldier K	**B290** **B297** **B301**	Not mentioned in first RMP dated 1 Feb First mentioned in TSOL statement dated 5 March taken by Hirst in presence of Col. Overbury. Not mentioned at Widgery
Soldier M	**B347** **B356** **B359** **B364**	Not mentioned in first RMP dated 31 Jan Not mentioned in supplemental RMP dated 4 Feb First mentioned – TSOL statement dated 5 March taken by Hirst in presence of Col. Overbury Not mentioned at Widgery
Soldier N	**B373** **B384** **B391**	Not mentioned in first RMP statement dated 31 Jan – 0045 Not mentioned in supplementary RMP statement dated 31 Jan – 0100 Not mentioned in supplemental RMP dated 1 Feb Not mentioned in supplemental RMP dated 14 Feb

	B394 **B397** **B404** **B416**	First mentioned – TSOL statement dated 27 February witnessed by B Hall Mentioned in This Week Interview Mentioned at Widgery
Soldier O	**B439** **B461** **B464** **B466** **B472** **B497** **B498.003**	Not mentioned in first RMP statement dated 30 Jan Not mentioned in supplementary RMP statement dated 1 Feb Not mentioned in second supplementary RMP statement dated 15 Feb First mentioned in TSOL statement dated 27 Feb taken Heritage Mentioned at Widgery Mentioned in This Week Interview broadcast on 3 Feb Not mentioned in V9 Remember Bloody Sunday (Peter Taylor)
Soldier P	**B576** **B588** **B591** **B595**	Not mentioned in first RMP statement dated 30 Jan Not mentioned in supplementary RMP dated 1 Feb Mentioned for the first time in undated TSOL statement Mentioned at Widgery
Soldier Q	**B624** **B635** **B640**	Not mentioned in 1st RMP statement dated both 30 &31 Jan First mentioned in undated TSOL statement Mentioned at Widgery
Soldier T	**B725** **B734** **B738**	Not mentioned in first RMP statement dated both 30 & 31 Jan First mentioned in TSOL statement dated 5 March taken by Hirst (TSOL) in the presence of Col. Overbury Not mentioned at Widgery (Now Deceased)
Soldier V	**B788**	Not mentioned in RMP statement dated 31 Jan 72

	B801 **B806**	Mentions high velocity drainpipe shot for the first time in his undated TSOL statement. Reiterated at Widgery
Soldier 006	**B1375**	Mentioned in first RMP statement dated 4 Feb
Soldier 010	**B1393**	Mentioned in first RMP statement dated 4 "Jan," presumably 4 Feb.
Soldier 013	**B1408.023**	First mentioned in 1st RMP statement dated 4 Feb
Soldier 014	**B1409**	Mentioned in first RMP statement dated 4 Feb
Soldier 017	**B1472** **B1479** **B1482** **B1484.002**	Not mentioned in first RMP statement which is dated both 30 & 31 Jan 2nd RMP statement dated 4 Feb – not mentioned Undated TSOL statement – not mentioned Mentioned for first time
Soldier 018	**B1485**	RMP statement, **dated 4 Feb, after Loden's Diary of operations dated 31.1.72,** states: About 1600 I was located . . . in the forecourt of the Presbyterian Church . . . we were in that position for about five minutes when I heard the sound of a shot. Then bullet struck a drainpipe on the east wall of the Church.
Private Soldier 019 Mortar Platoon, 1 Para	**B1494.001 paragraph 5**	Eversheds - At some point I think I was up on the roof of the GPO Sorting office. The main thing I recall about the reconnaissance was that we came under fire. . . a round hit the Presbyterian Church. It was **a single, high velocity rifle shot** which sounded as though it came from the south. I saw the bullet strike a drainpipe, at a height of about 18-20 feet, just below the eaves of the roof of the church. Part of the drainpipe fell and landed near me. . . I cannot remember who, if anyone, was with me at the time. 6. There was no immediate response to the shot. No one tried to locate the gunman, nor to fire back and I do not remember anyone making reports on the radio, although someone probably did.

		(019's RMP statement does not mention this shot
Soldier 027	**B1546** **B1551** **B1565** **B1565.038**	Not mentioned in first RMP statement dated 5 Feb Not mentioned in undated TSOL statement 1975 Statement which appeared in the Sunday Business Post – mentions having seen a pall of dust and chips fly from the ground in the churchyard and realised they had come under fire. Para 74 – Same description as 1975 statement
Soldier 032	**B1613** **paragraph 14**	This RMP statement which refers to the drainpipe shot is, significantly, dated 4 Feb, *after* Loden's Diary of operations dated 31.1.72.
Soldier 035 1 Para	**B1628.010**	This RMP statement which refers to the drainpipe shot is, significantly, dated 2 Feb, *after* Loden's Diary of operations dated 31.1.72.
Soldier 112	**B1730**	First mentioned in 1st RMP statement dated 4 Feb
Soldier SA8/200	**B1978** **B1985** **B1991** **B2011**	First mentioned in 1st RMP statement dated 5 Feb Mentioned in undated TSOL statement Mentioned in This Week Interview Mentioned at Widgery

17 SECTOR 2

17.1 Introduction and summary of submissions

17.1.1 The first paratroopers to enter the Bogside on Bloody Sunday were the soldiers of Mortar Platoon. Commanded by Lieutenant N, they occupied the first two Armoured Personnel Carriers (Pigs) in the Support Company column that passed through Barrier 12, across William Street and into Rossville Street. Lt. N was in the first pig, which pulled off Rossville Street into Pilot Row before stopping close to Eden Place at the back of the Chamberlain Street houses. The other half of the platoon was in the second pig, commanded by Sergeant O. It stopped momentarily on Rossville Street at the end of Pilot Row to let 5 members of the platoon off there before pulling up into the mouth of the Rossville Flats courtyard between the back of 36 Chamberlain Street and the north gable wall of Block 1.

17.1.2 Their arrival in Rossville Street caused panic among the hundreds of marchers and other civilian bystanders who were still milling around as the march came to an end and the meeting at Free Derry Corner was just getting under way. Including residents, marchers, journalists, photographers, first aid workers, priests and children, they fled in all directions to escape from the soldiers. A handful threw stones but they also dispersed rapidly. The scene was described by Jeffrey Morris of the *Daily Mail* as follows:

> "The Saracens stopped in Rossville Street. The paratroops were fanning out and running in pairs across the open ground. It was just like watching an old war film, a sort of bayonet charge without bayonets. As the Paratroops caught anyone, they knocked him down with their rifle butts and kicked him. Then, leaving him lying, they ran on." **(M57.2 paragraph 5)**

17.1.3 As they debussed, soldiers of Mortar Platoon fired rubber bullets indiscriminately into the crowd and within moments of debussing Lt. N had fired the first live shots. In the next 5 minutes or so, 7 members of his platoon, including himself, fired at least 29 live rounds into the Rossville Flats courtyard area, killing Jackie Duddy and seriously wounding Peggy Deery, Michael Bridge and Michael Bradley. Patsy McDaid suffered a wound to his back so severe that it was believed not only by civilians but also by the medical staff at Altnagelvin Hospital to have been caused by a lead bullet. It now appears that he may have been hit by a rubber bullet modified so as to cause maximum injury.

17.1.4 **Alana Burke** was knocked down by Sergeant O's Pig as it made its way to the mouth of the courtyard. Based on the photographs and oral testimony, it seems likely that the order in which the victims were shot was:

Peggy Deery	Somewhere in the waste ground behind Chamberlain St, possibly between Eden Place and Pilots Row or behind no.36
Jackie Duddy	In the car park perhaps 20 yds. from the alleyway between Blocks 1 & 2.
Michael Bridge	In the carpark between Jackie Duddy and Pig 2
Michael Bradley	Between the low wall at block 2 and Jackie Duddy
Patsy McDaid	Close to the alleyway between Blocks 2 & 3. (Patrick McDaid helped to carry Peggy Deery to 33 Chamberlain Street and was making his way towards the gap between Blocks 2 and 3 when he was shot in the back.)
Pius McCarron	may have suffered his grazing wound in this area as well

17.1.5 Mortar Platoon as a whole claimed to have fired 42 shots. In Sector 2, 7 soldiers claimed to have fired 29 shots into the car park area (the

difference being accounted for by the fact that Corporal P and Private U fired 10 shots in Sector 3 and N fired 3 in Eden Place). The soldiers claim to have hit 7 people but there were only 5 known casualties. No soldier claims to have fired at or claims to have seen any other soldier firing at a teenage boy (Jackie Duddy), a middle-aged woman (Peggy Deery), a man walking towards him with his empty hands outstretched (Michael Bridge) or at a man walking from the low wall in front of Block 2 in a similar fashion (Michael Bradley). Soldier 13 fired rubber bullets at the windows but no soldier claims to have fired live rounds at the windows or to have hit anyone inside the flats. None of the descriptions of the circumstances in which shots were fired by soldiers in Sector 2 matches the circumstances in which any of the civilians were actually hit. In other words, on the soldiers' accounts, not one of the casualties was shot by a soldier. For this reason alone, the soldiers' evidence cannot be right. The soldiers have effectively conceded that those in respect of whom we appear were innocent victims. However, they have made the case that there were others who launched shooting and bombing attacks on the soldiers and that when the soldiers fired back in self-defence innocent people must have been killed accidentally. There is no foundation for this case in truth or in fact. Not one soldier was hit or wounded either by gunfire (except one who shot himself in the foot) or nail bombs or petrol bombs. The soldiers' case depends almost entirely on the evidence of the soldiers and that evidence is, in all material respects, false.

17.1.6 On the most controversial issues, there are major inconsistencies and discrepancies between different soldiers who purported to witness the same events and, of course, between the soldiers and the other witnesses, including civilians, priests and journalists. Like the civilians, many of the soldiers either may have been genuinely confused about what was going on at material times or have been simply unable to recall events accurately when they were making contemporaneous statements for the Widgery Inquiry or more recently to Eversheds. This is certainly the most obvious explanation for the conflicting evidence on basic, uncontroversial matters, such as how many soldiers were in each pig and who they were.

17.1.7 However, it does not account for the glaring inaccuracies and inconsistencies that characterised the soldiers' evidence on the central issues, namely who shot whom where and why. The most striking feature of the soldiers' evidence on these issues is the scale of dishonesty, deceit and falsehood exhibited by them both in the immediate aftermath of Bloody Sunday and during the course of the present Inquiry. This applies equally to the soldiers in Sector 2. Some of them have tried to brazen it out by making no concessions and adhering doggedly to their 1972 statements; some have told half-truths and made minor concessions while denying the central allegations; all of them have taken refuge to a greater or lesser degree in a feigned loss of memory. Not one soldier involved in the main events has told the whole truth about what he did or what he witnessed on Bloody Sunday.

17.1.8 In our submission, the material events that occurred in Sector 2 can be summarised as follow:

(i) Alana Burke was knocked down by Sergeant O's pig as it made its way into the Rossville Flats courtyard area.

(ii) When the paratroopers debussed, they immediately set about firing rubber bullets indiscriminately as well as beating and arresting civilians without justification.

(iii) The soldiers were not attacked with nail bombs, petrol bombs, acid bombs or other bombs and, except for 2 pistol shots fired later by a civilian gunman of whom they were unaware, they did not come under gunfire by civilians.

(iv) Lt. N fired the first shots at or above the heads of civilians at the junction of Eden Place and Chamberlain Street.

(v) Whether or not they believed that Lt.N's shots were fired by civilians at them, other members of Mortar Platoon then opened fire on civilians in the courtyard area.

(vi) Peggy Deery was the first to be shot. She could have been shot by one of a number of soldiers including in particular S,V, N or Q.

(vii) Jackie Duddy was then shot as he ran toward the alleyway between Blocks 1 and 2. He was probably shot by Soldier V although he could have been shot by one of a number of soldiers, including in particular R, S, Q and O.

(viii) Michael Bridge was probably shot by Lt. N but could have been shot by one of a number of soldiers. After he saw Jackie Duddy shot, he walked towards the soldier with his arms outstretched and he was shot as he shouted in their direction in protest at the shooting.

(ix) Michael Bradley could have been shot by any one of a number of soldiers. He was shot in similar circumstances to Michael Bridge when he left the cover of the low wall after seeing Jackie Duddy shot.

(x) Patsy McDaid was probably shot with a rubber bullet by Soldier 013 but could have been shot by one of the other soldiers with a baton gun, including in particular Soldiers 112, 019 and 017.

(xi) Some time after the soldiers opened fire and after Jackie Duddy had been shot, OIRA 4 fired two pistol shots from behind the cover of the gable wall at 36 Chamberlain Street at soldiers but the shots went unnoticed, at least by soldiers.

(xii) Mortar Platoon then withdrew to the north gable wall of Block 1.

(xiii) After Jackie Duddy's body had been carried along Chamberlain Street and up Harvey Street, soldiers from C Company made their way into 33 Chamberlain Street and arrested all the male occupants without justification.

(xiv) Soldiers failed to offer or arrange the provision of medical attention for any of those shot.

17.1.9 In our submission, the evidence supports the following conclusions:

(i) All of the deceased and injured in Sector 2 were shot by members of the Mortar Platoon.

(ii) All of the deceased and injured in Sector 2 were unarmed when shot.

(iii) They were shot deliberately - not accidentally - and without any justification.

(iii) None of the deceased or injured had handled a gun or bomb at any time on Bloody Sunday. None of the deceased or injured had acted in support of any person handling or using a gun or bomb at any time on Bloody Sunday.

(iv) None of the deceased or injured was doing anything at the time they were shot which would have led the soldiers responsible for shooting them to believe that they posed a threat of any kind.

(v) None of the deceased or injured was in the vicinity of civilian gunmen or bombers when shot. Nothing was taking place in the vicinity of the deceased or injured at the time they were shot which would have led the soldiers to believe that their lives or those of their colleagues were at risk.

(vi) None of the deceased or injured was shot in crossfire or in the course of a 'gun-battle' with civilian gunmen.

(vii) When the vehicles and soldiers of Support Company appeared in Rossville Street they did not come under fire. Soldiers opened fire without justification and not as a result of being fired upon first.

(viii) There was no 'gun battle' and no 'exchange of fire' as alleged by the soldiers. At some stage after Jackie Duddy was shot, one gunman fired 2 rounds from a .32 automatic pistol from behind the gable wall at 36 Chamberlain Street towards the waste ground but he was not seen by any soldiers, his shots did not elicit any response from soldiers and he did not hit anyone.

(ix) There are no "missing casualties" - all of the persons killed and injured in Sector 2 have been accounted for.

(x) All of the civilians arrested in Sector 2 were arrested unlawfully and without justification.

(xi) Soldiers attacked and beat civilians without justification.

(xii) Soldiers may have fired more rounds than they accounted for.

. 17.1.10 The evidence concerning the arrests in this sector is dealt with in Section 16. In this section, firstly, we provide an overview of the civilian evidence concerning the events of Sector 2. Secondly, dealing with each of our clients individually, we examine the civilian evidence concerning the

circumstances of their shooting as well as the medical and forensic evidence relating thereto. Thirdly, we examine the evidence of the soldiers involved in this sector, i.e. those of Mortar Platoon and C Company as well as those soldiers in Observation Posts overlooking the area. Then, we examine the evidence of Para brutality in Sector 2. Finally, on the basis of the evidence, we shall specifically address the Soldiers' case that civilian gunmen and bombers were present in Sector 2 and that those who were hit were spirited away from the scene.

17.2 Overview of Civilian Evidence in Sector 2

17.2.1 The sequence in which the dead and wounded were shot in this sector was Peggy Deery followed by Jackie Duddy. Then Michael Bridge and Michael Bradley and lastly, Patrick McDaid. Peggy Derry was brought into 33 Chamberlain Street before Michael Bridge who was brought into the same house. She was shot before Michael Bridge. Jackie Duddy was certainly shot before Michael Bridge who can be seen remonstrating with the soldiers in **P740** after Jackie Duddy has been shot. Michael Bridge and Michael Bradley were shot in consequence of their reaction to Jackie Duddy's death. Patrick McDaid was wounded as he got to the southeast corner of the car park just before the alleyway between blocks 2 and 3 . Alana Burke was also struck by a Pig on the wasteground whilst running towards the Rossville Flats car park.

Arrival of Mortar Platoon

17.2.2 The evidence of civilians confirms that a large number of people ran down both Chamberlain Street and Rossville Street and moved through the Rossville Street Car Park to the alleyways between blocks 1 and 2 and blocks 2 and 3 of the flats. The series of photographs taken by **Derrick Tucker** in the sequence **EP28.1** to **EP28.6**[1] illustrate the flight of the

[1] The suggested sequence of Derrick Tucker's photographs by Dr. Bell is to be found at **E26.4**. The sequence is 4, 3a, 3, 2, 1, 4a or 5, 6.This would accord with the recollection of Martin Tucker at **Day 098/77/14 to Day 098/84/5**, except for photograph 6.

crowd and the arrival of the Pigs of Mortar Platoon in Rossville Street. **Robert White** took a series of photographs which run from **EP35.19** to **EP35.20**. These photographs show the movement of the two Pigs of Mortar Platoon along Rossville Street, Lieutenant N's Pig having come to rest on the waste ground. The clock on the Guildhall is clearly visible in these photographs, showing a time of 4.10pm. **V48/12.46** and **V2/147** shows that Sergeant O's Pig had come to a halt momentarily on Rossville Street and a number of soldiers debus. Lieutenant N's Pig turns left on to the waste ground. Sergeant O's Pig then turns left on to the waste ground, coming to a halt at the mouth of the car park, as seen in **P188**. During this deployment Alana Burke was struck by a Pig of Mortar Platoon on the waste ground.

17.2.3 **Most Reverend Bishop Edward Daly** or Father Daly as he then was, described at **H5.16** how he heard the sound of the armoured cars revving up, as he stood in the Rossville Street area. It was mainly a peaceful crowd. He saw Pigs coming down Rossville Street, followed by soldiers on foot. The revving of the engines alarmed him and most people who were there. Most people started moving away slowly at first. As the Pigs gathered speed, most people expected them to stop at the junction of Eden Place. Father Daly recalled that when they did not, everyone sensed something different was happening. At that stage panic set in and people starting running in all directions, including himself. **Day 075/13/10 to Day 075/14/20**. He confirmed that he ran with the crowd, he thought towards the rear. He then headed towards the car park of Rossville Flats. He confirmed that the scenes depicted at **EP28.4A** and **EP28.5** were the sorts of scenes he remembered. He recalled the crowd beginning to thin out as people made their way towards the alleyways out of the flats. **Day 075/13/23 to Day 075/15/5**.[2]

[2] See also evidence of **William Harley AH36.2 paragraph 8**, **James Lynch AL24.3 paragraph 13**, **Robert Gallagher AG26.4 paragraph 21**, **Mary Bonner, AB38.1 paragraph 7**.

17.2.4 **William Harley** was positioned on the balcony and then at a flat on the top floor of block 2 of Rossville Flats. He saw one army vehicle stopped between block 1 of Rossville Flats and the gable end of Chamberlain Street and another bouncing over the waste ground. **AH36.2 paragraph 9**. He saw a Pig deliberately knock over a young man **AH36.2 paragraph 10**.[3]

17.2.5 **David Capper** was a news reporter for BBC Radio on the 30 January 1972 and was present at the march. He had arrived at the point where he can be seen in **EP2.4**. His evidence was that he saw a crowd of several hundred beginning to run across the waste ground from the William Street direction. He had already estimated that on the open ground in front of the flats in total there were several thousand people. Behind the crowd he saw a number of APC'S drive up Rossville Street. One vehicle pulled left into where Pilot Row is located and another one stopped not in line with it but further up. As soon as they came to a halt soldiers got out and started firing.

17.2.6 **Jeffrey Morris** of the Daily Mail described the paratroopers fanning out in pairs across the open ground. It was like watching an old war film, a sort of bayonet charge without bayonets. As the paratroopers caught anyone, they knocked them down with their rifle butts and kicked them. They left them lying they ran on. **M57.2 at paragraph 5**.

17.2.7 **P595** shows Lieutenant N's Pig with the passenger door open and Lieutenant N has presumably debussed. **P853** again shows Lieutenant N's Pig with INQ 1918 debussing. **P272** shows a crowd of people in the car park at the top of the photograph. **P273** shows a crowd, Sergeant O's Pig and Lieutenant N's Pig. It also shows Lieutenant N, INQ 1918 and the helmet of a soldier, likely to be Soldier 019. Lieutenant N's shots were likely to have been fired just after **P273** was taken. **P275** shows Duncan Clarke being led away after being arrested in all □ikelihood by Lieutenant

[3] Derrick Tucker Senior described a similar incident at **WT7. 14B.** This is possibly Thomas Harkin

N and INQ 1918. **P488** shows Soldier 019 holding a baton gun on the edge of the alleyway. **P489** shows Lieutenant N's Pig and INQ 1918 wearing the backpack. It seems likely that this is Lieutenant N's Pig since it does not have the ladder that can be seen in other photographs of Sergeant O's Pig. **P595** shows where Lieutenant N's Pig ended up.

17.2.8 **Coleman Doyle** took a series of photographs from **EP24.1** to **EP24.7**, showing soldiers, having debussed from Lieutenant N's Pig, engaging with civilians on the waste ground. It would appear that the Pig on the right of the photographs is Sergeant O's Pig and at the time of these photographs seemed still to be moving towards the mouth of the courtyard, by reference to the position of the vehicle in relation to the fence posts. At **M23.19 paragraphs 7 to 8**, Coleman Doyle described the soldiers jumping out of the Saracens and starting to run across the waste ground to the car park of the flats and towards Kells Walk. At **Day 072/74/11 to Day 072/74/22**, he described how the soldiers fired quite a number of volleys of rubber bullets. It was "the biggest crescendo of baton guns" he had ever heard. They were firing across the waste ground at people. The activity of the paratroopers at this stage of events is considered in further detail at 19.9 of these submissions.[4]

Lieutenant N's shots at Eden Place

17.2.9 At about the time of the events depicted in Coleman Doyle's photographs, **EP24.1** to **EP24.7**, Lieutenant N had debussed from his Pig on the waste ground. He had, on his evidence, immediately become involved with a civilian and "certainly within a minute he had moved towards the alley way which leads off what used to be Eden Place into Chamberlain Street". There he claimed to have seen the crowds surging from the junction with

---

AH106.2 paragraph 6 to 7

[4] See the evidence of **Jeffrey Morris** and other civilians considered in detail at 19.9 below.

Chamberlain Street and felt he had no alternative to fire warning shots at them.

17.2.10 The photographer **Gilles Peress** was fired on by a paratrooper who was kneeling at the corner of the buildings at Eden Place. **M65.1.1**. Given the location it is submitted this could only have been Lieutenant N.

17.2.11 At **M65.20 paragraph 9** he said that he advanced further up Chamberlain Street to the place marked C at **M65.55**. He then peeked around the corner of Chamberlain Street and Eden Place and saw a paratrooper at approximately point D at **M65.55**. The paratrooper was in a crouched position in full battle dress wearing a helmet with the visor up. He was holding his rifle at his side parallel to his hip. He was looking in the direction of Harvey Street. The soldier made eye contact with Mr. Peress. He stepped out from the cover of the corner and held his cameras up above his head and shouted 'press'. The soldier then fired a shot at him. **Day 212/193/22 to Day 212/195/13**. The witness then quickly headed for cover further up Chamberlain Street in the direction of the Rossville Flats. He saw where the bullet had impacted. It had hit the ground floor windowsill of the house marked E on **M65.55**. About four days after Bloody Sunday he went to check out the bullet hole with Peter Pringle of The Sunday Times and it was still there. **Day 212/195/14 to Day 212//196/13**.

17.2.12 **John Mitchel McLaughlin** recalled at **AM340.3 paragraph 13** fifty or so people who had been at Barrier 14 that had then ran into Chamberlain Street and south down into the courtyard of the Rossville Flats, where they all thought that it would be safer. When they left the Army had not yet come through Barrier 14. As the witness was running south down Chamberlain Street he heard the a live shot. He heard this shot just as he was running past the opening of Eden Place. It was unmistakably a high velocity rifle shot, but he did not see who fired it or in what direction. **Day 080/66/24 to Day 080/67/22**. He ran past the opening of Eden Place and took cover behind a house at the point which is marked with an A on **AM340.11**. **Day 080/12/23 to Day 080/13/4**.

17.2.13 The witness turned round at this point to see who had fired the shot, and he saw a photographer standing about 10 feet from him, immediately to his north at the point marked with a B on **AM340.11**. This photographer was frozen to the spot and seemed unable to move. **Day 080/13/20 to Day 080/14/12**. He had his hands high above his head and was looking to the west through the opening at Eden Place. He saw a soldier there. He had only a vague memory of that soldier, but thought he was bare headed. He had no memory of him wearing a gas mask. **Day 080/14/13 to Day 080/15/9**. The soldier lifted his rifle up to his shoulder and it seemed to the witness that he was aiming at the photographer. He shouted at the photographer to run towards him and just at that moment a shot rang out. **Day 080/67/23 to Day 080/68/11**. The witness immediately thought the soldier had shot the photographer as he could hardly miss from that range. However, he was not actually looking at the soldier when the shot was fired but it seemed to him that it must have been the same soldier who fired the shot. The soldier shouted no warning. **Day 080/15/10 to Day 080/16/1**. There were no civilians attacking soldiers in this area. The witness saw a puff of dust and a lump of brickwork fly out of the wall of the house immediately behind him. Half a brick came out of the wall where the bullet struck it. The position where this wall was is marked on the attached map with a C. The brick was one of a row of bricks immediately above a window. The witness was really panicking at this point and started running again south down Chamberlain Street. **Day 080/16/2 to Day 080/16/20**.

17.2.14 **AM 340.11** shows point C to which he referred and is number 13 on the eastern-most side of the street. B is where the witness said that he saw Mr. Peress. A is where he said he was positioned. At **AM340.8 paragraph 47** of his statement, Mr. McLaughlin said that after Bloody Sunday he was interviewed by The Sunday Times Insight team and they revisited the spot in Chamberlain Street. He told The Sunday Times Insight team about the shot that had been fired and when they looked where the soldier must have been when he fired and where the bullet struck the wall, they worked out

that actually the soldier must have been firing at him. He could only have missed the witness by a matter of inches. With hindsight, the witness thought that the first shot the soldier fired may have been a warning shot. However, he believed that the second shot was a serious effort at blowing his head off. **Day 080/70/5 to Day 080/71/7**.

17.2.15 **Patrick Anthony Clarke**[5] described seeing an old man being beaten by soldiers in Eden Place, but says nothing about people advancing to rescue him. **AC64.4 paragraph 10**. The witness saw a man come out of the shop door that opened on to Eden Place. He was in his late forties or fifties. A soldier then came into Eden Place and grabbed the man, hitting him on the head with a baton and pulling him around the corner. **Day 074/82/18 to Day 074/83/1**. Almost immediately after the old man had disappeared, a second soldier put his head around the same corner and looked into Chamberlain Street in Patrick Clarke's direction. The soldier fired and obviously could not see what he was firing at. The shots hit no. 13 Chamberlain Street. **Day 074/86/3 to Day 074/86/23**. At **AC64.10** to **AC64.14** are a series of photographs taken in 1998, which purport to show the firing experienced by this witness.

17.2.16 **Patrick Walsh** stated at **AW5.2 paragraph 8** that he was positioned at the junction of Eden Place and Chamberlain Street, from where he saw two Pigs arrive at the waste ground. The Pigs came to a stop and he saw two soldiers jump out. They took up positions facing Chamberlain Street.

17.2.17 The witness then recalled a lady opening the front door to her house in Chamberlain Street. As the door was still open, he heard a live shot fired. He witnessed the shot striking the brickwork of the house, just above a window, although he did not realise at the time that this was a live bullet until he saw the damaged brick. He immediately shouted to the lady to go

[5] The witness **Joseph Nicholas** at **AN17.3 paragraph 8** connected an attempt to rescue an old man from Paratroopers at Eden Place with a shot towards no. 13 Chamberlain Street. Neither Lieutenant N or Soldier 019 claim to have had an arrestee in the their custody while Lieutenant N fired his shots towards Chamberlain Street.

back inside. The witness did not see who fired the shot, but was under the impression that it was fired by one of the two soldiers he had seen in Eden Place. He believed that the shot was aimed at him, one of the men who were lined across the street or a photographer whom the witness had previously seen in Harvey Street. **AW5.2 paragraph 9**.

Arrests and incidents of brutality on the waste ground

17.2.18 The incidents of brutality and arrest considered in this sector are examined in detail at section 19.9 of these submissions. The events considered therein occurred within a short space of time after the Paratrooper's debussing from Lieutenant N and Sergeant O's Pig. The photographs taken by Jeffrey Morris at **P273** and **P274** show clearly in the background that the car park is continuing to empty. People are continuing to run to move towards the back of the car park. Soldier S and Soldier V are in all likelihood the soldiers seen in **EP24.7**, making their way along the wire fence toward the car park of Rossville Flats having assaulted Charles McMonagle, the Knight of Malta. It was within a very short space of time from this point that Jackie Duddy was shot in the car park.

Events in the car park

17.2.19 Gilles Peress went down Chamberlain Street and took a series of photographs beginning at **P627** showing Jackie Duddy on the ground in the car park, being tended to by Father Daly and others. The time between the taking of Giles Peres' photograph down Eden Place **P274** and the photograph of Father Daly tending to Jackie Duddy was between ninety seconds and three minutes. **Day 213/54/5 to Day 213/54/19**. The witness was standing near the children's playground and witnessed continuous shooting from two soldiers at the far corner of the high flats and one at the back of 36 Chamberlain Street. **M65.2**.

17.2.20 The ambulance that picked up the body of Jackie Duddy was called at 4.15pm. It would appear therefore that Jackie Duddy was shot at a very early stage and the events must have occurred within a very few minutes of the arrival of the Paratroopers on the waste ground and at the car park. The ambulance that took both Peggy Derry and Michael Bridge to hospital was called at 4.20pm and arrived on Chamberlain Street at 4.27pm. Patrick McDaid had assisted Peggy Deery into 33 Chamberlain Street and was wounded after Michael Bridge and Michael Bradley.

17.2.21 In addition to the photographic evidence, a large body of civilian evidence indicates that people ran through the car park aiming to exit via the alleyway between blocks 1 and 2 or the alleyway between blocks 2 and 3 of Rossville Flats. People ran from the waste ground into the car park and also down Chamberlain Street into the car park. When the shooting began some people sought shelter at the gable end of Chamberlain Street and behind the low wall in front of block 2 of Rossville Flats. Others continued to try and exit via the gaps between the blocks.

17.2.22 It is clear from **Video 48** that the Paratroopers in both Lieutenant N and Sergeant O's Pig began firing baton rounds either just before or as the vehicles came to a halt. **Derrick Tucker Senior** estimated that it was between thirty seconds to a couple of minutes between the arrival of the Saracens and the soldiers opening fire with live rounds. **WT7.14 C**. **Father Daly** had seen one Saracen on the mouth of the car park and perhaps another on the waste ground. Initially the soldiers had clustered around the Saracen at the mouth of the car park or near to the gable end of Chamberlain, but they had subsequently come out into the open. He was of the view that they could not have felt threatened in any way. **Day 075/25/5 to Day 075/25/14** and **Day 075/91/25 to 075/92/14**.

17.2.23 **Dolores McFarland** watched the march from her mother's flat which was located in Block 3 marked with an X attached to her statement **AM8.6**. She noticed people run into the Rossville Street car park. She noticed an army vehicle drive into the entrance of the flats car park and also other army

vehicles stopping before the entrance to the car park and also on Rossville Street. **AM8.1 paragraph 8 to 9**. She confirmed that **P188** showed the position of the first Saracen. **Day 083/83/10 to Day 083/83/15**. She saw a soldier run from the Saracen at the end of Chamberlain Street, another at the corner of block 1 of Rossville Flats and another at or about the Saracen. Then she heard the shooting. **Day 083/85/22 to Day 083/87/19**. None of the soldiers appeared to take cover and they were not being evasive. The shots fired as the soldiers entered the Rossville Flats car park were the first shots she heard fired that day. At the same time as hearing these shots she saw a young lad she now knows to be Jackie Duddy fall.

17.2.24 **David Capper** described large reports (of firing) going on all around. He would look round from one area to another and hear a bang and a soldier would be putting down a rifle. At **WT2.70 D** he told the Widgery Inquiry that he had no indication of any firing from any other direction than the places where he saw the Paratroopers. He was very close to the soldiers and believed that he was possibly the person in the photograph **EP2.4**. He was certainly in the general area where the photograph was taken. At **WT 2.70 G** he confirmed he was in the area close to the soldiers and there were no indications to him of any shots coming in their direction and there was no ground being kicked up around them. **M9.2 paragraph 3**. At **Day 073/74/8 to Day 073/74/11** he was asked the following:

Q: "You saw nothing and heard nothing which would have justified the Army firing live rounds at the crowd which was dispersing?"

A: "Correct."

17.2.25 He confirmed that his impression was that when the Army debussed there were a lot of rubber bullets fired. Quite soon after that he heard the sound of rifle cracks. The soldiers near to him did not appear to be taking any cover. **Day 073/74/17 to Day 073/75/12**. The witness was asked did it appear to him that the soldiers were trying to catch up with persons whom they were pursuing and that the persons whom the soldiers were pursuing were in flight. He answered:

"Oh they were in panic, they were running as fast as they could do to get away." **Day 073/75/13 to Day 073/75/20**.

The witness was shown **EP28.5**, showing a crowd apparently making its way towards block 2 of Rossville Flats. He confirmed that it was similar to the sight that he saw and said "yes" they were "running away from the soldiers." **Day 073/75/13 to Day 073/75/20**.

Crowd exiting the car park through the alleyways

17.2.26 A substantial body of photographic and civilian evidence indicates that large numbers of civilians had fled through the car park, through the alleyways between the blocks of the Rossville Flats. As Mortar Platoon opened fire, people were continuing to flee towards the exits. Father Daly for example was originally aiming to exit between blocks 1 and 2 but changed his mind because it seemed to be jammed with people. He described people running in all directions just to escape from the square at the time Jackie Duddy was hit. **Day 073/23/6 to Day 073/23/11**. Other witnesses described people exiting the car park via the gap between blocks 2 and 3.

Paratroopers opening fire into Rossville Flats car park.

17.2.27 A large body of civilian evidence indicates that soldiers fired into the car park and across the car park at unarmed civilians fleeing towards the exits between the blocks of the flats. In addition there is clear evidence that soldiers fired up in the direction of the flats with no justification for doing so.[6]

[6] See for example the evidence of Antoinette Coyle at **AC85.6 paragraphs 22 to 26**. No soldier admits firing at this location.

17.2.28 **William Harley** gave evidence that a pig had stopped between block 1 of Rossville Street and the gable end of Chamberlain Street. One of the soldiers who got out of the pig fired the first shots he saw towards two men one of whom the soldier had attempted to attack on the ground. The men were running towards blocks 1 and 2 of the Rossville Flats. The soldier had cocked his rifle and aimed at the two men. **AH36.2 paragraph 12** and **Day 077/7/15 to Day 077/8/2**. This witness also saw a soldier on the eastern side of the pig, leaning on the bonnet aim his rifle and shot Mickey Bridge. **AH36.2 at paragraph 18**. There was no threat to the soldiers at the time Michael Bridge was shot **Day 077/38/7 to Day 077/38/10**.

17.2.29 **Michael Bridge** saw an army vehicle stopped between block 1 of Rossville Flats and the Chamberlain Street houses with the doors facing towards the car park. He saw a further soldier in the firing position aiming into the car park between the western side of the pig and the NE corner of block 1 of Rossville Flats.

17.2.30 Father Daly's evidence was that the first shot he heard at the car park was the shot that hit Jackie Duddy. Father Daly himself continued running and took shelter behind the low wall in front of block 2 as did a number of other civilians. Following hearing the shot that hit Jackie Duddy, Father Daly described a fusillade of gunfire and he dived behind the wall that runs parallel to block 2 of Rossville Flats. The burst of gunfire which caused terror and panic came from the area of the waste ground. Whether it came from the Pig in the courtyard or further away, he did not know. **WT4.7 G**, **WT4.8 A**, **Day 075/26/18 to Day 075/26/23**. Father Daly described a lull in the firing when he went out to tend to the boy. The gunfire resumed as he tended the boy and the direction of the gunfire was all from the area where the soldiers were. **Day 075/30/6 to Day 075/30/10**. In 1972 he had described the gunfire as something like thirty to forty feet away. **WT4.10 B**. There was no gunfire directed towards the Army in the Square and there was no threat posed to the Army at the time they opened fire. **Day 075/30/22 to Day 075/31/5**.

17.2.31 After the shooting of Jackie Duddy, Father Daly witnessed a soldier at the gable end of block 1 of Rossville Flats going down on one knee, taking deliberate aim and shooting Mickey Bridge. The soldier was a short distance from Mickey Bridge when he shot him. **H5.5 at paragraph 21**.

17.2.32 Of those who tended to Jackie Duddy, **Liam Bradley** became aware of the sound of shooting and soldiers taking up positions on the waste ground at Pilot Row and Eden Place. **AB61.2 paragraph 10**. William McChrystal was aware of Army fire over their heads, and bullets hitting the back wall of the courtyard as they tended to Jackie Duddy. **AM460.1**. Hugh McMonagle, had run by the body of Jackie Duddy in the car park and like Father Daly, he had ended up behind the low wall in front of block 2. As he lay there he could hear shots which seemed to be hitting block 2, although they may have been ricocheting around the car park. His impression at the time was that they must have been fired by the soldiers at Eden Place. **AM369.3 paragraphs 15 to 16**. **Charles Glenn,** the Knight of Malta, was aware of shooting from the nearest Army vehicle as he tended to Jackie Duddy. **Day 080/191/20**.

17.2.33 **Michael Bridge** was shot shortly after the photograph in which he appears at **P740**. The shooting was witnessed by, among others, Father Daly as he tended to Jackie Duddy. Father Daly saw a soldier stepping out from the gable end of block 1 of Rossville Flats, go down on one knee and fire at the boy who he believes was Michael Bridge. **Michael Bradley**, who is likely to have been shot shortly after Michael Bridge, had run towards the gap between blocks 2 and 3 of Rossville Flats. When he reached the gap he was told that a young boy was dead in the car park. He crouched behind the low wall in front of block 2. When he emerged he was shot. He had seen soldiers jumping out of a Pig and firing. **AB66.4 paragraph 15 to AB66.6 paragraph 22**.

17.2.34 **Patricia Tucker Jarvis** was in a flat in block 2 of the Rossville Flats and saw a soldier firing randomly from the passenger side of a Saracen in the

car park. **Day 122/116/17 to Day 122/117/17**. She could not understand why the soldier was shooting.

17.2.35 **Brian Ward** recalled that he heard the first live shots of the day at the time he was running across the waste ground, towards the entrance of the Rossville Flats car park. The Pigs had pulled up one in front of the other in Rossville Street. Whilst on the waste ground he saw eight to ten soldiers jump out of the back of a Saracen and begin to fan out. **Day 085/144** and **P188**. At this time he heard between six or seven shots. He knew that these shots were live rounds as they had a distinctive crack. He saw the soldiers point their rifles at the crowd but did not see in which direction the soldiers were firing. As he was running across the waste ground he noticed that one of the vehicles did not stop on Rossville Street. The vehicle stopped at the northern entrance to the car park at a point marked "G", marked on the map attached to his statement. **AW6.4 paragraph 12** and **P188**. He had been running in the direction of the wall in front of block 2 of Rossville Flats, when he saw Jackie Duddy hit.

17.2.36 **Brian Magee** saw Fr. Daly with a Knight of Malta tending to Jackie Duddy's body. The witness was still aware of gunfire coming into the car park as this was happening. **AM220.5 paragraphs 23 to 24**.

17.2.37 **John McIntyre** who had ran down Chamberlain Street heard high velocity shots as he ran. **AM286.2 paragraphs 12 to 15**. His description of the scene as he reached the car park was that it was full of hundreds of people all seeking shelter from the shooting. The shooting was continuous and he thought it was coming from behind him although he was not sure from where or in what direction. There was much screaming and shouting and everyone seemed to be fearful of their lives. **AM286.3 paragraph 17**. The witness assisted Michael Bradley and described at that time many people trying to get out of the Rossville Flats car park as the intense shooting continued in the car park. **AM286.3 paragraph 21**.

17.2.38 **Lieutenant N** claimed to have fired a shot from the rear of Chamberlain Street at a nail bomber in the car park of Rossville Flats. **Soldier V** claimed to have shot a petrol bomber in the car park of Rossville Flats. There is no civilian evidence to substantiate or justify the shots that these soldiers fired. The killing of Jackie Duddy and the individual woundings of each of the civilians in this sector will be considered in separate submissions on behalf of each.

Shooting towards blocks 1 and 2 of Rossville Flats.

17.2.39 **Joseph Eugene McGrory** ran across the car park of the courtyard between blocks 1 and 2 of the flats. There was a bottle-neck as so many people were trying to get through there. The shots which had been coming, he believed, from behind him as he ran across the car park continued as he tried to get through the ally way. The witness stated that during the whole of the march he had not seen anyone in the crowd with guns or bombs, nor had he heard guns being fired from the crowd or any explosions. **AM268.3 paragraphs 16 to 17**.

17.2.40 **Hugh O'Donnell Senior** described as he ran towards the car park of Rossville Flats, noticing two soldiers who he believed were shooting from the Saracens in the waste ground, towards the alleyway between blocks 1 and 2 of Rossville Flats. **AO31.3 paragraph 15**.

17.2.41 **James Brendan O'Connor** described trying to get out of the Rossville Flats car park via the alleyway that runs between blocks 1 and 2, but being forced to keep diving to the ground as shots were being fired towards him. **AO10.7 paragraphs 47 to 48**.

17.2.42 **Soldier R** claimed to have fired at a nail bomber in the car park close to block 1 of Rossville Flats. **Soldier S** discharged twelve shots in the direction of blocks 1 and 2, claiming to be firing at a man with a rifle. These two soldiers are, on their admitted shots, the likely candidates for

indiscriminate and unjustified firing in this area of the car park, experienced by civilians.

17.2.43 There is no civilian evidence whatsoever which substantiates the firing of Soldier R towards a nail bomber. There is no civilian evidence whatsoever to substantiate Soldier S's firing in this direction at a man with a rifle.

Shooting towards blocks 2 and 3 of Rossville Flats.

17.2.44 A number of civilians took shelter at the gable end wall of Chamberlain Street. **Patrick McDaid** described twenty to thirty people around him in that area.[7] Following the shooting of Jackie Duddy, a number of people ran across towards the gap between blocks 2 and 3 of Rossville Flats. Shooting was still going on at this stage. The series of photographs taken by Giles Peress at **P796**, **P797**, **P798**, **P800** and **P801** show events in this corner of the car park around the time Patrick McDaid was hit.

17.2.45 **Patrick Walsh** who appears in **P796** and **P797** recalled shooting going on at the time when **P797** was taken. **Day 171/29/4 to Day 171/29/9**. He described running into Rossville Flats car park as fast as he could. There was a foreign photographer somewhere taking photographs. There were crowds of people running through the car park at the same time as him. He could hear shooting. He remembered thinking that he must aim for an exit, either the alleyway between blocks 1 and 2 or between blocks 2 and 3 of Rossville Flats. He also described the panic in the alleyway between blocks 2 and 3. **AW5.2 paragraphs 10 to 12**.

17.2.46 **Gilles Peress** saw no justification for the shots fired by the soldiers in the car park towards the gaps between blocks two and three of the flats.**M65.11**.

[7] **AM172.2 paragraph 12**.

17.2.47 **Noel Doherty** was running towards the alleyway between blocks 2 and 3 of Rossville flats. He looked around and saw a soldier standing at the north eastern corner of block 1 of Rossville Flats. The soldier was firing shots in the direction of the alleyway running between blocks 2 and 3 of Rossville Flats. The soldier continued to fire on a number of occasions according to this witness. **AD91.4 paragraphs 20, 27, 31**.

17.2.48 **Soldier Q** claimed to fire a shot at a nail bomber at the alleyway between blocks 2 and 3 of Rossville Flats, from the northern end of block 1. **Sergeant O** claimed to have fired three shots at a man with a pistol behind a Cortina car[8], towards the south end of block 3 of Rossville Flats. He also claimed to have fired two shots towards the alleyway between blocks 2 and 3 of Rossville Flats. **Soldier R** claimed to have fired three shots at a man with a pistol between blocks 2 and 3 of Rossville Flats.

17.2.49 There is no civilian evidence to substantiate Soldier Q's claim of a nail-bomber in the location at which he fired. There is no civilian evidence to substantiate either Soldier R's or Sergeant O's claims of activity of a man with a pistol between blocks 2 and 3 of Rossville Flats.

Civilian evidence of threats to the army.[9]

17.2.50 The overwhelming evidence of civilians suggests that there was no justification for soldiers opening fire in the Rossville Flats car park and that there was no threat to them, which could have or did justify such

[8] Martin Tucker saw soldiers who he believed were responsible for shooting up a brown Ford Cortina parked in the car park of Rossville flats. He considered it bizarre, as there was no one in the car and nothing special about it. There were perhaps half a dozen shots, maybe more and he was certain he did not see a gunman behind it. The witness believed the soldier fired at this car from the side of the Chamberlain Street houses rather than the northern end of block 1 of Rossville Flats. **AT17.5 paragraph 29** and **Day 098/86/12 to Day 098/86/23**. Gerard Colhoun also saw this incident **AC70.4 paragraph 12.**

[9] Further evidence of the lack of threat to the Army can be seen at the following: **William Harley** at **AH36.6 paragraph 31**, Kevin Leonard at **AL7.5 paragraph 14**, Charles McMonagle at **AM367.6 paragraph 35**, Monica Hegarty at **AM63.5 paragraph 7**, Brian Baker at **AB1.9 paragraph 17**, Alan Harkins at **AH8.5 paragraph 24**, Patrick Rowe at **AR30.2 paragraph 8** and **AR30.3 paragraph 15**, Patricia Canning at **AC26.5 paragraph 25**,

action. No petrol bomb or nail bomb was thrown at the army at any time. Almost all of the civilian evidence indicates that the Army were not fired upon, save to the extent acknowledged by OIRA 4. The following examples are illustrations of the civilian evidence from a wide variety of locations around the Rossville Flats and car park.

17.2.51 **Father Daly** was categorical that there was no justification for soldiers opening fire and that no threat was posed to them.

17.2.52 **Gilles Peress** heard or saw no nail bombs or petrol bombs or any civilian with a weapon. **M65.3** and **M65.10**.

17.2.53 **Fulvio Grimaldi** did not hear any nail bombs that day. He claimed to know the sound of nail bombs well at that time. **M34.3 paragraph 12**.

17.2.54 **Patricia Tucker Jarvis**, who was in a flat in block 2 of Rossville Flats and had seen a soldier firing randomly, also stated that no one had any guns as far as she could see and she didn't hear any firing from the flats. **AJ2.4 paragraph 6**. She didn't hear any explosions or see any civilian gunmen nor anything thrown from the windows of the flats. **AJ 2.4 paragraph 14**.

17.2.55 **Martin Tucker** did not hear any nail bombs or big explosions that day. He did not hear machine gun fire. He did not see petrol bombs thrown. **AT 17.5 paragraph 34**, **AT17.6 paragraph 39**.

17.2.56 **Derrick Tucker Junior** did not see any missiles or petrol bombs thrown into the courtyard Neither did he see any shots fired from the flats **AT15.10 paragraph 25**.

17.2.57 **Robert Gallagher**, from a position on the balcony which ran along the front of block 3 of the Rossville flats, saw no civilians with guns or saw any bombs being thrown or heard any either in the Rossville flats car park. **AG26.4 paragraph 20**. The witness, in describing the shooting of Jackie Duddy, stated that throughout his observation the shooting had been

continuous. There were further bursts of fire as Father Daly tended to the young man and again as he witnessed the shooting Michael Bridge. **AG26.4 paragraphs 24 to 26**.

17.2.58 **Brian Ward** witnessed the shooting of Jackie Duddy and Michael Bridge. During the time he was in the car park he did not see any objects being thrown at soldiers and he did not hear any shots, other than those being fired by the soldiers themselves.**AW6.6 paragraph 16**.

17.2.59 **Peter Gallagher** did not see any civilians with weapons of any description, during the whole afternoon's events. Neither was he aware of any shots being fired from the Rossville flats or of any acid being thrown from the flats or of any nail bombs or petrol bombs exploding. **AG23.5 paragraph 30**.

17.2.60 **Dolores McFarland** did not see any nail bombs or petrol bombs during the day. The only fire she heard was coming from the soldiers at the entrance to the Rossville flats car park. Throughout the time she was looking down into the Rossville flats car park, she did not see anything being thrown out any of the flats or from the roof of the flats. **AM8.5 paragraph 22**.

17.2.61 **Brian Magee** stated that apart from the one civilian gunman described at **AM220.6 paragraph 27**, the only shooting he heard that day was the distinctive sound of army rifles. He saw no other civilians with weapons, either guns or nail bombs, nor did he hear any other explosions that he could associate with nail or blast bombs. **AM220.8 paragraph 40**.

17.2.62 **Hugh Breslin** who saw the shooting of Jackie Duddy and who ran across the car park through the gap between Block 1 and 2 of the Flats, did not see any civilian with any weapon nor did he hear any nail bombs exploding. **AB77.3 paragraph 13**.

17.2.63 **Mary Bonner** who witnessed the shooting of Jackie Duddy from a flat on the second floor of Block 2 of Rossville Flats, at no time heard or saw petrol or nail bombs or civilians with weapons **AB38.5 paragraph 49**. She had given evidence to the Widgery Inquiry and at **WT.5.41 D** rejected the suggestion that there was firing from the flats at soldiers when they arrived.

17.2.64 **Bernard Doherty** had ran into the car park and stopped at a low wall which ran parallel to the northern side of Block 2 of the flats. From there he witnessed the shooting of Michael Bridge. He then ran towards and through the gap between Blocks 2 and 3 of the flats. He described the shooting a more or less continuous during this time and although he could not be certain about the specific direction from which the shots were being fired he felt that at all times they were being fired from behind him i.e. somewhere to the north.**AD54.3 paragraphs 13 to 15**. He did not see any civilian with a weapon and he did not see or hear any petrol or nail bombs being thrown in the courtyard of the flats. **AD54.5 paragraph 21**.

17.2.65 **Francis Dunne** had witnessed the shooting of Michael Bridge and exited the car park through the gap between block 1 and 2. He noticed a civilian with a weapon at the gable end of Chamberlain Street. This was the only civilian he saw with a weapon that day. Nor did he see or hear any nail bombs or petrol bombs. He was definite that he did not see any acid bombs or missiles thrown when he was in Rossville flats car park. He was there for about three to four minutes and at no stage did he feel threatened by anything being thrown from the flats. Apart from the shooting he experienced as coming from the soldiers there was no shooting coming over his head from behind him.**AD173.30 paragraph 37**.

17.2.66 **Kevin McDaid**, at **AM167.6 paragraph 30** stated that he saw no-one with guns or nail bombs in the crowd that day.

17.2.67 **Brian Johnston** did not hear nail bombs at any time. **AJ9.3 paragraph 28**.

17.2.68 **Cathleen O'Donnell** did not hear any shots being fired at the soldiers. **A023.2 paragraph 12**.

17.2.69 **Paul McDaid** ran across Rossville Flats car park from the end of Chamberlain Street and saw Jackie Duddy on the ground. He saw no armed civilians or anyone throwing anything at soldiers in the car park. Nor did he see anyone throwing bottles from the flats. **Day 090/142/11 to Day 090/142/20**.

Summary.

17.2.70 It is submitted that the civilian evidence including that of priests and journalists provides overwhelming support for the following propositions:

i) The soldiers in Sector two opened without justification on civilians most of whom were fleeing away from those soldiers.
ii) Those soldiers were not under threat from any source or direction.
iii) They were not fired upon.
iv) The soldiers actions were not prompted by any civilian gunman.
v) They were not faced with petrol bombers.
vi) They were not faced with nail bombers.
vii) They shot unarmed civilians without any justification whatsoever.

17.3 Sequence Of Photographs / Video

17.3.1 The movement of Pigs 1 & 2 into the Bogside and the deployment of Mortar Platoon can be traced in the photographs:
P509 et seq. are stills from the heli-tele film showing the pigs moving across William Street before Pig 1 turned off into Pilots Row and then stopped in Eden Place. .

P592 (taken by Robert White) shows Pig 1 just after it has passed Eden Place.

P593 (also taken by Robert White but apparently from a more southerly position at the alleyway leading from Rossville Street to the North East corner of Glenfada Park North) shows Pig 2 just after five of its occupants (P, R, U, 006 and 017) have apparently debussed.

P517 (taken by Derek Tucker from Block 2) shows Pig 1 turning off Pilots Row towards Eden Place. (The Tribunal's pagination suggests that they consider this photograph to show Pig 2 but this is not correct.)

P514 shows the scene on the waste ground moments after Pig 1 has arrived, with a small group making its way through the gap leading from Eden Place to Chamberlain Street.

P516 (another photograph taken by Derek Tucker) shows Pig 2 just emerging from the North end of Block 1 into the car park.

P793 (taken by Gilles Peress from Chamberlain Street) shows only two people in the roadway leading to Eden Place, not a crowd that had to be dispersed by a warning shot.

P278 shows two soldiers making their way along the back walls of Chamberlain Street after encountering Charles McMonagle (Knight of Malta). Both soldiers are behind what appears to be No. 26 Chamberlain Street. The soldier in front is left-handed and we know that Soldier V was left-handed. it is probably Private S behind him as they make their way to the corner behind 36 Chamberlain Street.

P1015 appears to show INQ1918 (the radio operator) at the Northern corner of Eden Place with Lt N behind him and Soldier 019 approaching them from the opposite direction. Pig 2 is just about visible towards the right hand side of the photograph. It is not clear whether it has yet stopped.

P1016: The crowd is noticeably thinner. Pig 2 may still be in motion because the doors do not appear to be open and there is no sign of any soldiers beside or behind it. The two soldiers seen making their way towards the flats would not appear to be V and S since the soldier in front appears to be right-handed and they do not appear to have reached the wall behind 26 Chamberlain Street, where Charles McMonagle was assaulted.

The photograph shows INQ1918 with Duncan Clarke. Lt. N is now standing at the Northern corner with Soldier 019 occupying the opposite corner.

EP24.1 to **EP24.4** show soldiers attacking the stragglers on the waste ground as they run towards the flats. In **EP24.2** the front passenger door of Pig 2 is clearly open but there still seems to be no one standing beside or behind the vehicle. Nor has any soldier yet arrived at the North East corner of block 1.

P627 and **P628** show Jackie Duddy fatally wounded on the ground and attended by Fr Daly, Liam Bradley and Charles Glenn among others.

P590 shows the gunman seen by Fr Daly at the side wall of 36 Chamberlain Street while two soldiers (possibly V and S) appear to be crouching at the back wall around the corner.

P630 and **P285** show Michael Bridge gesticulating toward the soldiers who are seen beside Pig 2 in **P285**.

P285 shows a virtually empty car park and no sign of Peggy Deery, who is believed to have been shot somewhere between Eden Place and Pilots Row before she was carried around the corner into 33 Chamberlain St. From this photograph and from other evidence it would appear that Peggy Deery was shot before Jackie Duddy. By the time **P285** was taken she must already have been carried into 33 Chamberlain Street by Patsy McDaid and others before he (Patsy McDaid) made his way to the Eastern side of the carpark and then towards the alley between Blocks 2 and 3 where he was shot in the back, apparently with a rubber bullet,

P796 - **P801** show civilians including Patsy McDaid, Paddy Walsh and Paddy Doherty making their way in a southerly direction to the alleyway between Blocks 2 and 3. Patsy McDaid was shot about this time in this area.

P524: By the time this photograph was taken, the Pigs had been pulled back to the North end of Block 1 and Lt Col Wilford is apparently making his way across open ground from William Street towards them. About this time, Lt. N was ordered by Major Loden to pick up the bodies from the Rubble Barricade. These bodies were loaded into his pig and driven to Altnagelvin Hospital under the command of Sergeant O.

17.4 Alana Burke

17.4.1 Personal Details and Background

17.4.1.1 Alana Burke was 18 when she was knocked down by **Sergeant O**'s Humber pig which was driven by **INQ1579** on Bloody Sunday. She was single and lived with her widowed mother in the Bishop Street area of Derry. She was the eldest of 10 children and worked as an accounts clerk for Desmond Motors. She had no criminal record or political affiliations.

17.4.1.2 Relevant Photographs

Photo Ref. #	Description of Photograph	Relevant Witnesses Depicted in Photograph
P743	At William Street near Barrier 14	Margaret Coyle
P744	On stretcher at Joseph Place	
P745	As above	
P746	South of Block 2	Father Bradley, Noel McLoone

17.4.1.3 Summary

Alana joined the march at the Granstand bar in William Street. She positioned herself around the front of the march and was present during the early confrontation between the soldiers and the marchers when they reached Barrier 14. Like many others her clothing was heavily soaked by the water cannon which had been brought forward to disperse the crowd. Overcome by the effects of CS gas she was attended to by the Knights of Malta and then made her way into Chamberlain Street eventually ending up on the waste ground at Eden Place. After a short conversation she decided to make her way home southwards along Rossville Street. Alana made her way through an opening in the wire fence which traverses where

the Rossville Street waste ground meets the Rossville Flats car park. Alana briefly engaged spoke to **Frankie Campbell**, a local youth club leader who alerted her to the fact that "Saracens" were heading towards her position. Alana began to run but was hindered somewhat by the saturated condition of her clothing. At some point she was assisted by an acquaintance **Lorney McMonagle** who attempted to pull her to safety. In the panic he somehow released his grip and Alana was struck by an APC in or about the vicinity of grid reference M14 **AB101.5**.

17.4.1.4 Alana recalled in her 1972 statement dated 23rd February 1972 made to Mr Leonard of the Treasury Solicitors Department witnessed by Father Patrick Grant of St Columb's College:

> "A Saracen came up behind me and struck me with a thud, which I can still remember vividly on the right side of my back and legs. ***What exactly happened next is somewhat confused in my mind, but I remember moments later lying against a low wall behind the shops at the far end of the car park.***" (emphasis added) **AB101.6**

17.4.1.5 The experience outlined in this account is repeated at **AB101.2 paragraphs 6 to 7** of her Eversheds statement. The Tribunal will be aware from the heli-tele footage that a number of military vehicles accelerated in a southerly direction along Rossville Street.

17.4.1.6 Some impression of the actual impact of these vehicles on the ground at the material time is to be gained from the description contained in The Sunday Times Working Papers at **S227**:

> "The noise was appalling as the pigs revving flat out, produced a siren scream that the inhabitants of the Bogside have come to know. People watching the convoy were struck by its speed. The lead pig turned hard left off Rossville Street and bumped over the waste ground to halt in a wide puddle where Eden Place and Pilot

Row used to be. Sergeant O's pig drove deeper down Rossville Street then also swung left to halt mid-way across the entrance to the flats car park."

17.4.1.7 The account then goes on to offer the following insight into the real consequences of embarking upon this manoeuvre:

> "There is a dispute about how many people were standing in waste ground as the pigs halted – from fewer than 500 to more than 1,000. The best estimate from pictures is about 300-400. What is quite clear from the witnesses we have talked to is that the bulk of these were innocent bystanders – marchers, sightseers, locals, and Press and TV men. And they were joined by rioters who had fled up Chamberlain Street and through Eden Place." **S228**

> "People frantically dodged out of the pigs' way. At least one man was knocked flying, though he does not seem to have been badly hurt. But Alana Burke, an 18-year old clerk was not so lucky: as she began to run up from the waste ground to the car park the second pig hit her hard from behind. She ended up in hospital." **S229**

17.4.1.8 Evidence at hearing clearly demonstrated that driving in a manner which exposed innocent pedestrians to the risk of serious injury was an inherent feature of a well-establish military tactic in dealing with crowd control. The Tribunal is referred to the following exchanged between Counsel and **Soldier 006**:

"Q. You stated at paragraph 18 of your statement to Eversheds that your policy was to drive through rioters as often gunmen were behind them?

A. That is right.

Q. Is that correct?

A. That is correct.

FS 1.1106

Q. What you have told Eversheds is that you would drive straight into a group of people where you knew there were gunmen?

A. We might not have known there were gunmen there, but there could have been.

Q. Why would you take a risk such as that if you genuinely believed that you were driving straight into where gunmen were?

A. That is what we were trained to do.

Q. Were you not endangering your own life or your colleagues' by doing that?

A. Well, hopefully doing that, it would actually unnerve the gunmen rather than being stood in front of rioters.

Q. Presumably, if there were gunmen there, they would see your vehicles coming and they would be ready to shoot you the minute you got out of your vehicle; would that not be the logic of what you are telling us?

A. It could do, although otherwise it could, if you were too close, they might get out of the area.

Q. Is it not a fact and is it not the correct position that you did not expect gunmen there, you simply drove through the rioters to disperse the crowd?

A. Well, that is not up to me sat in the back, is it, that is up to the commander in the front.

Q. You do not make these decisions, but you have given evidence in your statement as to what your platoon did, so that is why I am asking you these questions.

A. Yes, that was our standard --

Q. Again, I have to suggest to you that you did not differentiate, at that stage, between rioters and a crowd of people fleeing from the advance of the Army?

A. Yes, I do not think we arrested any women.

Q. Sorry, I did not say "women", I said "people." You did not distinguish at all between rioters and this crowd, is that not the correct position?

A. No, not really.

Q. "Not really," you mean: that is possible?

A. It could have been" **Day 334/47/13 to Day 334/49/6**

17.4.1.9 This description of events is confirmed by the recollection of **Antoinette Coyle AC85** who at the time was a seventeen year old member of the Knights of Malta. She described the incident in the following way:

> "We began walking south along the waste ground of Eden Place and Pilot Row towards the Rossville Flats. The next thing I remember was seeing a large crowd of people running south down Rossville Street. The crowd seemed to be spreading all over from behind us. There were also two Saracens which seemed to be travelling at great speed. People were jumping out of the way to avoid being knocked over. I told the young man to stay clam and stay with us, but as soon as he saw the commotion he ran away. Sophie (Marley) and I began to run with the crowd and I remember the Saracens overtaking us on our right. I was very scared. I was amazed that nobody was knocked down by the Saracens. I thought that the Saracens were heading towards Free Derry Corner and would continue south down Rossville Street. However, suddenly the Saracens veered left off Rossville Street and moved onto the waste ground of Pilot Row and Eden Place. I have no idea how many people were running into Rossville Flats car park but there seemed to be hundreds..." **AC85.13 paragraph 18**

17.4.1.10 In addition, Fulvio Grimaldi who was on the Rossville Street waste ground said:

"I heard engines roaring and saw two or three Saracens move south down Rossville Street at a speed I had never seen before (and I must have seen hundred of Saracens elsewhere before that day). It was an incredible speed." **M34.55 paragraph 17**

It is accepted, even by Counsel for the Soldiers, that Alana was struck by the APC, which at the material time was driven by **INQ 1579**.

17.4.1.11 The impression created by the above descriptions is not surprisingly differently represented by the driver of the pig which struck Alana Burke:

"When we drove through the people we were trundling along; we could not go overly fast as although the vehicle was not quite as slow as a tank; it was an old army vehicle." **C1579.3 paragraph 18**

INQ 1579 went on to record that as he drove into the car park of the Rossville Flats a man stood spread-eagled in front of him baiting him to strike him with the vehicle. As soon as he saw him he immediately "banged" on his brakes but the momentum carried the vehicle forward and the front of the vehicle "tapped him causing him to fall down. We hit him at a very low speed. He simply rolled over, got up and ran off. There were no visible wounds or signs of a limp. I cannot recall what he looked like or what he was wearing" **C1579.3 paragraph 20**

17.4.1.12 The witness said that this incident happened at the very edge of the car park. **INQ 1579** went on to deny having struck Alana Burke and offered the following explanation for this confident assertion:

"I have been asked whether or not I recall knocking down a young lady on the way across the waste ground. I have no recollection of this incident and am certain that if I had have hit

someone I would have felt the impact. For example, if you went over a curb you would bounce." **C1579.3 paragraph 20**

17.4.1.13 This explanation highlights the policy of denial which all military witnesses adopt when coping with allegations relating directly to them. It will be recalled that notwithstanding that he had already struck both a soldier at Barrier 12 and a male, **Thomas Harkin**, in the vicinity of the car park, the witness was at all time aware of these events even though he had not felt the impact. As with the "unknown" soldier who shot Peggy Deery, an admission does not sit easily with a shared perception of military masculinity and professional restraint.

It has to be recalled however that during the course of his evidence **INQ 1579** made it clear that exclusive responsibility for the management and conduct of his driving was not entirely his. He conceded that the manner of his driving was at all time dictated by the instructions he received **Day 336/182/9 to Day 336/183/3**.

17.4.1.14 Although this witness had no experience in crowd control manoeuvres which involved driving directly at, or through people, who were rioting **Day 336/181/18 to Day 336/182/8**, other evidence clearly showed that this was a well used and widely acknowledged method of crowd control by at least one other member of the Mortar Platoon:

> "*Our policy was to drive straight through rioters, as often gunmen were behind them.* We would therefore drive into the area where the gunmen were." Eversheds statement of **Soldier 006** (emphasis added) **B1377.005**

17.4.2 Civilian Evidence

Key Witnesses

17.4.2.1 A number of people provide evidence to the effect that they recall someone being knocked down during the arrival of the Mortar Platoon APCs.

> **Roisin Stewart** records in her Eversheds statement a girl in a dark crombie knee length overcoat with light brown hair who may have been hit by a "Saracen" in the vicinity of Eden Place. Her friend who was with her, **Willie Meenan** prevented the witness from attending to the girl and urged her to keep running in a southerly direction as he believed her to be dead **AS34.3 paragraph 15**.

17.4.2.2 **Joseph Ernest Moore** recalled seeing a person being hit by a moving "Saracen" somewhere between Eden Place and Pilot Row. He was unable to provide specific details about location, description or gender **AM 413.3 paragraph 14**. However in a statement supplied by him on 1st February 1972 seems to suggest that he saw two people being struck by a "Saracen":

> "As I ran with the crowd I observed a person going up in the air where the Saracen struck him. I saw a second person being hit with the Saracen. As I got to the tunnel it was jammed with people. People were shouting and squealing to get through. I couldn't get through." **AM413.14**

17.4.2.3 **William O'Connell** a former Mayor of the City said:

> "The other Saracen drove further south up Rossville Street and cut across the waste ground south of Pilot Row, heading towards the car park of the Rossville Flats. This Saracen stopped at approximately the point marked G on the attached map (Grid Reference L13) (**AO7.12**) and, as it screeched to a halt, it hit a civilian who sort of "bounced" off the front of the vehicle and was thrown to the far (north eastern side) of the Saracen. I cant describe the person I saw hit by the Saracen at the time. However, the Saracen

seemed to hit this person "straight on". I didn't know whether it was a man or a woman, nor did I see what happened to them after they had been hit. I have found out later that it was Alana Burke". **AO7.3 paragraph 17**

17.4.2.4 **Anthony Harkin** **AH11.3 paragraph 13** described a group of girls running south from Quinn's Lane, one of them was wearing a bright red coat. He watched one of the "Saracens" hit this particular girl at a point midway between Eden Place and Pilot Row, (Grid Reference N13) (**AH11.20**). The witness' impression was that the vehicle bowled her over **AH11.3 paragraph 13**. The witness said in oral evidence that he thought the girl was Alana Burke **Day 177/14/25**. He also agreed that he might have been mistaken about the precise location where she was knocked down but that he thought it was in a position further north that where Alana had indicated. The position marked by the witness in his oral evidence can be found at **AH11.21**; **Day 177/15/2 to Day 177/18/12**.

17.4.2.5 **Frankie Campbell** stated as follows:

> "I then saw a Saracen deliberately run into Alana Burke. She was standing near to me in the Rossville Flats car park at the position where I have marked "F" (Grid Reference K/L15). The front side of the Saracen hit her and knocked her to the side. I don't remember any other details of how she was hit, only being aware that she had been and being horrified. I grabbed her and put my arms around her and pulled her over to a wall where I have marked "G" (Grid Reference L17) on the map." **AC137.7 paragraph 10**

A number of witnesses recall seeing Alana in Joseph Place. Most of them confirm that the injuries complained of by her had been caused when she was struck by an APC.

17.4.2.6 **Sean Canney** gave oral evidence to the Tribunal on **Day 093**. He had entered one of the flats at the north east end of Joseph Place. He recalled

that there were six or seven people in the flat, one of whom was Alana Burke, whom he knew. She appeared to have a serious back injury and he was advised by one of the others that she had been knocked over by an APC **AC24.9 paragraph 51**

17.4.2.7 **Antoinette Coyle** referred to above of the Knights of Malta gave oral evidence to the Tribunal on **Day 095**. She recorded at **AC85.1**; **AC85.25**; **AC85.8 paragraph 33** that she attended upon Alana who at the time was lying on the living room floor in a maisonette in Joseph Place. She was told that she had been crushed by a "Saracen" against a wall and that she could not feel anything from the waist down. The witness then left to get an ambulance.

17.4.2.8 **Paul James McLaughlin** **AM350.7 paragraphs 39 to 40** a fellow Knights of Malta Volunteer gave oral evidence to the Inquiry on **Day 176**. This witness provided evidence to the effect that he had been advised that a young girl was being detained in the first house in Joseph Place as a result of being struck by a Saracen. He went to that location for the purposes of providing First Aid and discovered the patient to be Alana whom he knew through the activities of Irish dancing.

The witness confirmed that Alana complained that she had no feeling below her waist and was unable to move her legs. He rendered some precautionary treatment and then made arrangements for her to be removed by way of ambulance to Altnagelvin hospital.

17.4.2.9 **Alana Burke** herself gave evidence on **Day 076** in a manner consistent with the details of her Eversheds statement. The experience produced a series of high emotional moments as she recalled the events of that day. The Chairman intervened to offer a degree of respite **Day 076/89/6**. Everyone including Counsel for the Soldiers accepted that Alana was struck by an APC, which was driven by Soldier **INQ 1579**. It acknowledged that whilst some confusion may exist in respect of the precise location at which the incident occurred, this confusion is

undoubtedly linked to the pandemonium of hundreds of people fleeing for safety. In support of this proposition we rely on photographs **P516**, **P517**, and **EP 24.1**, **EP 24.2**, **EP 24.3**, **EP 24.4**, **EP 24.5**, **EP 28.5**, **P485**, which in our respectful submission speak for themselves.

17.4.2.10 Support for this proposition may be inferred from the following exchange from between the witness and Counsel for the Soldiers in the course of her oral evidence:

"Q. I am not challenging, you understand, Miss Burke, that you were run down or that it was in that area which is very much an open area, is it not?

A. Yeah."

Day 079/101/10 to Day 079/101/13

17.4.2.11 As with many of the witnesses who gave evidence the trauma of this event undoubtedly had an adverse effect upon her ability to recall with total accuracy all aspects of her experience on Bloody Sunday. While the precise details of the impact remain hazy, the allegation itself was not only immediate but remains constant.

17.4.2.12 It is common case that Alana was struck by an APC and this proposition has never been challenged by representatives acting for or on behalf of **INQ 1579** and indeed has remained the position which has been adopted by Counsel to the Inquiry **Day 017/86/10**.

17.4.3 Injuries Sustained

17.4.3.1 Alana Burke was admitted to hospital suffering from shock and temporary paralysis from the waist down. She subsequently suffered severe pain on the right side of her back radiating down towards the right S.I. joint. In addition, she continued to suffer a lack of sensation below the right knee **D0950**. She was X-rayed at Altnagelvin and there was a suggested injury

to the lumbar spine. **E10.006** She had injuries to her pelvis and right leg. **AB101.2 paragraph 11**. She was discharged within several days and attended Altnagelvin as an outpatient for several months thereafter **D0950, D0951, D0952**. The consequences of these injuries in later life were traumatic and are set out in his statement to the Inquiry **AB101.2 paragraph 11**.

17.4.4 Removal to Hospital

17.4.4.1 She was brought through by other civilians the Rossville Flats car park and taken to the [redacted] house (Number 12 Joseph Place) the second maisonette of the northern block of Joseph Place **AB101.16**. The evidence of Eamon Melaugh who believed that she was taken to the second maisonette **AM397.6 to AM397.7** corroborates this. Alana disputed the evidence of **Michael Bradley** that she was taken to the same house as him (i.e. Number 13 Joseph Place) **Day 076/87/16 to Day 076/88/1**.

17.4.4.2 **Paul McLaughlin AM350.14 paragraphs 25 to 27** and **Antoinette Coyle AC85.1, AC85.8 paragraph 33** of the Knights of Malta, there treated her.

1 Some time after 4.51pm Alana Burke was placed in an ambulance VRM 7689 EZ which was parked in Rossville Street near the entrance to the Rossville Flats. Also placed in the same ambulance were Barney McGuigan and Kevin McElhinney. The ambulance was manned by **John Rafferty** (driver) and **Samuel Hughes** (attendant). It arrived in Altnagelvin Hospital at 5.15pm. **ED39.6**; **D500.26, D500.27**; **D94**

17.4.5 Conclusions

17.4.5.1 The following is respectfully submitted on behalf of Alana Burke:

i) The hostility of the driver responsible for colliding with and injuring Alana Burke demonstrates a total disregard for human life and her safety;

ii) Alana Burke was injured because **INQ 1579** drove at a speed which was inappropriate for the prevailing conditions and circumstances at the time;

iii) If, as suggested by **INQ1579**, that he had driven the vehicle in the manner outlined whilst acting under the instructions of **Sergeant O**, then the responsibility for the injuries sustained by Alana Burke must be shared between these individuals (**Day 336/182/9 to Day 336/183/3**);

iv) The aggressive nature of the arrest tactics which were employed by 1Para, namely the use of armoured vehicles, indicates a strategy which contained a clearly defined risk to all persons lawfully congregating within the perceived catchment area;

v) The policy of driving heavy armoured vehicles at or through large numbers of unarmed civilians demonstrates a reckless disregard for their safety and welfare (**Day 336/163/15 to Day 336/163/21**);

vi) That **INQ 1579** knows perfectly well he knocked down a female when he drove the Mortar Platoon pig on Bloody Sunday;

vii) That **INQ 1579** has covered up this fact in his evidence to the Tribunal;

viii) That **INQ 1579** deliberately lied on oath to the Tribunal about the circumstances in which he injured Alana Burke.

17.5 Margaret "Peggy" Deery

17.5.1 Personal Details and Background

17.5.1.1 Margaret "Peggy" Deery (nee McIntyre) was 38 when she was shot on Bloody Sunday. She was a widow whose husband died three months

previously of cancer of the spine. She had 14 children aged between 16 and 10 months old. The family lived in the Swilly Gardens area of Creggan but by the time she was released from hospital on 29th May 1972 the family had moved to Creggan Heights. She was to wear a calliper on her left leg until she died in 1988. She had no criminal record or political affiliations.

17.5.1.2 **Relevant Photographs**

Photo Ref. #	Description of Photograph	Relevant Witnesses Depicted in Photograph
P748	Inside 33 Chamberlain Street receiving first aid.	Otto Schlindwein
P749	Inside 33 Chamberlain Street receiving first aid.	N/A

17.5.1.3 **Summary**

An event such as a Civil Rights March on a Sunday afternoon would have been an opportunity for her to escape from the full time demands which rearing a family of fourteen children would have entailed. The opportunity to exchange family gossip and neighbourly news would have been shared between her and her sisters who accompanied her on the march:

> "I remember a friend of my mother's called **Peggy McLaughin** and two of our cousins, **May** and **Rita Nichol**, came round to call for my mother. She had not really been out of the house since my father died and Peggy, May and Rita were insistent that she come out and participate in the march. She had certainly never been on any previous marches." **AD32.1 paragraph 4**

Despite this she would not have been exempt if it were alleged that at some point during the course of the afternoon that she participated or was

present in a riot then proof of such an allegation would have attracted a mandatory period of imprisonment.

17.5.1.4 **Anthony McCallion** recalled seeing Peggy in or about the junction of Chamberlain Street and Harvey Street. He remembered saying to her "Don't head up there, they're rioting." She just smiled and walked on north up Chamberlain Street. A short time later he could hear the sound of shooting coming from the direction of the junction between William Street and Rossville Street. **AM65.2 paragraphs 8 to 10**

17.5.1.5 **Location**

No less that fourteen witnesses including Peggy and her son Tony refer to the location at which she was allegedly present when she was shot. Five of the witnesses identify the location at grid reference M16 on map **Q8** i.e. at the west of Numbers 34 to 36 Chamberlain Street at the waste ground. Of these five, three gave evidence before the current Tribunal. They are **Patrick Doherty AD96.2 paragraph 10, Neil McLaughlin AM347.3 paragraph 16** and **Patrick Moore AM17.4 paragraph 20**.

Three witnesses place Peggy at a location slightly south of the gable of 36 Chamberlain Street / Rossville Street car park. They are **Pascal Keys AK36.1, George Nelis AN9.3 paragraphs 16 to 20,Gerry McBride AM46.4 paragraphs 11 to 12**.

A fourth witness, **Peter Gallagher AG23.11 paragraphs 15 to 18** placed Peggy in grid reference L15.

17.5.1.6 Peggy herself believed that she was shot in the vicinity of Pilot Row **AD33**. **James McDermott AM184, Brian Magee AM220.4 paragraphs 7 to 20** and **Leo Deehan AD178.5 to AD178.7**, support this opinion. The final witness, **Mr Tony Deery** confirms the same location in a statement provided by him to the Tribunal albeit upon the basis of what he was told by his mother while she was alive **AD35.2 paragraph 12**.

17.5.1.7 Location Table

Approximate Location where shot	Leo Deehan	Tony Deery	Patrick Doherty	James Duddy	Helen Gallagher	Peter Gallagher	Pascal Keys	Gerry McBride	James McDermott	Brian Magee	Neil McLaughlin	George Neils	Patrick Moore	Peggy Deery
Grid Reference M16 (Vicinity of southern gable end 36 Chamberlain Street)			✓	✓	✓						✓[10]		✓	
Grid Reference M15 (Rear of houses Chamberlain Street / Pilot Row)	✓	✓							✓	✓				✓
Grid Reference L15 (Rossville Flats car park)							✓	✓				✓		
Other						✓								

The apparent diversity of opinion and recollection in respect of the location at which Peggy Deery was shot, is understandably if not partially explained by the widespread panic and confusion, which existed at the time. It will be observed, that the various locations at which Peggy was allegedly shot generally comply with the route, which would have been taken by those who carried her to **Mrs Nelis'** home at 33 Chamberlain

[10] However **Neil McLaughlin**'s contemporary account indicates that Peggy Deery was shot at the rear of the houses at Chamberlain Street / Pilot Row **AM347.13**.

Street. It is clear from the various descriptions provided by a number of witnesses that Peggy was carried in a disorganised, almost haphazard manner by a variety of people stopping to assist at various points along the route. Again, this development probably has more to do with the widespread panic, which existed among the crowd who for the most part were generally preoccupied with their own safety. It is to be regretted that no attempt was made by the RUC to investigate the shooting of Peggy Deery or to record with any accuracy the precise location where she was shot. It would appear from all documents supplied, that at the material time the RUC were only concerned with whether Peggy had participated in an illegal march. Indeed the investigating officer smugly commented on her explanation for her movements that day as being inconsistent with an innocent bystander **ED62.1**.

17.5.1.8 It is useful to recall how the RUC officer records the incident in which she is shot:

> "There were hundreds of people in this area running to get away from the Army who had driven into the back of the flats in Saracens. A man had fallen on top of me and he got up and ran around the corner. Whilst I was on the ground I was able to see the Army men in front of me and I saw and heard them shooting. I attempted to get up but I slipped and cut my head and nose. I then saw a soldier in front of me and he appeared to be taking aim at me and I then felt a blow to my left thigh. I called to a man to help me which he did and he took me to a house in Chamberlain Street." **ED62.2 to ED63.3**

17.5.1.9 The account is remarkable more for what it does not contain rather than for what it does. No attempt has been made to record the identity or description of the soldier concerned, the spatial relationship of the victim to the firer, the absence or presence of any obstruction, the length of time that she continued to observe his presence, whether it was he who fired the shot, what he did afterwards and whether any words were exchanged. The routine questions which would be made in the course of a proper

investigation into what on the available evidence, was a clear case of attempted murder.

17.5.1.10 This is all the more so given that the victim was a 38 year old widowed mother of fourteen children, who on instructions had never been arrested or interviewed by the RUC before.

Detective Sergeant Cudmore appears to record in the second paragraph of his report that Peggy indicated on a map the approximate position where she was shot **ED62.1**. Unfortunately this document has never been provided. This seems hardly surprising given the manner in which the investigation in this shooting was conducted.

17.5.1.11 Approximately twelve witnesses have provided evidence to the Tribunal in respect of having assisted in her transportation to 33 Chamberlain Street or observing it as it took place. These included **Frank Carlin AC32.2 paragraph 9**, **Francis Duddy AD144.3 paragraph 14**, **Elizabeth Gallagher AG11**, **Pascal Keys AK36**, **Patrick "Patsy" McDaid AM172.3 paragraph 10**, **James** McDermott **AM184**, **Brian Magee AM220.4 paragraphs 7 to 20**, **Mary Moore AM414.3 paragraph 16**, **Margaret Neils AM 11.3 paragraph 15**, **Hugh Sheerin AS10**, **Anna Nelis** of whom it will be recalled also gave evidence to the effect that when soldiers entered 33 Chamberlain Street one of them appeared to look at her injuries and then stated "Let the whore bleed to death" **AN8.2 paragraphs 8 to 12**, **AN8. paragraph 21**.

It will be recalled that **Matt Campbell** when providing his statement corroborates the above remark with by attributing the following to one of the soldiers, namely "Let the bastards or whores bleed to death", **AC140.1**.

It also appears that she was seen by **Martin McGuinness** as he ran through the Rossville Flats car park **KM3.2 paragraph 7**, **KM3.124** and **Day 390/78/24 to Day 290/81/6.**

17.5.1.13 **Timing**

As indicated at the outset, Peggy Deery was almost certainly the first person to be shot after troops entered Rossville Street. There is a certain amount of evidence which enables the Tribunal to confidently arrive at this conclusion. **Patrick McDaid** in his contemporaneous statement to the RUC provided with the following account

> "I was walking up Chamberlain Street whenever crowds started to run past me going towards the Rossville high flats because somebody had shouted 'the Army's coming'. I ran along with this crowd to the top of Chamberlain Street where I slowed down. Two or three youths then appeared from the direction of the Rossville flats and to my right. They were carrying a woman who I now know to be a Mrs Deery and I saw that she had been shot in the leg. I went over and helped them to carry Mrs Deery into a house in Chamberlain Street where I tied a piece of scarf around her leg to stop it bleeding. I went outside and started to shout for first aid or an ambulance. I then heard shooting going on in the area and I saw a young fellow fall and I believe his name was Duddy. He fell in the square of the flats but I did not see who had shot him." **AM172.21**

17.5.1.14 It should be pointed out that Mr McDaid's Treasury Solicitor statement, the Sunday Times interview, his oral evidence to Lord Widgery and his evidence to this Tribunal in this regard has remained constant.

In addition to the above there is also the contemporaneous account as provided by **Billy Gillespe**, though some of its contents were disputed, in which he appeared to confirm (to the Sunday Times) that Peggy had been carried to 33 Chamberlain Street before Jackie Duddy or Michael Bridge were shot **AG34.17**.

17.5.1.15 At least one witness, **Peter Gallagher**, appears to suggest a different sequence of events. He recorded in his Eversheds statement at **AG23.10**

paragraph 13 that he had a distinct recollection of seeing **Father Daly** giving Jackie Duddy the last rites. He appears to have observed this scene from the shelter of the south gable end wall of Chamberlain Street. He could hear continuous shooting although none of it was automatic fire. He was conscious that an attractive dark haired woman approximately 25 years of age had been pushed out into the clearing beyond the gable end. The woman then suddenly fell to the ground and he realised that she had been shot. He went on to describe how he assisted in dragging her back towards the cover of the wall. She had an extensive gunshot wound to the back of her thigh. He also recalled that she was unarmed and wearing fish net stockings **AG23.10 paragraphs 13 to 18**.

17.5.1.16 In both his 1972 and Eversheds statements he has Michael Bridge being shot and taken to 33 Chamberlain Street after assisting with Peggy Deery. In relation to the sequence of events this account is largely corroborated by the contemporaneous account supplied by Mr Gallagher at the time. While the details may be different, the witness' broad recollection of event is consistent **AG23.7**.

Which Soldier Shot Peggy Deery?

17.5.1.17 One of the few recorded descriptions from Peggy Deery of the soldier who actually fired the shot is contained in the interview notes of Philip Jacobson of the Sunday Times Insight Team:

> "I looked over towards Rossville Street and there were the big Pigs coming in and one headed over towards where we were. Then I saw a soldier with the red Para hat come up from the Pig that was near us and he took aim, I thought at me or the man standing next to me (she does not know who he was). I shouted to this chap 'for God's sake watch out, that one's going to shoot' and as I moved towards the man for protection like I felt this big thump in my leg, in the thigh really. It is funny, I never heard the bang. The soldier was not more than 25 yards. I could recognise him clearly if I saw him

again. He was about your height, five-foot ten, fatter than you, with a round fat face and a little dark of complexion, although he also had that black stuff streaked over his face." **AD33.1**

17.5.1.18 The victim's daughter, **Helen Mahon**, records the following in her Eversheds statement:

> "My mother talked about Bloody Sunday a lot afterwards. She said she would never forget the face of the soldier. After he had shot her he had cocked his gun and she had said she was a widow with fourteen wee ones. He had then put his head down and walked away. She said that he had red hair. She said that he had shot her at close range." **AD32.3 paragraph 20**

17.5.1.19 Peggy's son **Owen Deery** records in his statement to the Inquiry:

> "My mother always said that she would be able to immediately recognise the soldier who fired the shot by his red hair." **AD34.2 paragraph 17**

17.5.1.20 **Tony Deery** related what he mother told him in his Eversheds statement:

> "My mother talked quite often about the soldier who had shot her. He was tall, with red hair. She did not bear a grudge against him although she could not understand why he had shot her as she had been dong nothing wrong." **AD35.1 paragraph 8**

17.5.1.21 **Leo Deehan** **AD178.5** did not give oral evidence to the Tribunal. Beyond expressing the belief that the soldier who fired the shot was an officer he unfortunately omitted to provide any further details.

Peggy Deery could have been shot by any one of a number of members of the Mortar Platoon including soldiers **S**, **V**, **N** or **Q**. However **Lieutenant N** and **Private S** to a greater extent must be regarded as real contenders for having shot her.

17.5.1.22 As has been pointed out in **Section 15.2.8** of our submissions **Lieutenant N** claimed that he fired 1 round at a nail bomber in the car park striking him in the right thigh. As the Tribunal is aware, Peggy was shot in the left thigh but more likely in a position to the west of the houses of Chamberlain Street on the Rossville Street waste ground at a very early stage in the events, probably when Lieutenant N was still at Eden Place or at his APC with a prisoner. The Tribunal knows that Michael Bridge was shot in the car park and like Peggy was shot in the left thigh, which corresponds with Lieutenant N's account except for the fact that Michael Bridge was unarmed and not a nail bomber.

17.5.1.23 **Private S** on the other hand worked his way southwards along the wall at the back of Chamberlain Street. He admitted firing 12 rounds in the Sector 2 area from the rear of 34 Chamberlain Street, which is not far at all from where a number of witnesses set out in this section have positioned Peggy Deery as falling. Indeed Peggy herself said she was shot in the area of Pilot Row. **Private S**' justification for firing those rounds however was wholly unbelievable and all of those rounds, in our respectful submission remain unaccounted for. Our submissions in respect of Private S are set out in detail at **Section 15.2.8.3**.

17.5.1.24 It is a matter of regret that none of the Mortar Platoon soldiers has had the moral courage to either admit to or identify any colleague firing at or hitting any target resembling Peggy Deery. In fact none of the official bibliographies of the Parachute Regiment when detailing or outlining any of the events of this day make any reference to the fact that they shot a woman on Bloody Sunday. It therefore appears that whoever shot Peggy Deery is enjoying the benefit of a Regimental cover-up or that the fact that she was wounded has yet to be brought to their attention.

17.5.2 **Key witnesses**

Rossville Street waste ground / Car park

17.5.2.1 **Neil McLaughlin** **AM347** provided an interview to the Sunday Times Insight Team in 1972. He gave oral evidence to the Tribunal on **Day 91**. Whilst he had no memory of providing that interview he accepted in oral evidence that he might well have done as a large amount of detail corresponded with his recollection when he made his Eversheds statement and that the detail in the Sunday Times account could have come from him **Day 91/41/21 to Day 91/42/10**. For example, the witness agreed that he could have seen Peggy Deery shot but did not now recall it as he marked in his Eversheds map that he first saw Peggy at **AM347.6**. Similarly, he accepted that he could have helped Peggy Deery to 33 Chamberlain Street even though his current recollection was that he only witnessed this happen **Day 91/44/5 to Day 91/46/4**:

This is what he appears to have told the Sunday Times:

> "The first person to fall was a Knights of Malta (sic) man. Neil does not know who is he was shot (sic). He merely fell. He was a few paces to Neil's right, and he fell by the back wall of the C St row --- in other words the crowd running forward had just cleared the gable end. Almost immediately, a girl two paces to his right fell. Neil couldn't remember much about her appearance except she was wearing black stockings. Neil was sure she had been shot." **AM347.13**

17.5.2.2 The witness went on to relate how he saw a crowd around a body in the car park. He did not actually see this person being shot. He then saw Michael Bridges (sic) shot **AM347.13**. The account continues:

"But at some stage he and four others went to Mrs Deery – the woman in black tights – and lifted her. Her whole leg was "sagging" in her tights, he said, and when they lifted the leg, the knee bent the wrong way. The five of them carried her to the end of C St. at which point other people took over." **AM347.13**

If it is accepted that this is an accurate account of what the witness was telling the Sunday Times Insight Team in 1972 then it is strong evidence that Peggy Deery was in fact shot at the west side of the houses at Chamberlain Street near the Knight of Malta, Charles McMonagle, who is shown in photograph **EP33/5**. It provides further weight for the proposition that she was shot by a member of the Mortar Platoon before Jackie Duddy and Michael Bridge.

17.5.2.3 **Brian McGee** **AM220** gave oral evidence to the Tribunal on **Day 89**. Counsel to the Tribunal commended him on his statement saying that it was "admirably clear" **Day 89/165/22**. He was 16 on Bloody Sunday. He was standing at the south gable end of the houses on the west side of Chamberlain Street. There were about 20 to 30 people present. He saw an APC parked near the flats and then he remembers hearing the first shots. In his Eversheds statement he recorded that he saw a youngish woman aged 18-20 carried by two men. A Paratrooper at position "E" to the east and possibly to the front of the APC moved to position "H" and tried to interfere with the men carrying the woman. The soldier, who was wearing a gas mask, then had his attention diverted and went elsewhere **AM20.4 paragraph 19**. If one goes to the witness' map at **AM220.17** it is apparent that this Paratrooper moved from the area of the pig in photograph **P518** towards the rear of the houses in Chamberlain Street from where Peggy Deery was being carried.

17.5.2.4 She was then carried around the gable end. She had a three-quarter length coat and wore either a short skirt or a skirt that had ridden up her legs. She wore knee length boots with dark tights. The witness thought that her right leg was bleeding heavily **AM220.4 paragraph 17**.

17.5.2.5 The witness now knows this woman was Peggy Deery and he said that he might have assisted the men for a few steps **AM220.4 paragraph 20**. It is submitted that this witness' evidence is also useful in terms of sequencing as after seeing this incident he then saw Jackie Duddy's body in the car park, then seeing Michael Bridge and then **OIRA 4 AM220.5 paragraphs 22 to 27**. It is further submitted that Mr McGee's evidence assists in demonstrating that Peggy Deery was shot somewhere at the rear of the houses in Chamberlain Street on the waste ground and was carried from this area along the back of those houses. It is also clear that this also attracted the attention of one of the Mortar Platoon soldiers at Sergeant O's pig yet none of these soldiers admit to seeing a woman suffering from a gunshot wound at all.

17.5.2.6 Brian McGee in our submission was a particularly clear and truthful witness whose honesty nor reliability was challenged by Counsel for the Soldiers. In particular they did not challenge his assertion that the soldier who was present at Sergeant O's pig moved towards as if to interfere with Peggy Deery and the two men who were carrying her.

17.5.2.7 **Pascal Keys AK36** provided a one-page statement in 1972. He said that the Army had shot indiscriminately into the garage space at the back of the flats. He saw Peggy fall as he ran towards the garages. He helped carry her along with two other men into 33 Chamberlain Street. He then left to try and get an ambulance **AK36.1**.

17.5.2.8 **Gerry McBride AM46** gave oral evidence to the Tribunal on **Day 079**. He provided a statement to NICRA in 1972,which we submit is a more accurate account certainly in terms of sequence than that given to Eversheds. In 1972 the witness said that he saw a soldier at the end of the flats hitting a civilian with something. He then saw a girl crawling. He grabbed and tried to lift her. The girl said that her leg was broken. When he was helped by "a couple of fellas" he was able to see that there was a hole right through her leg. Mr McBride helped carry her into the house in

Chamberlain Street **AM46.8**. In his Eversheds statement the witness confirmed that where he saw Peggy Deery was at the rear of Chamberlain Street approximately three houses up from the bottom **Day 079/76/1 to Day 079/76/3**.

17.5.2.9 The sequence in his 1972 statement continues that he then saw a body in the car park who must be Jackie Duddy and then saw Michael Bridge shot. The sequence in his Eversheds statement is that he first saw Jackie Duddy along with Father Daly in the car park before seeing Peggy Deery. His sequence in that account continues with him witnessing Michael Bridge being shot before managing to get Peggy Deery to 33 Chamberlain Street.

17.5.2.10 **Patrick McDaid AM172** who was also wounded on Bloody Sunday provided a large number of statements and interviews. These are dated 4th February 1972; 7th February 1972; 27th February 1972; 7th March 1972 and also one statement which is undated. He also gave oral evidence to Lord Widgery and this Tribunal on **Day 092**. What he says in respect of Peggy Deery has always remained constant. As Mr McDaid reached the southern end of Chamberlain Street (grid reference M16) with the car park in front of him he saw three or four men carrying a woman. Mr McDaid assisted in bring Peggy into 33 Chamberlain Street where he applied a tartan scarf to her leg in an effort to stop the bleeding. He then went out along with the woman of the house (Mrs Nelis) to try and get either First Aid or an ambulance and then saw someone shot in the car park **Day 092/107/4 to Day 092/109/6**, **AM172.2 paragraph 10**, **AM172.12**, **AM172.14**, **AM172.17**, **AM172.21**, **AM172.27**, **WT7.83 A-B**.

17.5.2.11 **Elizabeth Gallagher AG 11.1** provided a one page handwritten statement in 1972. She was a 37 year old housewife who assisted in bringing Peggy Deery into 33 Chamberlain Street. She also secured the assistance of the chemist Otto Schlindwein who told her to try and get an ambulance otherwise Peggy would bleed to death. When she went outside and told a Corporal he told her "Let the fucking whore bleed to death. Its good enough for her."

17.5.2.12 **Frank Carlin** **AC33** was running south down Chamberlain Street where he saw three men carrying a woman away from the area of the Rossville Flats car park. He saw this group before he reached the car park. He could see that she had a very bad wound to her thigh and though there was a lot of blood she was still conscious **AC33.2 paragraph 9**. The witness **Patrick Pearse Moore** at **AM417.4 paragraph 20** gave strikingly similar evidence.

17.5.2.13 **Francis Duddy** **AD 144** was running south down Chamberlain Street and saw a woman who he later learned was Peggy Deery being carried into a house. He recalled that Peggy wore a headscarf and black tights. He also recalled the wound on her leg **AD144.11 paragraph 14**. After witnessing this he saw Jackie Duddy's body in the car park and Michael Bridge actually being shot **AD144.12 paragraph 16**.

17.5.2.14 **Fulvio Grimaldi** **M34** gave evidence to the Tribunal on **Day 131**. After taking photographs of Jackie Duddy's body being attended to by Father Daly and others he returned to the relative safety of the Chamberlain Street southern gable wall:

> "... a woman was carried past me into Chamberlain Street, in the same direction that Jack Duddy has been carried. The woman had blood dripping from her. She was taken into the first house on the east side of Chamberlain Street. I later learned that the woman was Mrs Deery." **M34.60 paragraph 46**

17.5.2.15 Fulvio then witnessed Michael Bridge being shot in the car park. He followed Michael Bridge who was also carried into the same house as Peggy Deery:

> "In the living room, I saw Mrs Deery again. She had a terrible wound in her leg. There was a huge lump of flesh hanging down, which people were trying to put back in place. Meanwhile, several

other people were helping Mr Bridge who had been placed in the courtyard at the back of the house. Michael Bridge proved to be a very brave man." **M34.61 paragraph 50**

17.5.2.16 The witness took photographs **P748** and **P749** of Mrs Deery on the sofa. These are the only photographs that we have of Peggy on Bloody Sunday.

Susan North **M35** gave oral evidence to the Tribunal on **Day 130**. She provides essentially corroborative evidence of the above in respect of Peggy Deery at **M35.5 paragraphs 25 to 29**. The Tribunal has a copy of her sound recording made on Bloody Sunday. The witness confirmed that page 23 to 27 of the Grimaldi / North transcript tape relates to events taking place inside 33 Chamberlain Street **A9/34.0 to 35.0**, **E3.0052 to E3.0056**, **M35.13 paragraphs 80 to 83**.

17.5.2.17 **33 Chamberlain Street**

Anna Nelis **AN8.1** gave oral evidence to the Tribunal on **Day 103**. She was at home with her mother and sister Margaret at 33 Chamberlain Street. She recalled that three or four men called out from Chamberlain Street asking if they could bring an injured woman into the house. Peggy Deery was laid down on the settee near the window. In her contemporary account the witness said that Peggy's leg was badly mutilated **AN8.9**. She went outside and secured the help of Otto Schlindwein. She then went out and phoned an ambulance from the Donaghue house at 2 High Street **AN8.9**, **AN8.3 paragraph 14**. When she returned the Knights of Malta were present with Peggy who was still bleeding profusely **AN8.9**. Michael Bridge had also been brought into the house while the witness was out. When a "Saracen" arrived outside her door she went out to the soldiers and explained the situation to them. She asked for their assistance and told them Peggy needed "urgent medical aid". The witness continued:

" "Let her bleed to death"... The soldiers came in. There was two of them. They came into my kitchen. They looked at the injured

woman and said "Let the whore bleed to death". They then went into the yard to look at the injured man. I didn't hear what they said. They left my house. I went out with them and remained in the street. A girl, a member of the Knights of Malta, **Alice Long** came running and screaming across the courtyard of the high flats. She shouted at the soldiers to get an ambulance for her. The soldiers started to shout back "Let them f... well die". and used more abusive language"" **AN8.9**

17.5.2.18 After Peggy and Michael Bridge were taken away the men who were present in the house were arrested. Anna Nelis also complained about this incident to the RUC at Victoria **AN8.13**.
The witness confirmed in the course of her oral evidence to Counsel that none of the soldiers in Chamberlain Street offered medical assistance either in the form of the provision of a field medical pack or by way of offering to treat anyone in the house **Day 103/25/7 to Day 103/25/13.**

17.5.2.19 **Margaret Nelis** **AN11** also gave oral evidence to the Tribunal on **Day 103**. She ran towards her house and heard shots "from all directions" **AN11.10**. She was at the door of her house at 33 Chamberlain Street when men came over and carrying a woman and asked her whether they could come in. A lot of other people also came into the house. In her Eversheds statement, Mrs Nelis recalls that most of the people in the house were in their thirties and older **AN11.3 paragraph 14**. Michael Bridge was also brought into the house at a later stage. This witness did not see Peggy's injury but recalls that people were saying that she was badly hurt and that she had been shot **AN11.3 paragraph 15**.

In her RUC statement of complaint the witness said that some of the soldiers assisted in moving the two wounded persons out of the house before all the male occupants were arrested **AN11.10**.

17.5.2.20 **George Nelis** **AN9.1** also gave oral evidence to the Tribunal on **Day 103**. This witness came out of Chamberlain Street and into the Rossville Flats

Courtyard. He noticed a body on the ground of a young boy aged fourteen or fifteen who was lying on his front. The position of the boy is marked on the map at **AN9.20**. Someone present remarked that the boy was dead. The witness did not know who this man was, nor has he found out since who the boy was **Day 103/87/16 to Day 103/88/16**. It should be pointed out that this was not mentioned in any of Mr Nelis' contemporary accounts at **AN9.9** and **AN9.21**.

About fifteen to twenty feet southwards he came upon Peggy Deery. He thought that she was wounded in her right thigh:

> "I can vividly remember the blood pumping out of the wound very quickly, almost like water from a hosepipe. It was when I saw that, that it really came home to me that the situation was very serious and very dangerous" **AN9.3 paragraph 17**

He went to his mother's house at 33 Chamberlain Street and very soon thereafter two men arrived with Peggy Deery. This witness also refers to two soldiers being present in the house shortly after making comments about the two wounded persons in the house such as "let them bleed to death" and "they deserve it" **AN9.3 paragraph 23**, **Day 103/92/16**. The witness was later arrested and taken to Fort George with the other males in the house. He later made a complaint to the RUC, which can be found at **AN9.21**.

17.5.2.21 **Otto Schlindwein** **AS.2** gave evidence to the Tribunal on **Day 104**. Mr Schlindwein was a chemist who ran a pharmacy in Creggan. He saw a body in the Rossville Flats car park. He said that he could "quite believe" it was Jackie Duddy **AS2.6 paragraphs 11 to 12**. Before the witness could run into the courtyard, a woman who he later learned was Anna Nelis outside 33 Chamberlain Street grabbed him and asked him to help Peggy Deery. When the witness entered her house he recognised Peggy Deery on the sofa and saw that she had:

"... a very bad bullet wound in her thigh and was bleeding profusely. I could see immediately that she had been shot, and from the way in which she was losing blood I feared for her life. I bound up her leg wound with a blanket and then told Mrs Nelis that Mrs Deery needed an ambulance as a matter of urgency." **AS2.6 paragraph 15**

Once Peggy Deery was placed in the ambulance the witness was arrested and later rifle butted by a soldier with a Scottish accent **AS2.7 paragraph 21**, **Day 104/167/6**.

17.5.2.22 **Charles McMonagle AM367** gave oral evidence to the Tribunal on **Day 102**. He was a Volunteer in the Knights of Malta and was assaulted in the Rossville Flats waste ground. He walked south down Chamberlain Street during a lull in the shooting. He was then called into 33 Chamberlain Street and was asked to treat Peggy Deery whom he did not know at the time. Someone had already placed a towel over her wound. He bandaged Peggy's leg up as best he could but there was little he could do for her **AM367.4 paragraph 25**. The witness recollected that a number of persons were insistent in the house that there was a problem with Peggy's blood type if she needed a transfusion and that was something that he alerted the ambulance men to when they arrived **Day 102/126/12 to Day 102/126/22**.

17.5.2.23 **Majella Doherty AD 182** gave oral evidence to the Tribunal on **Day 184**. She was also a Volunteer in the Knights of Malta and was dragged into 33 Chamberlain Street. She recalled that there was another First Aider present, who must be Charles McMonagle, though she is unclear whether he was there before or after she arrived. The witness is incorrect in her recollection that the wound was on Peggy's right leg but she recalls accurately the serious nature of her injury:

"To be truthful, the entire back of her leg was blown away. It was not a pretty sight and it might be because it was so shocking that I can't remember much else about the scene. Peggy Deery was a widow woman with about 14 children. I remember when I was attending to her she was much more worried about her children than she was about herself." **AD182.5 paragraphs 13 to 15**.

The witness goes on to relate how despite their best efforts, the Knights of Malta were unable to stop the bleeding and how she never thought she would "see such devastation to a human limb as the back of her leg" **AD182.6 paragraph 17**.

17.5.3 Injuries Sustained

17.5.3.1 Peggy Deery sustained two gunshot wounds to her left thigh. A bullet entered the front of her thigh and exited leaving "an extensive wound on the back of her left thigh" and a complex and compound fracture of the left femur. Due to the fact that the wound on the back of the lower left thigh was described as "extensive", the track of the bullet is more likely to be from front to back than the reverse. The Inquiry's experts were unable to comment on the nature of the projectile. **E10.005**

17.5.3.2 Mrs Deery underwent surgery on the evening of 30th January 1972. A medical report dated 21st February 1972 by Consultant Nephrologist Dr Mary McGeown of Belfast City Hospital recorded:

"I am informed there is no sign of healing of the shattered femur, and that the wound is grossly infected. As there is evidence of severe damage to the sciatic nerve it is thought that the leg may later have to be amputated." **D1079**

17.5.4 Removal to Hospital

17.5.4.1 After being medically treated by a local pharmacist **Otto Schlindwein** and Knights of Malta **Charles McMonagle** and **Majella Cassidy** (nee Coyle) at 33 Chamberlain Street she was taken out of the Nelis house shortly after 4.27pm and placed in an ambulance VRM 4491WZ along with Michael Bridge. The ambulance was manned by **John Holmes** (driver) and **William Grey** (attendant). It arrived at Altnagelvin Hospital at 4.50pm. ED48.8-9; D500.26, D500.27; D1037

17.5.5 Conclusions

17.5.5.1 We submit the following on behalf of the Family of Peggy Deery:

i. Given the evidence of the location, timing and firing of his SLR from the rear of the houses in Chamberlain Street, Private S, it is submitted is a prime contender for firing the bullet that struck Peggy Deery.

ii. Given the evidence of the location and firing of his SLR from the rear of the houses in Chamberlain Street, Lieutenant N, it is submitted is also a strong candidate for firing the bullet that struck Peggy Deery.

iii. Peggy Deery was not engaged in any unlawful activity when wounded apart from trying to move away from the Paratroopers who had debussed on the Rossville Street waste ground.

iv. There was no activity around her or in her vicinity which could provide any justification for her wounding.

v. She was wounded by a member of Mortar Platoon who has covered up his involvement in her attempted murder and provided a false account of his activities on Bloody Sunday in Sector 2 both in 1972 and to this Inquiry.

vi. The Mortar Platoon soldiers know that one of them wounded Peggy Deery and have engaged in a conspiracy of silence in respect of her wounding. That conspiracy of silence began in January 1972 and continues to the present day.

vii. The conduct of members of C Company 1 Para at 33 Chamberlain Street when presented with a seriously wounded woman was appallingly callous and should be condemned.

17.6 Jackie Duddy

17.6.1 Personal Details and Background.

17.6.1.1 Jackie Duddy was 17 at the time of Bloody Sunday. At the time he was working as a weaver in a shirt factory. At the time of his death he had applied to join the Merchant Navy. His family believe he only sneaked out to go because so many others were going and he went for the fun of it. It was a big day out. He had no criminal record. He was a highly talented young boxer. He had won a number of titles and trophies at boxing and had fought in England. His family often wondered if he would have reached the Olympics or European Games, or what sort of career he would have had before he died. Like all the families the Duddy's were utterly devastated by his death.

17.6.2 Civilian evidence on the shooting of Jackie Duddy

17.6.2.1 Introduction

Jackie Duddy was shot as he was running in the car park of the Rossville Flats car park. He was running away from the direction of the soldiers who had de-bussed on the waste ground from Lieutenant N's Pig and Sergeant O's Pig at the mouth of the car park. He was shot from behind in the right upper shoulder and fell face down on to the car park. It is likely that he was shot between 4.10 pm and 4.15 pm when an ambulance was called at Altnagalvin Hospital. Jackie Duddy was carried by the group who had attended him including Father Daly across the Flats car park and up Chamberlain Street. He was taken from Waterloo Street by ambulance after 4.21 pm to Altnagalvin Hospital.

17.6.2.2 Relevant Photographs

P627 Jackie Duddy on the ground in the car park being tended to by Father Daly, Charles Glenn and Liam Bradley. Taken by Giles Peres.

P628 and **EP26.12** Father Daly, Charlie Glenn, Liam Bradley tending to Jackie Duddy in the car park

P629 Jackie Duddy on the ground with Father Daly and Liam Bradley taken at the top of Harvey Street on Waterloo Street.

P630 Group around Jackie Duddy in car park with figure on right.

P631 and also at **P862** and **EP26.14** Jackie Duddy being carried from the car park by group including Father Daly, Liam Bradley, Charles Glenn, William McChrystal, William Barber. Taken by Fulvio Grimaldi.

P632, P633, P634. Jackie Duddy being carried up Chamberlain Street to Harvey Street and Waterloo Street.

P740. Group surrounding Jackie Duddy and Michael Bridge on the far right with hands outstretched. Taken by Giles Peres.

P741. Next photograph in sequence showing Michael Bridge.

EP28.1 to **EP28.6**. Photographs of Derrick Tucker. It would appear the correct sequence of these photographs is outlined by Dr. Bell at E26.4 and that is 4,3a, 3,2,1,4a or 5,6. This would accord with the recollection of Martin Tucker at **Day 098/77/14 to Day 098/84/5** except for photograph 6.

V1/0.5.13 to 0.5.24. Jackie Duddy being carried down Chamberlain Street towards Harvey Street. **Video 49.** footage: and 19.12

17.6.2.3 Timing of events

4.10 pm approx. Saracens entered Courtyard.

4.15 pm Ambulance call to Altnagelvin Hospital

4.16 pm Ambulance leaves Altnagelvin

4.21 pm Arrives at Waterloo Street.

4.37 pm Arrives at Altnagelvin with body of Jackie Duddy.

Source: Temporary Document 20.2

The shooting of Jackie Duddy

17.6.2.4 **The Most Reverend Bishop Edward Daly**, or Father Daly as he then was, having witnessed events at Barrier 14 moved down Rossville Street. At **H5.16** in his statement to the Widgery Tribunal he stated that the first intimation he had that there would be any further trouble came when he heard two or three rifle shots that came from the direction of William Street. At this time he was in Rossville Street about midway along Kells Walk. Perhaps ten minutes after the first two or three shots rang out, he heard the sound of the engines of the Saracen armoured cars revving up. There was hardly any stoning or aggro at this time. The odd gas canister was being fired. The people in the Rossville Street area were mainly a peaceful crowd and standing around chatting like himself, prior to going home. He then headed, at the back of the crowd, down Rossville Street and towards the car park of the flats. At **WT4.6 C** he described running towards the courtyard of the flats. This took him more or less across the waste ground. He remembered looking back at one point. As they ran most of the crowd were looking back. The army came further than Eden Place which was unusual. **Day 075/13/23 to Day 075/14/10**. He thought he was towards the rear of the crowd. **Day 075/14/18 to Day 075/14/23**. He confirmed that **EP28.4A** was the sort of scene he remembered. **Day 075/14/24 to Day 075/15/5**. Also **EP28.5.** The crowd began to thin out as people made their way towards the alleyways leading out of the flats.

17.6.2.5 At **WT4.6 D** he described seeing a young boy running beside him. He gave very much the same description in his statement at **H5.3 paragraph 15** and **Day 075/18/10 to Day 075/18/20**. He was about sixteen or seventeen. He believed he was running towards the rear of the crowd and he overtook him. The boy laughed at him, as he believed he was amused to see him running. Father Daly recognised him. He had seen him boxing once before in a youth club, but he could not have named him at that time. Father Daly overtook him at this point. The boy was running and looking

back as he was himself and he thought everybody was. The young boy was about a few feet behind him and there was a shot, and simultaneously the boy gasped or grunted. He looked round and the boy just fell. This was the first shot he heard since the shots in Rossville Street. **Day 075/22/6 to Day 075/22/10**. At **WT4.7 A** Father Daly pointed out that the boy fell on the cross section of one of the car park space lines-he thought about the third or fourth one in. He was aware of a Saracen behind them and soldiers in the waste ground. **Day 075/23/16 to Day 075/24/16.** He not aware of rubber bullets being fired when Jack Duddy was shot. **Day 075/24/20 to Day 075/25/4**. At the time of the shooting people were interested in getting clear. At that time he did not see any form of hostile action against the army. **Day 075/25/5 to 075/25/14**

17.6.2.6 Father Daly had described in 1972 an incident where a man or a woman was struck by a Saracen. In his evidence to the current Inquiry, he was able to recall that it was somewhere round the back of the houses in Chamberlain Street but he could no longer recall if this was before or after Jackie Duddy was shot. **Day 075/17/2 to Day 075/17/14.**

17.6.2.7 At **WT4.7 D**, he confirmed that the boy was not carrying anything that he saw in his hand. He confirmed to Lord Widgery that he heard a shot at the time the boy was hit and he was convinced that shot came from behind somewhere from the area of the waste ground. The boy fell on his face. Father Daly ran on. He thought the shot was a bit sharp for that of a rubber bullet gun, but he could not take it in at all, that he had been hit by a live bullet. He ran on still looking back. He then heard a fusillade of gunfire and he dived. He tried to get cover behind a little wall.**WT4.7 G** and **WT4.8 A**.

17.6.2.8 He was referring to the wall that runs parallel to block 2 and confirmed it to have been the wall in **P795**. **Day 075/27/7 to Day 075/27/9**. He recalled a burst of gunfire which really caused terror and panic. The burst came from the area of the waste ground. Whether it came from the Saracen near the courtyard or further he did not know. **Day 075/26/18 to Day**

075/26/23. He remembered initially aiming for the gap between Blocks 1 and 2 but because of the number of people there ended up at the low wall marked on **H5.74** At **WT4.9 B** and **H5.4 paragraph 19** he described lying on the ground: "that is at the edge of Block 2 wall". This point was marked by the witness at **H5.75**. After a time he looked back over his shoulder and he saw the young boy that he had passed lying out in the car park. He was lying at this time on his back with his head towards the witness. He remembered distinctly that the boy fell on his face but when he saw him he appeared to have been turned over possibly by Mr.Barber who reached him first. He saw him on his back.

17.6.2.9 There was a lull in the firing at this time and he decided he should go out and attend the boy. He took a handkerchief from his pocket. He was not aware of any other bodies in the immediate area. He took a handkerchief from his pocket and waved it for a little time and then he got up to a crouched position and he went out to the boy and first of all knelt beside him. He had his handkerchief in his hand. There was blood oozing from his shirt, roughly he thought it was either just to the side inside the arm either on the right- or left-hand side. Then a young boy from the Knights of Malta who was Charles Glenn suddenly appeared on the other side of this boy. He tried to deal with this wound to staunch the flow of blood. He felt he should administer the last rites to the boy and he administered the last rites of his church to him. **H5.4 paragraph 19**.

17.6.2.10 There was gunfire which started at this point and both of them lay down flat beside the boy. His recollection of the direction of the gunfire was that it all came from the area in which the soldiers were. **Day 075/30/6 to Day 075/30/10**. In 1972 he had described the gunfire as something like 30-40 feet away and was very close to them. **WT4.10 B**. He was not conscious of any gunfire directed towards the army in the square of Rossville Flats and there was no gunfire. There was no threat posed to the army at the time they opened fire and he did not think there was any justification for it. **Day 075/30/22 to Day 075/31/5**.

17.6.2.11 It is not wholly clear from the accounts of civilian witnesses whether Jackie Duddy came into the car park from Rossville Street or from Chamberlain Street. At **WT4.6 E**, Father Daly stated that he himself overtook Jackie Duddy who was running and looking back: "As I was myself ... As we came in here", which is presumably into the mouth of the car park, "... he was running, he was a little bit behind me", Father Daly having come from the Kells Walk direction. However at this Inquiry he could not say where the boy had come from. **Day 075/18/10 to Day 075/18/20.** His brother Gerry Duddy **AD146.3 paragraph 10** saw him crossing Rossville Street and walking in a south easterly direction then across the waste ground towards the Rossville flats a few minutes before he himself heard shooting and began to run south down Rossville street. **Brian Johnston** placed him running from the waste ground by Pilot Row into the Rossville Street Courtyard. **Isobel Duffy** at **AD158.2 paragraph 12** stated that she saw him running in from "the entrance to the car park of Rossville Flats" and had stated in at **WT5.7 B** that it was from the direction of the Saracens. A number of witnesses placed him running from Chamberlain Street. **Hugh Breslin** believed that he must have come from Chamberlain Street. "From the direction he was lying it was the only direction he could have come from." **Day 082/124/14 to Day 082/124/19**. **Mary Bonner** at **Day 082/52/17 to Day 082/52/22** said that she did not actually see him come out of Chamberlain Street but assumed he came from that area. She was one of a number of witnesses who expressed a belief that he must have come from Rossville Street or Chamberlain Street.[11]

17.6.2.12 There can be no doubt that Jackie Duddy was running in roughly the same direction as Father Daly across the courtyard of the car park initially at least towards the gap between Block 1 and 2 or possibly towards the low wall in front of Block 2 where Father Daly ended up. The understandable difficulty for witnesses given the pace of events and the undoubted fact of

people running to both exits was shown by Patrick McDaid who thought Jackie Duddy had come from the western gable end of Chamberlain Street but accepted he could have come from the waste ground east of Rossville Street and was "running out that direction from around that side." **Day 093/110/12 to Day 093/110/23**.

17.6.2.13 **Liam Bradley** whose statement appears at **AB61.1** is the man in the cap in the photograph **EP26/12**. As described in **AB61.2 paragraphs 6 to 7** he ran down Chamberlain Street into the car park of the Rossville Flats and the first thing he saw was a boy lying in the car park. He was pretty much in the middle of the car park. He thought he must have been hit by a rubber bullet. He was not aware of any shooting at the time. If there was any, he thought he would have assumed it was rubber bullets. At **AB61.2 paragraph 8** he stated that his immediate thought was to try and get across the car park and out through the alleyway between Blocks 1 or 2 of the Rossville flats. He ran in that direction directly towards where the boy lay. He was lying face down on his own with his head pointing south towards Block 2. He went towards him and turned him over and that was when he recognised him as Jackie Duddy. He knew Jackie because they were both amateur boxers. They used to train together. He was a dedicated young man who never took a drink. He was wearing a normal coat and trousers. The only distinctive thing he was wearing was a Pioneer pin on his coat. The pin was from the Total Abstinence Association and means that the wearer does not drink alcohol.

17.6.2.14 At **AB61.2 paragraph 9** he described turning over Jackie Duddy and realising that he had been shot through the chest and that he was dead. He knelt down beside him and said the act of contrition in his ear. He was with him for a minute or two on his own. Father Daly arrived and started praying with him. Then Charles Glenn of the Knights of Malta arrived. At **AB61.2 paragraph 16** the witness identified himself as the person wearing the cap and carrying Jackie Duddy in the photographs starting at

[11] For example Peter Gallagher **Day 83/38/10 to Day 83/38/25** and **Day 83/39/1 to Day 83/40/25**,

EP25.6. It was as he was bent over Jackie Duddy praying in his ear that he first became aware of the sound of shooting and of soldiers taking up positions on the waste ground at Pilot Row and Eden Place. He realised live ammunition was being fired. AB61.2 paragraph 10.

17.6.2.15 **William McChrystal** now deceased, made a statement in 1972 which can be found at AM460.1 He described coming into the courtyard of the flats and seeing Father Daly kneeling over the body of a fallen youth. He saw another man assisting and went to their aid. As he was kneeling the army fired over their heads and the bullets hit the back wall of the courtyard. When he arrived at the youth's side there was no evidence of any weapon, gun, nail-bomb or stone. They carried the youth up either Harvey Street to Waterloo Street. They laid him on an eiderdown supplied by Mrs. McCloskey. He was dead at this time. His name was Jackie Duddy.

17.6.2.16 **Charles Glenn** was the Knight of Malta who tended to Jackie Duddy. He made a NICRA statement at AG43.10 and his more recent statement is at AG43.1. At AG43.3 paragraph 21, Charles Glenn described a paratrooper jumping out of a vehicle and assaulting an old man. At AG43.3 paragraph 23 he stated that immediately after this (assault on the old man) he heard a shot being fired from what he thought was an SLR. He thought it was fired from the vicinity of Eden Place but he was not in the best position to confirm this. He did not see shots striking the ground at Pilot Row aimed at the soldiers. He then heard people calling to him. He was not sure whether this was before or after he got up from the ground. Once they saw him looking around the area, a group of people beckoned him over and he gathered that someone was down. He probably ran across the waste ground in a southwesterly direction to reach the group. He recalled passing a soldier standing by the north stairwell of Block 1 of the Rossville Flats, but he could not recall any other people in that area.

Kevin Leonard AL7.5 paragraph 10,

17.6.2.17 He thought that there were about three or four people kneeling or crouching beside the body of a young man. **AG43.4 paragraph 26**. He noticed that the casualty was lying on his back unconscious and had lost a lot of blood. He searched for the entry wound and saw that he had been shot in the left collarbone. He propped up the body on several occasions to try and find out if he could find the exit wound, which he found in the middle of his back. On examination he concluded that the wound was fatal and there was nothing he could do for him. He covered the wound with a bandage although by this stage the wound was not even bleeding. He thought that the youth had already died by the time he arrived at the scene, however he was not suitably qualified to make this assessment. He confirmed the body would have been turned more than once whilst he was there. **Day 080/188/15 to Day 080/188/17**. The people surrounding the man's body included Father Daly and people who he now knows as Liam Bradley, Hugh McMonagle and another person whom he did not know. He did not know but subsequently discovered that the boy was Jack Duddy. **Day 080/192/2 to Day 080/192/9**. He remembered the soldiers pointing their rifles and an impression of shots being fired at different elevations. **Day 080/192/10 to Day 080/192/12**. He remembered a number of army vehicles which had entered the area together .He recalled two volleys of shots from around the nearest armoured vehicle and that the weapons were pointed in the direction of the flat courtyard. **Day 080/191/20 to Day 080/192/9**.

17.6.2.18 **Hugh McMonagle** whose statement to the Inquiry appears at **AM369.2** also gave oral evidence on day 100. The witness described running in the direction of Rossville Flats as the army came in. He saw Lieutenant N's Pig pull onto the waste ground and saw a number of army vehicles driving south down Rossville Street. He was running along a narrow path which was parallel to the back gardens of houses in Chamberlain Street. He did not look behind him. As he was running he heard live fire. There were no soldiers or vehicles in front of him. As he continued he went through a gap in the wire fence and ran into the car park. As he ran he saw a body in the car park which he later knew to be Jackie Duddy. The witness ran on

and got behind the low wall in front of Block 2. As he lay there he could hear shots which seemed to be hitting Block 2 although it may have been that they were ricocheting round the car park. His impression at the time was that they must have been fired from the soldiers in the Pig at Eden Place. **AM369.3 paragraphs 15 to 16**. From his position he did not see any bottles or other items being thrown from the top of the flats. **AM369.3 paragraph 18.** He saw a priest around the body and he went over. He recognised the priest as Father Daly and saw Charlie Glenn, who was a Knight of Malta. He then witnessed events surrounding the shooting of Michael Bridge and accompanied him to 33 Chamberlain Street. When he emerged he turned left towards the car park and saw Father Daly with the group coming towards him. He joined the group at the end of Chamberlain Street and helped carry Jackie Duddy north up Chamberlain Street.

17.6.2.19 **William Barber**, now deceased, was interviewed by the Sunday Times in 1972 which can be found at **AB9.1**. At **AB9.2** he recalled reaching the Chamberlain Street gable and was running. He described it as "confusing" but he was running and there was a young lad beside him running on his left. He just fell as in a "dead man's fall". He just toppled forward. He thought the lad must have been hit by a rubber bullet on the back of the head. He seemed to hit his face on the ground. When Mr. Barber looked down he saw a trickle of blood on the ground presumably from the front of his face. He thought it must be from where the lad had hit his nose. Mr. Barber and another boy picked him up to try to drag him along. He was awfully heavy so they turned him over. Blood gushed from his nose and mouth. They dropped him and his head hit the ground. Mr. Barber recalled thinking he must get the boy medical assistance. Father Daly came back from the flats towards them. The witness shouted up to two women in the flats and he also went towards the Chamberlain Street entrance. When he got back a bloke with a cloth cap was there tending to the boy and Father Daly was trying to clear everyone away to give the boy the last rites. Mr. Barber knew they were being fired at. He didn't think he heard a shot but heard people shout: "They're firing at us".

17.6.2.20 A clear body of evidence suggests that Jackie Duddy fell forward, after being shot, on to his face. The evidence of Father Daly, the witness **Kevin McDaid** at **AM167.3 paragraph 13**, **William Terence McClements** at **AM108.2 paragraph 9**, **James McKinney** at **Day 081/99/18 to Day 081/100/4** and **Martin Tucker** at **Day 098/89/12 to Day 098/89/15** confirm a picture consistent with the injuries found on the body of Jackie Duddy as having fallen forward on to his face. It is clear that the injuries visible in **EP25.7** would be consistent with a forward fall.

17.6.2.21 In summary the following submissions arise out of the above evidence:

(i) Jackie Duddy was unarmed when he was shot.
(ii) He had nothing in his hands.
(iii) There was no object near him when he fell and no weapon or missile of any kind around him.
(iv) He was running away from the soldiers at the waste ground and the mouth of the car park.
(v) He was shot from behind by one of those soldiers as he fled.
(vi) No-one around Jackie Duddy was engaged in any threatening activity towards the soldiers.
(vii) The soldiers continued to fire into the car park as Jackie Duddy was being tended to by Father Daly and others.
(viii) There was no gunfire, nail bombs or any threat directed towards the soldiers from the car park.
(ix) There was no activity which could justify the shooting of Jackie Duddy.
(x) Jackie Duddy was murdered in the Rossville Flats car park by a soldier.

Movement of Jackie Duddy from the car park.

17.6.2.22 **William Barber** stated that Father Daly and he thought also himself had handkerchiefs out as they carried the body towards the Saracen and the nearest soldiers. The soldiers shot at them. Mr. Barber said a few choice

words and they veered towards and down Chamberlain Street. Once they got round the corner of Harvey Street in what must have been Waterloo Street they laid the boy down there and Mr. Barber put his jacket under him. Other people put coats around him.

17.6.2.23 **Father Daly** described the discussion and decision to move Jackie Duddy to Harvey Street or Waterloo Street so as to have a better chance of getting an ambulance. **H5.5 paragraph 23**. After the interlude involving the gunman they got up on their knees and he waved a white handkerchief. There was a burst of gunfire and their group lay down again. Eventually the group got up and the body was carried up Chamberlain Street, right into Harvey Street and then into Waterloo Street where Mr Barber took off his coat and Jack Duddy's body was laid down on it. He appeared to be dead at that time. **H5.6 paragraph 25**.The position is marked as the letter J on **H5.25**.

17.6.2.24 The photographs **P631** and **P634** show Jackie Duddy being carried to Waterloo Street. At the corner of Chamberlain and Harvey Street the party met Mr Bierman and Mr Cave of the BBC and a patrol of soldiers and can be seen on the video footage at **V1/0.5.13 to 0.5.24**. A lady who lived in the vicinity, Mrs. McCloskey, called an ambulance. Father Daly waited for the ambulance.

17.6.2.25 **Charles Glenn** at **AG43.4 paragraph 31** described moving cautiously with the young man's body in a northeast direction towards Chamberlain Street and then up to the junction of Harvey Street. He was concentrating on keeping the dressing in place. Liam Bradley recalled a being part of the group which carried Jackie Duddy out of the car park and north up Chamberlain Street. **AB61.6 paragraph 12**.

17.6.2.26 **Hugh McMonagle** identified himself in Video footage. **V1/05.13 to 0.5.24**. and **AM369.5 paragraph 28**. As they carried the body up Chamberlain Street he could hear shooting which he thought was coming

from the North of Chamberlain Street and over their heads. He thought the shots were in front of him and definitely being fired in the street because of the echo on houses on either side of the street. The group carried Jackie Duddy up Harvey Street and laid him down on the ground. Mr. McMonagle went to find an ambulance and saw a policeman, an army officer and four soldiers on the wall at the side of Castle gate. He did not know which regiment they were from but he shouted to them to "get a fucking ambulance, as a wee boy has been shot." As he shouted the Officer, wearing kid gloves, began to slow handclap. Mr. McMonagle went to another Barrier across Waterloo Street and shouted at the soldiers there to get an ambulance. The soldier spoke into a radio and appeared to him to be pretending he knew nothing about what had happened. He grabbed across the barbed wire at the soldier and was struck by other soldiers with the muzzles of their rifles. He did not recall how long he was there but when he turned round everybody and Jackie Duddy's body had gone. The witness went down Harvey Street and was chased by soldiers who ran up from the Chamberlain Street end. **AM369.6 paragraphs 30 to 32**.

17.6.2.27 *[This paragraph has been withdrawn at the request of Madden & Finucane on the grounds of duplication with paragraph 17.6.2.23. Paragraph number 17.6.2.27 is accordingly not used.]*

Activity around Jackie Duddy

17.6.2.28 It is submitted that the civilian evidence establishes overwhelmingly that no person near Jackie Duddy was doing anything or carrying any item

which could have justified shooting in his direction. Father Daly was clear that he saw no nail bombs explode at any time during the afternoon. **H5.3 paragraph 12** and **Day 075/57/19 to Day 075/58/3**. Nor did he witness any hostile action either stone throwing or shooting against the army prior to them opening fire. He was clear that people were merely running for safety. **Day 075/25/5 to Day 075/25/14**. The first shot heard by Father Daly in this area was the shot which killed Jackie Duddy. **H5.3 paragraph 12**. As he was administering the last rites to Jackie Duddy the gunfire began again and heavy firing continued after the shooting of Michael Bridge and as they carried the body of Jackie Duddy across the car park. **H5.6 paragraph 25**. Father Daly was not aware of any gunfire directed towards the army from the car park or the flats. **H5.4 paragraph 18**. It is clear on our submission that not only was Jackie Duddy running away from the soldiers with his back towards them and was at all times a target moving away there is no civilian evidence whatsoever of anyone else around or near Jackie Duddy stopping to confront the soldiers or indeed of anyone stopped and confronting the army or having anything in their hand.

17.6.2.29 It should be noted that on **Day 095/146/22 to Day 095/147/5** Mr. Glasgow QC when questioning the witness John McCrudden, who had acknowledged that he may have been mistaken in his suggestion that Jackie Duddy was a boy who may have had a bottle in his hand, stated the following: "...I think it is right you should know that neither I nor any of my colleagues has ever suggested that Jackie Duddy had a bottle".

17.6.2.30 **Christy Lavery**, at **AL5.2 paragraph 9** stated that he was running into the Rossville Flats car park and came abreast of a young man whom he now knows to have been Jackie Duddy, whom at the time he did not know. Jackie Duddy was a few yards west and to the right perhaps one pace in front of the witness. The witness did not hear a shot, but saw a gush of blood coming out of the left-hand side of Jackie Duddy's chest. **Day 085/72/7 to Day 085/72/14**. He saw him crumple and fall to the ground landing on his face, with his head pointing towards the alleyway between Blocks 1 and 2 and his feet towards the waste ground. His arms were

spread out at right angles to his body and he could see that he had a stone in his right hand. **AL5.2 paragraphs 10 to 12** The witness described at **AL5 paragraphs 11 to 12** how he called a Knight of Malta to help tend to Duddy, but he described this man as being a different Knight of Malta than the one shown in photograph at **AL5.6**. He also did not remember Jackie Duddy being attended to by Father Daly. When questioned by Mr. Lawson at **Day 085/85/7 to Day 085/85/10** as to whether he was having difficulty recalling what he saw that day he answered that his recollection of the facts might be different now than to what he recalled then. He gave evidence at **Day 085/72/15 to Day 085/72/19** and he described the size of the stone at as "pretty small about tennis ball size." When questioned further about the matter by Mr Lawson at **Day 085/85/11 to Day 085/85/25** he indicated that it might have been smaller maybe a golf ball size or a large marble size. Even if this evidence were correct it is clear that at the time Jackie Duddy was shot he presented no threat to the soldiers whatsoever.

17.6.2.31 The witness **Brian Johnston** described taking Jackie Duddy by the right shoulder and raised his shoulder about two feet off the ground. He saw a huge amount of blood coming from the chest area and there appeared to be an open wound. The witness saw Duddy's right hand opening and inside there was a pebble the size of a bead. **Day 084/108/14 to Day 084/108/19**. He had thought about this since and believed the pebble had been scooped up into Duddy's hand as he fell. The witness did not believe he saw his left-hand which as it would have been under his body as he lifted him.

17.6.2.32 A large number of witnesses confirmed that Jackie Duddy had nothing in his hands when he was shot. **Father Daly** at **H5.19 paragraph 14 lines 8-10**, **William McChrystal** at **AM460.1**, **Kathleen O'Donnell** at **AO23.3 paragraph 14**, **Brian Ward** at **AW6 paragraph 13**, **Kevin Leonard** at **AL.1 paragraph 13**, **Patrick Doherty** at **AD96.1 paragraph 16** and **Isabel Duffy** at **AD158 paragraph 15** all confirmed that Jackie Duddy

had nothing in his hands when he was shot.[12] Neither was anything found around his body .The evidence of **Christy Lavery** and **Brian Johnston** has be placed alongside this evidence and it is submitted that the overwhelming weight of the evidence is that Jackie Duddy had nothing in his hands when he was shot.

Direction of Jackie Duddy across the car park

17.6.2.33 As well as Father Daly a large number of witnesses placed Jackie Duddy at the time of the shooting running southwards in the car park of the Rossville Flats and running away from soldiers in the direction of the gap between Blocks 1 and 2 of the flats. The witness **Joseph Eugene McGrory** at **AM268.2 paragraph 10** placed Jackie Duddy as running in the same direction as himself towards the gap between Block 1 and 2, as did **Peter Gallagher** at **AG23.2 paragraph 11**, **Bernard Joseph Gilmore** at **AG38.4 paragraph 20**, **Martin Tucker** at **AT17 paragraph 21**, **Kevin McDaid** at **AM167.3 paragraph 14**.[13] The evidence of **Alexander McLaughlin** at **AM317 paragraph 12** and **James McGeehan** **AM227 paragraphs 10 to 11** would appear to support this proposition. **Mary Bonner** at **AB38.2 paragraphs 12 to 14** and **Brian Ward** at **AW6.1 paragraph 13** placed Jackie Duddy running near or along-side Father Daly as he ran towards the low wall in front of Block 2.

Other civilian witnesses in the car park.[14]

17.6.2.34 **Patrick Doherty** at **AD96.3 paragraph 16** stated that Jackie Duddy at the time he was shot was standing shouting at soldiers and was not running away. It can be noted that at **Day 085/12/2 to Day 085/12/6** Counsel to

[12] See also **Charles Glenn** **AG43.1 paragraph 33**
[13] See also **Patrick Harkin** **AH29.1 paragraph 13**
[14] **James McKinney** at **AM303 and Day 81/97/14 to Day 81/102/22** gave evidence which closely described the shooting of Jackie Duddy but his location of his fall was clearly wrong .The witness was not inflexible on this point at **Day 81/102/14 to Day 81/102/21**. The witness **James Christopher McKnight** also clearly described the shooting of Jackie Duddy but located the postion of his body wrongly. The scene in **P360** brought back a recollection, **Day 401/142/12 to Day 401/142/23**. At **AM312.17** he located two soldiers firing one at the south west gable end of Chamberlain Street below no. 36 and one south of Chamberlain Street in the car park.

the Inquiry asked what was Jackie Duddy doing at that point. The witness answered: "They were just standing, they were standing sideways facing the soldiers, shouting at them getting ready to run". In examination at **Day 085/27/18 to Day 085/27/24** Mr Finnegan QC suggested to the witness that when he eventually got a clear sight of Jackie Duddy lying on his back it was that that led him to the conclusion that he must have been standing facing the soldiers when he was shot. The witness was asked could he have been mistaken about that, his answer was: "might have been it has been a long time ago". It is suggested that in regard to the witness Patrick Doherty the overwhelming body of evidence suggests that Jackie Duddy was running away from the soldiers and was not facing them when he was shot.

17.6.2.35 **Paul McDaid** at **AM173 paragraph 9** described running south down Chamberlain Street. He headed for the gaps between Blocks 1 and 2. As he did so he became aware of Jackie Duddy to his right running in the same direction as himself. There was nothing in his hands. Suddenly Jackie who was wearing a red polo neck jersey pitched forward and fell on his mouth and nose arms outstretched. He thought he had tripped and could not recall hearing shots.

17.6.2.36 **Brian Ward** at **AW6 paragraphs 13 to 15** described running towards the wall in front of Block 2 of the Flats alongside him to his left. He noticed a lot of other young fellows running in the same direction at the same time. He heard a shot and noticed a young fellow to his left hit. He believed Jackie Duddy had been running to his left and Father Daly was between them although slightly behind them. He knew the boy was seriously injured because he fell and made no effort to break his fall. He had nothing in his hands.

17.6.2.37 **Brian Johnston** at **AJ9.5 paragraphs 18 to 23** was running into the courtyard of Rossville Flats heading towards the alleyway between Blocks 2 and 3. He heard gunfire from behind him. There was a short volley of shots. He thought he heard two or three shots before he saw, out of the corner of his eye, a lad fall face forward to the ground. The lad who he

now knows was Jackie Duddy had been running at the tail end of a small group. He had become isolated and fallen a little behind. The witness remembered seeing the black gaberdine of the priest flapping as he was running a couple of yards ahead of the lad. He now knows the priest to be Father Daly. He knew the shots were high velocity rounds from their high pitched distinctive crack. They were the first shots he heard that day. He then went over to tend to him.

17.6.2.38 **Peter Gallagher** whose statement appeared at **AG23.3**, was one of the rioters at Barrier 14. He ran into Chamberlain Street and into the courtyard of the Rossville flats towards the exit between Blocks 1 and 2. He said that he heard a high velocity shot and saw Duddy about twenty feet away from him fall at a point D at **AG23.8**. He says that everyone had been running behind Duddy and then stopped and ran back to the gable end wall on the western side of Chamberlain Street, that is below number 36. He saw Father Daly give Jack Duddy the last rites. There was continuous firing from all around him.

17.6.2.39 **James Donal Deeny** ran south across the car park to the point marked, but did not remember aiming for anywhere in particular. **Day 086/138/1 to Day 086/138/25**.

17.6.2.40 A boy, who he now knows to be Jackie Duddy, was running slightly in front of him and to his right. Jackie Duddy wore dark lightly clad clothing and was in the same bunch of people as the witness. He was about a yard or two away from him and they were both facing south. He thought that they may have both ran past a soldier as they ran through the car park from the entranceway. The witness then saw Duddy shot almost in front of him. He fell over immediately on to his face and his head was pointing to Block 2 and his feet to the entrance of the car park. **Day 086/87/1 to Day 086/87/20**. He stopped up short; as if he had not he would have tripped over him. The witness does not recall hearing the shot that hit Duddy. He stopped and looked at him for 5 or 10 seconds. There was blood was coming out of his chest area. The witness cannot recall hearing any shots

before Duddy was shot. There was what seemed to be a lull between Duddy being shot and the people in the car park starting to flee. The witness knew that Jackie Duddy was dead or about to die. **Day 086/142/6 to Day 086/142/9**. In **AD26.4 paragraph 16** he stated that Bridge made a run for the soldier who he thought had probably shot Jackie Duddy at point G on the attached plan, **AD26.9 Day 086/87/21 to Day 086/87/25**. This was the northeastern corner of Block 1 of the Rossville flats.

17.6.2.41 **Sean Eugene O'Neill** whose statement appears at **AO65.1** is not being called to give oral evidence to the Inquiry. It is submitted that the Inquiry ought to treat the evidence of this witness with the utmost caution. If his evidence of events in Sector 2 as a whole and later events at the Rubble Barricade is taken as a whole we would adopt the observation of Christopher Clarke QC on **Day 24** of his opening statement concerning this witness's "fleetness of foot". His ability to have witnessed almost all the major incidents in these areas is remarkable and highly improbable. His description of Jackie Duddy as a regular rioter is utterly false. It is not borne out by the personal background information, or the weight of the civilian evidence.

17.6.2.42 **Noel Doherty** at **AD91.3 paragraph 18** described turning in the run to the direction of the alleyway between Blocks 1 and 2 of the Rossville Flats. However, he could see that this exit was congested. The witness estimated that about 150 people were trying to get into that alleyway and the entrance door into Block 1 of the Rossville flats. He decided to head for the alleyway between Blocks 2 and 3 of the flats as this did not seem to be as congested. At **AD91.3 paragraph 20** he referred to beginning to run.

17.6.2.43 However, at this point he saw a soldier standing on the corner of Block 1 of the Rossville flats at the point marked 4 on the attached map at **AD91.8**. This soldier was leaning against Block 1 but did not seem to me to be taking shelter. He was holding up his rifle just under his armpit and aiming through his sights. The soldier was firing shots in a diagonal line in the direction of the alleyway running between Blocks 2 and 3. He saw his rifle

jerk up but did not see any smoke or flashes coming from the rifle. He then heard about five or six shots go past him. He carried on running in the direction of the alleyway between Blocks 2 and 3 of the Rossville flats, glancing over his shoulder as he ran. He could just about see Army vehicles towards the Rossville Street end of the courtyard in the approximate positions marked 5 and 6 at **AD91.8**. He could not recall how many or what type of vehicles they were. As he was running to make his escape, he noticed a young man had fallen to the right of him. Although he did not know who he was at the time, he now believed that this young man was Jackie Duddy. At the time he thought he had tripped, as he had fallen in the middle of the courtyard. He did not realise that he had been shot. He did not stop but carried on running, trying to keep his body as low as possible. When he got to the low wall (about three feet or so high), which was a few feet north of Block 2 of the Rossville flats, he jumped over and got down behind it.

Witnesses present in the Rossville flats who saw the shooting.

17.6.2.44 **Mary Bonner** gave evidence to the Widgery Inquiry at **WT5.38**. She lived at 34 Garvan Place on the second floor of Block 2 of the Rossville flats and was viewing events from the veranda looking out onto the car park towards Chamberlain Street. At **AB38.1 paragraph 7** she stated that her first recollection was seeing a crowd of screaming people running down Chamberlain Street towards the car park. She believed that there were also people running down Rossville Street but she was really concentrating on Chamberlain Street. She could hear a lot of banging which sounded like rubber bullets and also the helicopter overhead. **Day 082/47/1 to Day 082/47/5**. Almost at the same time as the crowd were running into the car park two Saracen armoured cars arrived in the car park. They had been travelling at speed and she could hear the sound of their engines. The noise of their engines made her focus on the Saracens. She was not exactly sure where they came from.

17.6.2.45 She first saw them as they arrived in the car park. One Saracen, which was possibly the first to arrive, pulled up at the side of the stairs at the northern gable end of Block 1. Its back door was open facing the car park. The other seemed to be more or less behind it, but she could not be specific other than it was on the waste ground. She could not describe the position of this one in detail and was unsure which way it was pointing. **Day 082/49/22 to Day 082/50/8**. The witness saw two soldiers jump out of the back of the first Saracen, the one parked just by Block 1. One soldier knelt on one knee holding his rifle in an aiming position, the other jumped out from behind him and seemed to fire his gun immediately. He didn't seem to aim it but fired it from waist height. They did not move from those positions and stayed close to the back door of the Saracen. **Day 082/51/1 to Day 082/52/4**. As she looked down the car park had virtually cleared but there were still some people running towards the low wall, which runs parallel to Block 2 and just in front of the rear entrances to the shops. Many people were lying or hiding behind that low wall, but the witness could not give precise numbers. There were still a few people running for cover.

17.6.2.46 She saw a young man, who she now knows to have been Jackie Duddy, running possibly from the direction of Chamberlain Street. The witness believed he was the last person running for cover and she assumed that he was running from the direction of Chamberlain Street. He was making towards the low wall. **Day 082/52/5 to Day 082/53/14**. She could see Father Daly run past him. She did not know where Father Daly came from. The witness saw Jackie Duddy turn his face slightly to the left as if he was looking behind or to the side of him. She heard a bang and he went down face first on to the car park. **Day 082/53/21 to Day 082/54/1**. He fell approximately at the end of the middle set of white car parking lines. **AB38.6**. Jackie Duddy was heading for the low wall and running more or less straight towards her. Father Daly and a couple of other people who had been with him ran behind the wall. She could not tell where the shot that hit Jackie Duddy came from but connected it in her mind with the soldier that she saw shoot his gun when he got out of the back of the

Saracen. The two events were instantaneous. **Day 082/54/9 to Day 082/54/14**.

17.6.2.47 She shouted down to the people hiding behind the low wall "that young fella's been hit by a rubber bullet", which was what she thought at the time. Father Daly crawled out towards Jackie Duddy who was lying face down. He knelt on Jackie Duddy's right (to the left as she looked) and turned him face up. **Day 082/55/1 to Day 082/55/10**. She could see that Jackie Duddy had blood on his shirt and could see that he tried to lift his head. As Father Daly was cradling Jackie Duddy's head she then heard two shots and Jackie Duddy seemed to jerk and then was still. The witness did not know where those shots came from or whether they hit. They sounded the same as the first shot that she had heard. She could not see any other civilians in the car park, her attention was focused on Jackie Duddy and Father Daly. She then witnessed the shooting of Michael Bridge.

17.6.2.48 She placed Jackie Duddy as falling approximately at the southern end of the middle set of white car parking lines the spot having been marked at **AB38.6**. It is a little further over to the east from the place at which the photographs show Jackie Duddy to have fallen.

17.6.2.49 **Isabel Duffy** gave evidence to the Widgery Inquiry at **WT5.53 D** and to this Inquiry at **AD158**. At **AD158.2 paragraph 12** she stated that whilst at her brothers flat, which was two to three doors into Block 2 from Block 1, she looked down into the car park and saw a young boy running in from the entrance. The boy seemed to be running towards the Bog entrance as it was known, which was the alleyway between Blocks 1 and 2. She recognised him as Jackie Duddy but did not know him personally. The witness was a member of the amateur boxing Board of Control at the time and knew him to be a young boxer. The witness focused in on him and he seemed to me to be at the tail end of the people who had run down William Street towards the Rossville flats. The witness could not recall seeing anyone else around. **AD158.2 paragraphs 11 to 13**.

17.6.2.50 At about the same time, she noticed two soldiers, both on one knee, by the northern gable end of block 1 of the Rossville flats. The position is marked as "3" on **AD158.7**. She could not recall whether or not they were wearing any masks or visors or of any sort. Both were kneeling fairly close to the wall. The soldiers were holding their rifles against their waists. She could not recall whether either of the soldiers had their right or left-hand on the trigger. The witness could recall that whichever hand was not on the trigger was being used to support the barrel of the rifle and that hand was steadied by the soldier leaning his elbow on the knee that was not in contact with the ground. As she looked back and forth from Jackie Duddy to the soldiers a shot rang out, she believed from the two soldiers she was looking at. At the time she thought it was a rubber bullet as it was too early in the troubles for her to distinguish between various types of bullet. **AD158.3 paragraphs 14 to 15**. Her account of 23 February 1972 at **AD158.8**, has her coming out of her brother's flat and seeing one of the soldiers get down on his knee and point a rifle, having jumped out of the Saracen, and fire two shots, the second of which she believed killed Jack Duddy. This account was consistent with her evidence to Widgery at **WT5.53 C-D**.

17.6.2.51 Jackie Duddy continued to run. He had reached as far as the about the third garage away from the southern end of Block 2 when a second shot rang out and he pitched forward, his arms outstretched and his hands open and he fell on his face. He fell in the position marked 5 on **AD158.7** and his head was nearest to her with his feet towards the entrance to the car park. His legs were splayed out. He was not carrying anything in his hands or in his arms when he fell. After he fell the witness could see blood spreading down his back, from the top of his back towards his hips. At the time she did not see anybody else in the car park or around Jackie Duddy. To her the car park seemed to be empty. There could have been people sheltering close against the wall in front of Block 2 but she would not have been able to see them from where she was standing. **AD158.3 paragraphs 15 to 16**.

17.6.2.52 **Cathleen O'Donnell** was 16 or 17 at the time and lived with her family at 57 Donagh Place on the eighth floor of Block 3. At **AO23 paragraph 8** she described attempting to get to her flat after going on the march. On the top walkway of Block 2 she was stopped by a man who was lying down on his tummy and overlooking the car park. She could still hear shooting but did not know where it was coming from. He shouted at her to lie down 'they are shooting they can see you'. She went straight down on to her hands and knees and began to crawl along the top balcony of Block 2 on her mouth and nose. **Day 082/101/19 to Day 082/102/4**. She was terrified because she could hear shooting and did not know where it was coming from or what the people shooting were aiming at.

17.6.2.53 Whilst the witness was crawling along she was looking out to her left across the Rossville flats car park. She had a clear view from the balcony. There were railings that went from the floor of the balcony to approximately chest height and she could put her feet through the gaps and she could see through them clearly. As she was looking through the railings and crawling along she saw some soldiers running across the waste ground behind the Chamberlain Street houses but did not pay much attention to these soldiers. She also saw one Saracen which had stopped near Pilot's Row on the waste ground. **Day 082/102/7 to Day 082/102/25**. She could see some people running into the car park from Chamberlain Street. She agreed that what she saw gave the appearance of people trying to get away through the alleyway between Blocks 1 and 2 and Blocks 2 and 3. **Day 082/103/23 to Day 082/104/4**.

17.6.2.54 Two soldiers caught her attention. She did not know where they came from, whether they ran across the waste ground or whether they came from the Saracen, but she did not see them come out of the Saracen. They were standing at points 1 and 2 marked on the map at **AO23.11**. Points 1 and 2 are on the northeast corner of Block 1 of the Rossville flats. A black soldier was holding a large gun from his waist and was shooting it around the car park at waist height and up in the air. We know there was no black soldier in Mortar Platoon but the witness believed that he appeared to be

aiming his rifle at nothing in particular. He appeared to be aiming at nothing in particular. He was shouting - she could hear the echo of his voice. The soldier kneeling was shooting from his shoulder, again in no particular direction, just all around the car park. **AO23.2 paragraph 11**, **Day 082/105/9 to Day 082/106/7**.

17.6.2.55 At that time there were not many crowds in the car park. There were some people running, trying to hide. People were disappearing as the soldiers were shooting. Her attention was focused on the two soldiers, as she did not know what they were shooting for and did not hear anything being shot at them. **AO23.2 paragraph 12**.

17.6.2.56 The witness then noticed a young boy run across the car park from the point marked 3 on **AO23.11** and at the points marked 3 on photographs **AO23.9** and **AO23.10**. At **AO23.3 paragraph 14** she described the boy running across the car park in front of the garages underneath Block 1, side along to her. He was the only person there at the time and she was unsure where he came from. She believed he was running towards the gap between Blocks 1 and 2 of the flats. He looked happy. He had long dark hair and was wearing a dark coat with big lapels. He had nothing in his hands. She remembered at one stage he looked around and then ran on. The witness did not believe that he saw the soldiers and people were shouting at him to lie down. Suddenly she saw his arms go up above his head in a "v" shape and he fell flat to the ground. She did not remember if he fell on to his back or his tummy. At that time it did not register with her that he had been shot. The witness then saw blood running out from underneath him and she knew then that he had been shot. He was shot at the point marked 4 on **AO23.11**. She connected the shooting to the two soldiers she had seen at the northeast corner of Block 1. **Day 082/110/13 to Day 082/110/25**. When her father threw her into the flat there was still shooting going on. **AO23.3 paragraph 17**. The last thing she remembered is seeing the young lad on the ground with lots of blood everywhere and a man with no hair near him with a white flag. This was Father Daly. She later learned the boy was Jackie Duddy. **AO23.3 paragraphs 15 to 16**.

17.6.2.57 The late **Derrick Tucker**, who lived at 31 Garvan Place in Block 2 of Rossville flats, had served three years in the Royal Navy and thirteen years in the Royal Air Force. On the day itself he saw from the veranda outside his flat people in Rossville Street and Chamberlain Street suddenly start to run and saw the approach of the convoy of armoured vehicles. **WT7.9 A-B**. The scene is as depicted in his photograph at **EP28.5**. Two Saracens turned into the car park of the Flats from Rossville Street. In doing so they drove through the crowd and the first Saracen knocked down one man, sending him spinning away. The Saracens stopped and soldiers deployed from the back of them. Immediately the Saracens stopped the soldiers got out. One soldier ran to the front nearside wheel and took up a firing position. Another ran to the backs of the Chamberlain Street houses and started pushing people with his rifle held in a port position. **AT16.1**. He described at **WT7.14 B** how another soldier from the leading Saracen took up a firing position on the offside of the vehicle. This soldier raised his rifle and started firing towards the landings of the flats. The witness estimated that there was thirty seconds to a couple of minutes between the soldiers getting out of the Saracens and their commencing fire. **WT7.14 C**. Up to that point the only firing he had heard was of gas canisters and rubber bullets at the junction of William Street and Rossville Street. The soldier at the nearside front wheel of the Saracen started firing and he saw a man fall to the ground. That man turned out to be Jackie Duddy. **WT7.9 C**. He described himself as being 30 yards at least from Jackie Duddy. **WT7.14**. He saw Father Daly going to his assistance. **WT7.14 D**.

17.6.2.58 On the evidence of the soldiers, the person who would appear to have been in that position was Sergeant O. The witness described two further shootings in the car park. At no time did he see any of the above mentioned men with weapons of any sort in their hands. **WT7.14 C**.

17.6.2.59 **Martin Tucker**, the elder of the two sons of Derrick Tucker Senior who were present in 31 Garvan Place that day, stated at **AT17.3 paragraph 17** that two Saracens stopped just in front of garages at the point marked D on

the map attached to his statement at **AT17.16**. It was positioned about a third to a half of the way down Block 1 and to the east of block 1, slightly further down than the photograph of the Pig number 2 would appear to suggest. At **AT17.3 paragraph 17** the witness stated that two soldiers got out of the back of one of the vehicles, which was very unusual. The two soldiers came round to the front of the vehicle fairly quickly. Other soldiers may have got out but he only saw those two clearly.

17.6.2.60 At that time, the rest of the crowd was generally scattering and getting out of the way. Some people were heading for the stairway at the north end of Block 1. Most were going for the alleyways between Blocks 1 and 2 and Blocks 2 and 3. The two soldiers were wearing khaki uniforms and helmets. The witness did not notice anything distincti ve about them as they moved to the front of the vehicle. One stood by the offside door (i.e. the passenger door **Day 098/87/16 to Day 098/87/19**) at the front of the vehicle. He was not sure if the other one went round to the other side of the vehicle, but his recollection was that they were both quite close together. He had an image of the one that moved closest to Block 1 leaning on the front of the Saracen and he did not see them taking cover in any way.

17.6.2.61 Within seconds, one or both opened fire. They were high velocity shots and were the first shots he had heard that day. The witness recalled that both soldiers were shooting but he could not be 100 per cent certain. He stated that one of them definitely was. People were still running away and the crowd were starting to thin. He saw the soldier who was by the offside door, aiming his rifle from the shoulder. **Day 098/88/10 to Day 098/88/15**.

17.6.2.62 He then heard a crack and saw a man, who he now knows to have been Jackie Duddy, fall at the point marked E on the map **AT17.16** attached. At first he could not really believe he had been shot and was trying to make sense of it. However, from the reaction of the people around him, the witness then knew that he had been shot. He had been running side on to the soldier when he was shot. The witness confirmed that he was neither

directly facing the soldier or had his back directly to the soldier. **Day 098/89/21 to Day 098/90/8**. He seemed to be running for the exit between Blocks 1 and 2. **AT17.4 paragraph 21**. At the time he was shot there would have been about half a dozen or so people closest to him who perhaps realised what had happened. **Day 098/92/6 to Day 098/92/11**. The next thing the witness saw was his parish priest, Father Daly, as he was then, by the side of Jackie Duddy. A small crowd of maybe half a dozen had gathered around them. And when they later started taking Jackie Duddy out of the car park, he recognised one of those people as Willie Barber. **Day 098/92/21 to Day 098/92/24**.

17.6.2.63 The witness then described the shooting of Michael Bridge In those first few minutes when Jackie Duddy and Mickey Bridge were shot, he recalls there were maybe half a dozen or ten shots. He thought all these shots were from the two soldiers he had seen. The witness described the interval between the shooting of Jackie Duddy and Mickey Bridge as "a few minutes at most." **Day 098/135/20 to Day 098/136/15**.

17.6.2.64 **Derrik Tucker Junior** was aged 12 at the time of Bloody Sunday. He recalled large numbers of people trying to out of the Courtyard from the alleyway between Blocks 2 and 3 but also recalled there were more people concentrated around the exit between Blocks 1 and 2. **AT15.3 paragraph 16**. At **AT15.3 paragraph 18**, he described about five or six Saracens, one of which turned eastwards off Rossville Street and came on to the waste ground. The witness recognised this as the scene in **EP28.4A**. **Day 099/5/20 to Day 099/6/2** When the Saracens came in there were hundreds, possibly thousands of people in the area of waste ground around Eden Place and Pilot's Row. **AT15.3 paragraph 19**.

17.6.2.65 The Saracen which had come onto the waste ground looped behind an abandoned van and then disappeared out of view. He recalled another Saracen that stopped at the gable end of Block 1 of the flats. From where he sat he could just see the bonnet of the vehicle. He identified the front of this vehicle as visible in **EP28. 5** at **Day 099/7/13 to Day 099/7/25**. He

saw a Saracen parked at about the point B marked on **AT15.21** which is clearly some distance further into the car park than any other witness civilian or military has placed a military vehicle. He accepted at **Day 099/10/1 to Day 099/11/2** that this was possibly the same vehicle as had appeared at the gable end of Block 1. He further accepted it was the Saracen which appears in **P188** which we know to be Sgt O's Pig. **Day 099/13/3 to Day 099/13/7**.

17.6.2.66 At **AT15.3 paragraphs 21 to 22** he described how he also saw a soldier get out from the rear of the Saracen that he marked with the letter B. He took up a position some four to five feet from the Saracen. He did not take cover. He immediately started shooting in the direction of Blocks 1 and 2, where people at the alleyway were trying to get out of the courtyard. The witness was unable to remember how many shots were fired and did not know whether anyone was hit as a result. Large numbers of people were able to escape through the alleyways between Blocks 1 and 2 and Blocks 2 and 3. As the crowds cleared he saw a group of people by a body lying on the ground. He marked the approximate position of the body with the letter C on **AT15.21**. He could see that Father Daly, who was a parish priest, was one of the group around the body, but he did not recognise anyone else. The soldiers were still in the courtyard at the time. The witness was shown **EP28.5** and it was his view that the person he saw fall must have been in that photograph rather than come into the car park later. Later he heard that the boy whom he had seen on the ground was Jackie Duddy. He then went on to describe the shooting of Mickey Bridge. He thought that it was something in the order of 20 minutes between the Saracens entering the courtyard and the shooting of Mickey Bridge. **Day 099/15/17 to Day 099/15/23**.

17.6.2.67 **Betty Dunleavey** at **AD169.2 paragraph 8** described a soldier kneeling down on one knee at the point marked C on the attached map at **AD169.4**. She could not remember anything distinctive about his uniform although she could tell he was a soldier. He had a helmet on and was holding a rifle in his hands. She saw him shoot a boy, whose position was marked D on

AD169.4. She did not know from where the boy appeared, although she believed he was running towards the entrance to the Rossville flats' car park. The witness now knows this boy to have been Jackie Duddy.

17.6.2.68 The soldier kneeling at point C was kneeling just to the west of No. 34 Chamberlain Street and the boy at point D was about a third of the way down Block 1 and about ten yards or so out to the east. At **AD169.4 paragraph 9**, she stated that the soldier must have had him right in his sights as he shot him. She could only see the top half of the boy's body from her position on the balcony. His body jumped when he was shot and he twirled around as he fell. She saw the body fall out of her line of sight, although she did not see it hit the ground. This was the first shot that she heard in the car park that day. She had heard earlier shots coming from the Rossville Street side of Block 1, although they did not seem to be of high velocity, unlike the shot fired at Jackie Duddy.

17.6.2.69 **Dolores MacFarland** watched events from her mother's flat on the second floor in Block 3 looking over the car park towards Block 1 and Rossville Street. She described at **AM8.2 paragraph 8** the arrival of a Saracen at the entrance to the car park. She thought the two soldiers she saw first got out of this vehicle were the ones who opened fire from positions marked A and B on **AM8.6** She accepted at **Day 083/112/7 to Day 083/112/18** that she did not actually see these soldiers fire. One was positioned closer to the north east corner of Block 1 and the other closer to the rear of the houses in Chamberlain Street. These soldiers were not being evasive and none of the soldiers appeared to take cover. **AM8.2 paragraph 9**. At this time there were a couple of hundred people in the car park most of whom were fleeing and who were trying to get through the alleyway between Blocks 1 and 2, into the doorway to the stairwell at the northern entrance of Block 1 or through the alleyway between Blocks 1 and 2. **AM8.2 paragraph 10**. The shots from these soldiers was the first live fire she heard that day. At the same time as she heard the shots she saw a young lad she now knows to be Jackie Duddy fall to the ground. She thought initially he might have tripped. She saw Father Daly tending to him and a number of others

gathered round him. **AM8.2 paragraphs 11 to 12**. She then witnessed the shooting of Michael Bridge and saw Jackie Duddy being carried towards and up Chamberlain Street. **AM8.3 paragraphs 14 to 15**.

Civilian evidence concerning firing by soldiers.

17.6.2.70 The witness **Martin Tucker** at **AT17.4 paragraphs 24 to 27** suggested that the soldier or soldiers who shot Jackie Duddy and indeed Michael Bridge were on the western side of the pig parked at the mouth of the car park. The witness **Mary Bonner** in her statement at **AB38.1 paragraph 15** and who gave evidence on **Day 82** also believed that Jackie Duddy was shot by a soldier on the west side of a pig. **Kevin McDaid** believed it was a small soldier or a soldier crouched down on the passenger side of the Saracen parked with its front into the car park between the end wall of Chamberlain Street and Block 1 of the flats. **AM167.3 paragraph 14** and **Day 100/82/5 to Day 100/83/9**. **Cathleen O'Donnell** whose statement appears at **AO23.6 paragraph 11** and **AO23.7 paragraph 14**, who also gave evidence on **Day 82** indicated that she saw a black soldier with long legs at Block 1 shooting at waist height whom she connected to the shooting. **Isabel Duffy** described at **AD158.2 paragraph 14** evidence of a soldier firing from the north shooting Jackie Duddy in a position firing from north of Block 1. **Noel Doherty** also described at **AD91.4 paragraphs 20 to 28** a soldier firing from the north of Block 1 shooting Jackie Duddy. The witness **James Donal Deeney** who gave evidence at **Day 086/87/21 to Day 086/87/25** saw Michael Bridge make a run for the soldier who he thought had probably shot Duddy at a point north east corner of block 1. **James McKinney** whose statement appears at **AM303** and who gave evidence at **Day 081/99/2 to Day 081/100/18** indicated that he saw a soldier firing from the back of a pig at Eden Place. His impression was that the person fell forwards when he was shot as if about to hit the deck and he thought he was wearing a red jumper. The witness **Betty Dunleavy** whose statement appears at **AD169.2** gave evidence on **Day 83/130/4 to Day 083/131/3** that Jackie Duddy was shot by a soldier at

the back of Chamberlain Street houses just to the west of 34 Chamberlain Street.

17.6.2.71 There is clearly a wide variety of civilian evidence as to the location of shooters and provenance of the shots into the car park of the flats. This is not altogether surprising given the circumstances of the day. The witnesses were watching events unfold at a very fast pace in an extremely short period of time. The variety of locations from which the shooting of Jackie Duddy inevitably affected the quality of the identification of individual soldiers. A number of the witnesses were of course either fleeing themselves under fire or sheltering from shooting from the soldiers at the mouth of the car park and on the waste ground. What there is absolutely no doubt about is that the civilian evidence establishes clearly that the shot which killed Jackie Duddy came from a limited number of soldiers firing into the car park. The soldiers who admitted firing into the car park positioned themselves in the general area from which the civilian witnesses say the firing came.

Conclusion

17.6.2.72 The essential consensus of the civilian evidence is that Jackie Duddy was shot running away from the soldiers positioned at the mouth of the car park and on the waste ground. He was not armed or engaged in any offensive activity towards the soldiers. He was running for shelter along with others towards the gap between Blocks 1 and 2 of the Rossville Flats when he was fired upon from the rear. It is clear that no activity around Jackie Duddy justified his shooting. It is further clear that no activity in the car park or the flats justified his shooting. The unjustified shooting continued as he was being tended to by a priest, a first-aider and civilians. Jackie Duddy was murdered by a soldier of Mortar Platoon.

17.6.3 Injuries sustained

17.6.3.1 The post mortem examination was carried out by Dr Carson at 4.00 pm. (**E2.68**) The report of Doctor Shepherd and Mr O'Callaghan appears at **E2.31.32** with the accompanying diagram at **E2.74.** Photographs taken in the mortuary are in Bundle P2 at Tab 1 (**P29 to P40**) inclusive.

17.6.3.2 In summary, Jackie Duddy was struck by a single bullet which entered the outer side of the right shoulder. It passed through the right side of the chest, damaged the right lung, spine, major blood vessels and the left lung and then exited through the upper left side of the chest. The diagram at **E2.74** is slightly misleading in that it indicates the entry wound on the front view of the body whereas it would appear from photographs **P34** and **P36** that the bullet entered slightly *behind* the midline, i.e. closer to the back of the shoulder than the front. He also suffered other minor injuries consistent with falling to the ground.

17.6.3.3 Assuming the Normal Anatomical Position, the initial track passed from right to left and there was probably a slight angle backward. After deflection by the scapula, the track passed forwards into the chest where it was again deflected, this time by the spine, before exiting.

17.6.3.4 As Dr. Shepherd and Mr O'Callaghan point out, great care must be exercised in interpreting the track angles in this injury since the mobility of the shoulder may allow for many different positions of the chest and body with the arm in the same position. However, the medical evidence is consistent with the civilian evidence that Jackie Duddy was shot by a soldier to his right as he ran towards the gap between Blocks 1 and 2, perhaps turning to look over his right shoulder at the soldiers as he did so. His injuries do not correspond with any of the accounts of the soldiers who admit firing into the Rossville Flats courtyard or indeed of any other soldier who witnessed the events.

17.6.4 Forensic Evidence

17.6.4.1 Swabs were taken from Jackie Duddy's hands and clothes for the purpose of forensic examination. Summarised in Table 2 of Dr Lloyd's report at **E1.30** are the totals of the numbers of particles recorded by Dr Martin from the hands and surfaces of the outer garments of all the deceased together with the conclusions of his reports. In Jackie Duddy's case, the results were negative. There was, therefore, no forensic evidence supporting any suggestion that he was engaged in any unlawful activity about the time he was shot.

17.7 Patrick McDaid – Personal Details and Background

17.7.1 Patrick McDaid was 24 years old at the time of Bloody Sunday. He was a single man from the Creggan area of Derry and was employed as a Plumber by the Londonderry Development Commission. He attended civil rights marches regularly and joined the march on 30 January at Bishop's Field.

17.7.2 Relevant photographs:

P205 (Not taken on the day). Retaining wall in front of block 3, which Patsy McDaid ran along to the right before diving down the steps towards the gap between blocks 2 and 3.

P796, **P797**, **P798**, **P800**, **P801**. Series of photographs taken by Giles Peres including Patrick McDaid at **P796** (**EP25.7**) and **P797** (**EP25.8**) on the ground at the retaining wall in front of block 3.

P610 (**P760**), **P611** (**P761**), **612** (**P762**). Taken by Eamon Melaugh both in a maisonette in Joseph Place and outside.

P762.1 **(EP2.16)** Taken by Jeffrey Morris showing Patrick McDaid being taken to the ambulance with Charles McMonagle on the left Noel McLoone on the right.

17.7.3 Civilian Evidence

17.7.3.1 Patrick McDaid was the fourth person known to have been wounded in the car park of the Rossville flats. In his statement at **AM172.1** he described helping others carry Peggy Deery to the house at the corner of Chamberlain Street which was number 33. It would appear that he was the last person wounded in this sector. He also appears to have seen the shooting of Jackie Duddy. **Day 092/109/7 to Day 092/109/17** and **Day 092/110/8 to Day 092/110/11**.

17.7.3.2 At **AM172.2 paragraph 11** he described coming out of the house, and looking around. He could only see a few people standing around in Chamberlain Street and he could not see any help. He stood at the southern end of Chamberlain Street, where it led into the Rossville Flats car park. He was going to run across the car park, to the entrance between blocks 1 and 2. As he looked around he could see people standing about alongside the western gable end wall of Chamberlain Street. He then described the shooting of a young man who must have been Jackie Duddy.

17.7.3.3 At **AM172.2 paragraph 12** he described standing at a point at the very south of Chamberlain Street. There were about 20 or 30 people around him although he did not specifically remember any of them. All he could recall is that everyone wanted to get out of that area. He and some other people moved to his left, that is eastwards to the far eastern corner of the car park. At this point there was a corner, formed by the junction of the eastern end of Chamberlain Street and a high wall to the car park side of block 3 of the Rossville Flats. There was nothing going on in that corner of the car park and he never really noticed anything else happening around him.

17.7.3.4 The solid concrete wall on the car park side of block 3 was too high for them to get up. He realised that if they wanted to get out of the car park, they would have to run across it to the gap between blocks 2 and 3. Three or four other people around him ran across the car park and made it to the gap between blocks 2 and 3. He decided that he was not going to stay where he was because it would have been very easy for them to get caught by the Army although he had not seen any soldier at this stage. He therefore got down on his hands and knees ready to creep or crawl across the car park. However he then changed his mind as he thought that a running target would be more difficult to hit. Therefore, before he had moved from his position he stood up again and got ready to run.

17.7.3.5 He could still hear shots as this was going on, but he could not recall where they were coming from. He had just started to run out from the wall and had got about two yards when another man also decided to make a run for it and he ran past his left-hand side. The other man was carrying a camera by its strap in his right hand, which, as he ran, he dropped. Patrick McDaid could not believe that the man stopped and turned to pick it up before carrying on heading for the gap between blocks 2 and 3. Seeing the man do this made Patrick McDaid again stop and hesitate before running out. The man with the camera was likely to have been Giles Peres.

17.7.3.6 From his position Patrick McDaid could see the people who had run across to the gap between blocks 2 and 3. The people were yelling to come on and make a run for it. He did not recognise or know any of the people who had run across. He just wanted to get out. He therefore ran out from his position and headed for the gap between blocks 2 and 3. As he ran he had nothing in his hands. The approximate position of his run is marked by a dotted line on the map at **AM172.26**.

17.7.3.7 He saw a low wall in front of him which looked as if it might provide him with cover. As he was running he saw the wall and bent down to dive over the wall. He landed on the ground the other side of the wall. He did not

realise then but later discovered that the wall had steps around it and the ground on which he had landed was lower than the level of the car park he had run along. As he hit the ground, someone else landed behind him, slightly to his left-hand side. This person said to Patrick McDaid "I think you are shot in the back." Patrick McDaid said no they have missed. He did not feel as though he had been shot. The man then put his hands on his back and showed him his blood on his hand. He panicked. Fear went through him. He did not know how badly he was hit, particularly because the wound was on his back and he could not see it. He believed he was hit at the exact time when he bent from upright position to dive over the wall.

17.7.3.8 He indicated that he believed he was able to identify himself in **EP25.7** as the person lying prone on the ground on the right hand side in the group of people shown. He also believed from what he was told later that the man behind him was Patrick Walsh. **Day 092/117/1 to Day 092/117/24**. He wanted to change direction and run for the gap between blocks 1 and 2 of the Rossville Flats. However, the man with him held him back and said 'no'. He did not even look at the man with him, as he was slightly behind him. The man then sort of pushed him from behind or half ran with him through the gap between blocks 2 and 3. He could not really remember how he got through the gap between blocks 2 and 3 because the only thing that was going through his mind at this stage was wondering how badly he had been hit.

17.7.3.9 The man pushed him into the first house of the northern block of Joseph Place. It can be noted that at **AM172.5 paragraph 26**, Patrick McDaid referred to his previous statement of 7th February 1972, in which he indicated that he was carried to the second or third house in the northern block of Joseph Place. He stated that that could have been the position but he believed it was the first. Patrick McDaid confirmed that he appeared being treated in **P760**, **P761** and **P762**.

17.7.3.10 **John Joseph Tyre** whose statement is at **AT20.3** described running across the corner of the car park against the high wall after having seen Peggy

Deery and Michael Bridge. He did not see any Saracens or soldiers. There were about six fellas huddled on their knees in the corner (at point Z attachment 2) at **AT20.6** on the north-east corner of the car park. They were all down on their hunkers watching out over the car park. The wall behind them was about ten feet high. He crouched with his shoulder against the wall. He could hear shooting which he thought was coming towards the Rossville Flats. It was the same cracks he had heard before. He could not hear any other noise. He did not see any missiles being thrown from the flats.

17.7.3.11 One or two fellows decided they would crawl along the side of the wall towards the gap between blocks 2 and 3. He did not know their names. They crawled on their hands and knees and were sometimes down flat. After they were out of sight another fella and himself set off to crawl towards the gap. He thought he had been crouching at the wall for some minutes. He did not know the lad in front of him but he would now guess it was Patrick McDaid. **Day 093/163/18 to Day 093/163/22**.

17.7.3.12 The boy crawled along on his hands and knees and the witness did the same. They crawled very close to the wall about a foot apart. If they heard a succession of cracks then the boy in front would lie down flat. He was wearing dark clothes, a dark jacket like a suit jacket and trousers. He had black hair, around collar length. He was a bit older than the witness, about eighteen or nineteen. They sometimes would have crawled on their hands and knees and sometimes would have tried to run a bit on their hunkers. **Day 093/163/23 to Day 093/164/5**. They got to the top of the couple of steps near to the children's play area leading down to the gap. The boy in front came up a bit on his hunkers to get down the steps. Suddenly he fell straight down with his head forward. His body was on the steps. The front part of him may have been just passed the steps.

17.7.3.13 The witness agreed that Mr. McDaid's own description to the Inquiry of taking a dive over either the steps or the wall near to the steps, in such a way that the bullet caught him as he was in the course of diving, could

accord with his own recollection. **Day 093/165/14 to Day 093/165/21**. He saw a small hole in his mid-back slightly to the right of centre. It was a small clean hole about three quarters of a centimetre in diameter. There was no blood. He could now see two or three older men in a doorway in the Rossville flats shouting at them to come on. He wanted to get past the boy so he crawled around him and crawled quickly through the gap. When he got to the gap he stood up. It is submitted that the location of the wound and the sequence and position of events described by him suggests that what Mr Tyre was referring to is the incident in which Patrick McDaid was wounded.

17.7.3.14 **Billy Gillespie** at **AG33.2 paragraphs 9 to 10** described being behind a low wall in front of block 3 of the Rossville Flats. He described a line of people waiting for the right opportunity to get away. Patsy McDaid was in front of him. Patsy McDaid got up and ran towards the gap between blocks 2 and 3. There was still shooting coming down from the Bog towards Free Derry Corner and in the waste ground to the east of Rossville Street. Patsy McDaid had not moved far from behind the wall when he was shot in the back. The witness marked the spot on **AG33.13**. The witness stated that he and people behind him lifted Patsy McDaid and ran with him towards the gap. They stuffed some pads down his back. They carried him down the steps, which were just before the gaps between blocks 2 and 3, that is the set of steps in front of block two bays in from the east. **Day 084/157/17 to Day 084/157/22**. At the gap some people took him out and helped him away.

17.7.3.15 **Patrick Walsh** recognised himself as the person in **P796** and **P797**. **Day 171/27/8 to Day 171/27/25**. He recalled hearing shooting going on at the time when **P797** would have been taken, where he is shown with his hand on Patrick McDaid's shoulder. He could not say where the shooting was coming from. **Day 171/29/4 to Day171/29/9**. The witness had described, in an interview with the Sunday Times in 1972 which can be found at **AW5.35**, a youth cannoning into him as he ran. They both fell and the youth told him he had been shot. The witness saw the wound in his back.

He decided the youth needed attention and he could see the back doors to Joseph Place were open and people were crouching there. He ran across the alleyway behind Joseph Place and another man helped him get the boy into the second house. The witness confirmed that he had forgotten this incident but was reminded of it by his wife and he did remember it **Day 171/33/25 to Day 171/34/5**. It seems that the evidence of **Soldier 134** at **B1831.004 paragraph 21**, **Day 363/54/20 to 363/57/12** and **Day 363/89/1 to Day 363/89/24**. confirms a man being assisted by another into a house in Joseph Place.

17.7.3.16 **Joseph Nicholas** identified himself as the figure in **EP25.8** immediately behind the prone figure of Patrick McDaid with Patrick Walsh and possibly one of the figures in **EP25.7**. **Day 078/18/8 to Day 078/18/8** and **Day 078/19/9 to Day 078/18/20**. He was able to recall an interview with the Sunday Times in 1972 at **AN17.2** but not the contents of the interview. In that interview he named Patrick McDaid as a person who was hit as he made a run towards stairs and in the direction of the alleyway behind Joseph Place. **Day 078/40/3 to Day 078/41/4**.

17.7.3.17 Patrick McDaid was carried to a house in Joseph Place. This scene was witnessed by **Thomas Dawe**. **Day 094/128/16 to Day 094/129/3**. **James Anthony Norris** was a Knight of Malta who attended the march in that capacity. In a written statement in 1972 at **AN20.21** he recalled treating, amongst others, a man with a back wound in a house in Joseph Place. The wound was likened to a bullet track along his back. He and Mr Mcloone another Knight of Malta applied a gun-shot pack to the man's back and sent him to hospital. **Noel Christopher McLoone** recalled in his statement to this Inquiry treating a man for a back wound in what he now knew to have been 12 Joseph Place. **AM359.22 paragraphs 23 to 24**. Although he had thought it was an elderly man called Johnson the witness confirmed in oral evidence that he had recently found out the man's name was Mr.McDaid. **Day 175/152/4 to Day 175/152/22**. He further confirmed looking at **P761** that the wound he saw was similar to the wound seen in the photograph of Patrick McDaid and that it might be the person he

treated but could not tell from the photograph. **Day 175/153/14 to Day 175/153/23**. The description of the wound, the location of treatment and the accompanying evidence of Mr.Norris would point clearly to the conclusion that both these men treated Patrick McDaid in Joseph Place.

17.7.3.18 **Charles Downey** whose statement appears at **AD133** and who gave evidence at **Day 91**, recalled helping Patrick McDaid into the house in Joseph Place face down, because he had been shot in the back, but did not recognise him in any of the photographs shown to him namely **P760** and **P762**. He did not recognise the type of wound shown in **P760** but the witness did not think that it was possible he saw someone other than Patrick McDaid on the occasion in question with the sort of wound seen in **P760**. **Day 091/110/13 to Day 091/112/9**.

17.7.3.19 **Eamon Melaugh** described at **AM397.6 paragraphs 53 to 58** going to the first maisonette at Joseph Place and seeing a boy with a wound between his shoulder blades. He took two photographs **P610** and **P611**.

17.7.4 Injuries sustained.

17.7.4.1 His wound was described in the relevant medical report of Mr.H.M Bennett FRCS which is at **ED28.3** as a glancing wound which had been fired while the patient was ducking down and did not indicate a direct hit from behind. The same medical report said that the wound was noted to be full of carbon particles which could indicate a fairly close range discharge. Mr Bennett found the wound to be full of what he described as carbon particles which he considered would indicate a fairly close range discharge. Mr Bennett, of course, was dealing with what appeared then as a suggested glancing gun-shot wound. He was therefore explaining the particles in that context. This is considered further below in the findings of Dr Shepherd and Mr O'Callaghan. Patrick McDaid indicated to the Widgery Inquiry that he spent twelve days in hospital.

17.7.5 Removal to hospital.

17.7.5.1 Patrick McDaid was taken to Altnagelvin hospital in ambulance no.2 registration no.5986 UZ manned by Mr.Harry Wray and John Gilchrist which had arrived near the entrance to Rossville Flats at 4.28 pm. It arrived at hospital at 4.45 pm.

17.7.6 Forensic and expert evidence.

17.7.6.1 The opinion of Dr. Shepherd and Mr.O'Callaghan is to be found at **E10.7**, **E18.6.1** and **E20.1**. In **EIO.7** they refer to the findings of Mr. Malhorta, Consultant Surgeon and Mr.Bennett. Mr McDaid sustained a ragged three-inch by two inch lacerated injury over the left scapula. Mr.Malhorta did not find a true entrance or exit wound. He recorded the finding of black edges on the wound and a lot of carbon particles. In a discharge report of 11 February 1972 it is suggested that it was possibly a glancing wound with the tearing of the skin and superficial tissues.

17.7.6.2 After examining photographs of the wound they concluded at **E18.6.1** that even with the photographs:

"A fresh interpretation of the injury remains difficult mainly due to the overall lack of reliable information. However, the appearance of the injury suggests it may have been caused by a thin 'disc' or sliver of material moving rapidly, which has sliced through the skin of the back from a generally right to left direction leaving a flap of tissue at the upper margin. It does not have the appearance of a typical bullet wound."

17.7.6.3 At **E20.1** Mr O'Callaghan and Dr Shepherd conclude that Patrick McDaid was not struck by a bullet. Objects that could cause such a slicing wound as that suffered by Mr. McDaid would include an old penny, other metal discs, the top or bottom plates of a "U2" type battery. The black particles around the wound might be explained by the disc being contaminated by either the contents of the battery or by soiling of a penny if it were placed against the charge in the baton round gun. They accept other possibilities

may exist. The essential matter is that in 1972 the doctors were proceeding on the basis that they were dealing with a gun-shot wound and Mr.Bennett sought to explain the back particles in that context. It was in that context that he was able to suggest a fairly close range discharge. It is submitted that the findings of Mr. O ' Callaghan and Dr. Shepherd now invalidate any such suggestion. It is submitted that there is no basis for suggesting a fairly close range discharge. In the context of the evidence regarding rubber bullet discharge on the day Patrick McDaid was not shot at close range but by a soldier towards or in the mouth of the car park. The shot was by means of a doctored rubber bullet.

17.7.6.4 At **Day 229/61/3 to Day 229/61/9** Dr. Shepherd stated that they were confident the wound was not caused by a lead bullet. A doctored rubber bullet had to be the "highest possibility" given the documentation supplied to him. He referred to this documentation in **E20.1** which indicated that doctored rubber bullets were used. **Day 229/62/11 to Day 229/62/17**. Dr Shepherd specifically rejected the suggestion from Peter Clarke QC on behalf of a number of the soldiers that nuts and bolts from nail bombs could be candidates for the injury because of the slicing action causing the wound. **Day 229/74/3 to Day 229/74/11**. Further in the context of the suggestion of nail bombs whilst accepting the possibility of a slicing action from the bottom of a tin can lid he could find nothing of the appearance of explosives injuries, including nail bombs, in the injury to the back of Patrick McDaid. **Day 229/74/11 to Day 229/75/5**.

17.7.6.5 A contemporary police report from Superintendent Finn indicated the following:

> "He does not appear to have been guilty of any illegal conduct at the time he was shot. Fortunately he is still alive." **OS1.838**

17.7.6.6 The identity of the soldier who fired a rubber bullet and struck Patrick McDaid is limited to a number of candidates. Of the four baton round gunners in the two Pigs on the waste ground and at the courtyard of the flats, **Soldier 017** gave evidence that he debussed in Rossville Street and remained there during the engagement. **Soldier 019** debussed and accompanied **Lieutenant N**. He would therefore have taken some time to reach the mouth of the car park. He was asked could he have fired rubber bullets across the car park when he debussed, towards the flats. He replied no, he did think he would have done. **Day 343/174/8 to Day 343/174/19**.

17.7.6.7 **Soldier 112** placed himself at the northeast corner of block 1 of Rossville Flats and from there he could see a group of civilians in the alley way between blocks 1 and 2. He claimed to have fired some baton rounds in the direction of stone throwers and some further rounds in the direction of the alleyway as they retreated. He estimated about six baton rounds were fired in all. **Day 320/106/14 to Day 320/107/5**. Soldier 112 was asked had he fired his rubber bullet gun from the direction of the northeast corner of block1, to the gap between blocks 2 and 3. He did not recall, but doubted that he would have at that distance. **Day 320/143/1 to Day 320/143/6**. He denied that he had any knowledge of soldiers modifying baton rounds. **Day 320/143/1 to Day 320/143/25**. He had been using a baton gun for most of his time in the Army, which was a total of six years from 1970 onwards and had never heard of baton rounds being modified. **Day 320/144/1 to Day 320/144/13**. He further denied shooting Patrick McDaid with a modified rubber bullet, nor did he recollect seeing anyone firing baton rounds across the courtyard in that direction. **Day 320/144/14 to Day 320/144/23**.

17.7.6.8 It is most probable that the projectile was fired from the weapon carried and used by **Soldier 013**. Soldier 013 in his statement at **B148.003 paragraph 15** described being positioned on Rossville Flats car park and

concentrating on dealing with rioters, who were screaming and shouting.[15] He described himself as quite aggressive at that age, "...I gave a few of them a doing over....I think that is why I was given the job of firing the baton rounds, to keep the rioters away. I was probably over aggressive as a soldier. The Para's ethos is that if someone is going to be violent towards you, you attack them. I always used aggression and it worked. It is the best form of defence. I felt that the aggression was justified given what I faced as I got out of the Pig". **B1408.003 paragraph 15**.

17.7.6.9 Soldier 013 then described chasing a lad up the stairway, which he thought, was at the northern end of block 1. He chased him up the stairway and fired a baton round up the stairs. He also fired a number of baton rounds at the windows of Rossville Flats, as there were also "...good firing positions" there. He wanted to keep people away from the windows to prevent them shooting at soldiers. He could not now recall which windows he fired at. **B1408.003 paragraph 16**.

17.7.6.10 He described at this point, using the walls of the Rossville Flats and Sergeant O's Pig as cover. "...I kept firing my baton round to keep people away and all the time I was expecting to be shot". **B1408.004 paragraph 17**. He did not remember seeing anyone hit or anyone being shot in the car park, although he saw people falling over in the crowd. He was concentrating on looking for firing positions and gunmen. He did not use his rifle at all. "...my role was to use the baton gun". **B1408.004 paragraph 18**.

17.7.6.11 The following submissions are made on the above evidence:

i. Given the evidence of the location, timing and firing of a baton gun in the car park, it is submitted that Soldier 013 is a prime contender for firing the baton round which struck Patrick McDaid.

[15] He thought he might be the soldier in the middle of the three soldiers in the photograph **B1408:021**, which shows the arrest of William John Dillon.

ii. Patrick McDaid was not engaged in any activity when wounded apart from trying to move through the Courtyard of the Rossville Flats towards the gap between blocks 2 and 3.

iii. There was no activity around him or in his vicinity which could provide any justification for his wounding.

iv. He was wounded by a member of Mortar Platoon.

v. It is overwhelmingly likely that he was wounded by a projectile fired from a rubber bullet gun.

vi. Such a wounding was the result of a deliberate and malicious act in doctoring the projectile from a rubber bullet gun.

vii. Soldier 013 shot Patrick McDaid with a doctored rubber bullet.

17.8. Soldiers' Evidence

17.8.1 Introduction

This section deals with the evidence of the soldiers in (i) Mortar Platoon, (ii) C Company and (iii) the Observation Posts overlooking the sector. In each sub-section, we first provide an overview of the soldiers' accounts and then examine the salient features of the most relevant soldiers in each category.

17.8.2 Mortar Platoon

17.8.2.1. The first 2 Pigs in the Support Company convoy that passed through Barrier 12 were occupied by soldiers from the Mortar Platoon under the command of Lt. N. Lt. N says that there were 18 in his platoon. He had briefed them on the Saturday evening that they were to engage in an arrest operation in the event that the march became violent. They drove in their pigs from Palace Barracks, Holywood to Derry on Sunday morning and went via their forming-up place to the Presbyterian Church. Apparently the original plan was for Mortar Platoon to gain access to William Street by driving through a brick wall beside the church but this plan was

abandoned when it was realised there was a drop on the other side of the wall. The revised plan was to access William Street by driving through Barrier 12.

17.8.2.2. The Platoon was divided into two sections. The distribution is not entirely free from doubt but it would appear to have been as follows. Lt. N commanded the section in Pig 1 comprising himself, Private S (the driver), Lance Corporal V, Private Q, Private O19, Corporal 162, Private 112 and INQ1918 (the radio operator). This is 8 in total and there are Eversheds statements from each of these soldiers. The second section was commanded by Sergeant O and comprised himself, Corporal P, Lance Corporal 768, Private R, Private T (deceased), Private U, Private 006, Private O17, Private 13 and Private INQ1579. This makes 10 in total.

17.8.2.3 The doubt arises from the conflicting testimony of the soldiers in this platoon and the fact that the normal practice was to divide the Platoon evenly so that there were nine in each Pig. According to Sergeant O, the platoon was reasonably fluid in movement as between the two Pigs but there were certainly 9 men in each Pig (**B575.111 paragraph 24**). During his oral testimony he said that there would not be 10 in one Pig and 8 in the other (**Day 335/21/16 to Day 335/21/19**). He is probably wrong about this. The doubts relate mainly to Soldiers 112, 017 and 768.

17.8.2.4 Soldier 112 believes that he was in Sergeant O's Pig (**B1732.1 paragraph 4** and **Day 320/96/9 to Day 320/96/18** and **Day 320/123/7 to Day 320/123/24**). He has a recollection of an altercation that took place between someone in the Pig ahead of him and someone at the Barrier which would mean that he was in the second (O's) Pig (**Day 320/96/19 to Day 320/96/23**). Some of the soldiers he remembers being in his Pig were certainly in O's Pig but others were in N's Pig. One of those in N's Pig, Soldier Q, remembers being paired with 112 but 112 says he was not paired with anybody (**Day 320/87/3 to Day 320/87/9**). He specifically remembers that when he got out of the vehicle he had his back to the flats and there were crowds of people running across the waste ground in his

direction. But he also said that his vehicle swung round to the left to get on the waste ground, i.e. facing north on his attached map (**B1732.4 paragraph 17**). He marked a point on the attached map around Pilots Row where he believes he debussed and this point is between the points were the two Pigs stopped.

17.8.2.5 If he was in Sergeant O's Pig there would have been more soldiers (perhaps 11) in Sergeants O's Pig than in Lt. N's Pig. However, the Pigs could hold 10 in the back, according to 112 (**Day 320/124/10 to Day 320/124/14**). There were four soldiers with baton guns in the Platoon and it would have been expected that there would have been two in each Pig and indeed the video shows two puffs of smoke appearing almost simultaneously at the back of Lt.N's Pig when it comes to rest in the waste ground suggesting that there were two soldiers with baton guns in that Pig. The only other soldier with a baton gun who was definitely in Lt. N's Pig was Soldier 019. **Soldier 017**, who had a baton gun, was adamant that he was in Pig 1 and that Corporal P was with him but Corporal P was equally adamant that they were both in Pig 2. Bearing in mind O17's deployment after debussing, the likelihood is that they were both in O's Pig. Soldier 013 was definitely in O's Pig so, if 112 had also been in O's Pig, that would have made three baton gunners in O's Pig and only one in N's Pig. Bearing in mind 112's own uncertainty on this issue it seems likely, on balance, that he was in Lt. N's Pig and deployed immediately with Soldier Q to the north gable wall of Block 1 close to Sergeant O's Pig.

17.8.2.6 Sergeant O believed that **INQ768** was in his Pig. (**B575.111 paragraph 24**) INQ 768 believed that he drove that Pig (**C768.2 paragraph 15**) but it is clear from other evidence that he did not, although he may have driven it to the Morgue. He was still certain that he was in Sergeant O's Pig. (**Day 323/128/14 to Day 323/128/20**) He made the point that there would not have been an uneven distribution of manpower in each vehicle, which of course points to there being 9 in each, but he also said that normally there would be one Corporal and one Lance Corporal in each vehicle and he could not remember any other Lance Corporal in his vehicle. There were

were 2 Lance Corporals in Mortar Platoon, namely INQ768 and Lance Corporal V. V was clearly in Lt. N's Pig so, if the normal practice was followed, INQ 768 would have been in Sergeant O's vehicle.

17.8.2.7 On balance, therefore, it would appear that there were 10 soldiers in Sergeant O's vehicle and 8 in Lt. N's Pig, made up as suggested above.

17.8.2.8 **Table 1** at **Appendix 1** shows the occupants of each pig with their designated roles and their movements after debussing, as far as we can tell from their own evidence.

17.8.2.9 The Army logs and Mr Porter's transcripts record that 1 Para were not to conduct "running battles" up Rossville Street, yet the convoy passed through the junction of William Street/Little James Street and up Rossville Street as far as the Rossville Flats. Lt N said that the hooligans had retreated before the arrival of the convoy and his Pig simply followed them onto the waste ground. The effect was that, once the lead Pig went into and along Rossville Street, the rest of the convoy followed. Both Major Loden and Lt N claimed to be responsible for this decision.

17.8.2.10 Major Loden stopped his armoured command vehicle in the middle of Rossville Street in a completely exposed position, exercising no apparent control over the operation. The rest of the convoy stopped behind him.

17.8.2.11 When he eventually debussed at the far side of the waste ground, Lt. N made his way to the buildings at the back of Chamberlain Street and the corner of Eden Place. Almost immediately, he fired what were the first shots in the area, which either triggered or gave the green light for the rest of the Army firing.

17.8.2.12 The accounts given by the soldiers as to how, where and when they fired their shots is summarised in a table appended to Inquiry Counsel Report No. 1. It is unwise to place reliance on any of these accounts but, for what they are worth, they are in brief as follows: **Lt. N** fired 3 warning shots, as

he described them, at a crowd at or near the junction of Eden Place and Chamberlain Street, then he made his way behind the back of the houses at Chamberlain Street and fired 1 shot at a nail bomber in the car park, hitting him in the right thigh. This may have been Michael Bridge, but Peggy Deery was shot in the thigh behind Chamberlain St. **Corporal V** made his way from Pig 1 towards the flats and somewhere south of the wire fence fired 1 shot which probably hit Jackie Duddy. **Private R** was dropped off from Pig 2 on Rossville Street and as he ran past the north end of Block 1 he claims to have seen a nail bomber in the car park beside the east wall of Block 1 and shot him either from the north east corner of Block 1 or from the back of Pig 2 or from somewhere in between, depending on which of his three different versions is believed. Private R fired another 3 shots at a man with a pistol between Blocks 2 and 3. **Sergeant O** fired 3 shots from the passenger side of Pig 1 at a man behind a Cortina, 3 shots at a man at the southern end of the balcony in Block 3 and another 2 shots at a man with an M1 carbine on the ground between Blocks 2 and 3. **Private S** in the meantime was firing 12 rounds at a man or men with a rifle in front of the alleyway between Blocks 1 and 2. **Private Q** fired 1 shot at a gunman in the corner between Blocks 2 and 3. **Private T** fired 2 shots at an acid bomber on a balcony in Block 1.

17.8.2.13 This makes a total of **7 soldiers** firing **29 shots** into the courtyard and surrounding flats. In view of the availability of private supplies of ammunition and the shortcomings of the accounting process, it is impossible to say whether these were the only shots fired by these or other soldiers in this area.

17.8.2.14 The enigma of **INQ 2003** seems to be resolved. In a statement to UTV, he claimed to have fired the first fatal shots and his account tallies with the shooting of Jackie Duddy. He claimed in the programme to have travelled in Pig 2 but he is not referred to by any of the other soldiers in Pig 2. His name does not appear in the nominal roll. He originally denied being in Derry on Bloody Sunday and he has now reverted to this position. He testified to the Tribunal that he has had a drink problem and was not there.

17.8.2.15 **Table 2** at **Appendix 2** shows the soldiers who fired and their claims as to where they fired from, what and where they fired at, the number of shots they fired, by whom they were seen to fire, whether they struck their targets and the most likely victims.

17.8.2.16 **Table 3 Appendix 3** shows the accounts of the soldiers as to when they first heard shots.

17.8.2.17 **Table 4 Appendix 4** suggests a possible order in which shots were fired by soldiers. Relying, as it does, on admittedly unreliable soldiers' evidence, the contents of this table are highly speculative.

17.8.2.18 **Table 5 Appendix 5** represents an attempt to provide a quick-reference tool which allows ready comparison of the accounts given by all the soldiers in Mortar Platoon about certain material matters, such as whether they saw any civilians with weapons or heard any nail bombs. It will be remembered that, in Counsel Report No.2, Jacob Grierson prepared a comprehensive table identifying the apparent discrepancies and inconsistencies between the different statements made by each soldier and in Counsel Report No.3 there is an attempt to compare the accounts offered by the different soldiers.

17.8.2.19 **Map Q7** is the chart showing the trajectory of shots fired by all the soldiers in Mortar Platoon and indeed by the other platoons. It should be noted that the trajectories shown in this map are different from those shown in the marked-up photographs in the cases of V, R and S. The soldiers suggested that the marked-up photographs are more accurate. This is particularly significant in the case of V since his marked-up photograph would suggest that he fired at a target in line with the point where Jackie Duddy fell. It is possible that Jackie Duddy was hit by another soldier's shots such as one of the 12 shots fired by Soldier S from behind 36 Chamberlain Street to the alleyway between Blocks 1 and 2 although this also is based on the assumption that this soldier did fire all

his shots in that direction. The attached Sector 2 Plan 1 and Sector 2 Photograph 1 of the car park show the approximate location where each of the deceased and wounded fell as well as the trajectories of the shots fired into the car park area by the soldiers, as specified by them in their marked-up trajectory photographs.

17.8.3. Individual Soldiers of Mortar Platoon

Lieutenant N's Pig

17.8.3.1 Lt N's role in the events of Bloody Sunday is crucial. His conduct at two key stages in the operation, namely crossing William Street and firing the first shots, is sufficient in itself to suggest that, at the very least, his judgment and composure were suspect.

17.8.3.2 On top of this, Michael Starke has given evidence (**M73.10**) suggesting that Lt N may have been suffering from a psychiatric disorder (post traumatic stress disorder) at the time of Bloody Sunday. Mr Starke was a journalist with the *Aldershot News* in January 1972 and shortly after that with *The Soldier*. In the course of his work, he paid a visit to 1 Para on a weekend in December 1971 and was invited to go on patrol with Lt N. He refers to two incidents from that weekend that stick in his mind.

17.8.3.3 The first was when N, "in an apparent frenzy", ordered the driver of his pig to follow a Mercedes car and ram it. Mr Starke says that even the driver questioned whether Lt N really wanted him to do this but there was "no reasoning with him", he was "in a fury". Mr Starke viewed this as a "manic action" on Lt N's par (**M73.11 paragraphs 8 to 9**)). Later that evening, Mr Starke saw Lt N drinking alone and engaging in what he regarded as a "manic ritual" that involved setting fire to liqueurs before extinguishing the flame and then drinking them. In an article he wrote in the *Irish News* in 1997, Mr Starke described Lt N (without name) as "a troubled young officer" (**M73.17**) Mr Starke discussed the matter with a Consultant Psychiatrist and expresses the view that some of the Paras were suffering post traumatic stress disorder on Bloody Sunday (*ibid*).

17.8.3.4 **RSM INQ 2037** (**C2037.4paragraph 16**) also says that he saw N sheltering in Soldier OO5's Pig after the event because he was scared and apparently upset. During his oral testimony, **RSM INQ2037** said he got the impression that Lt. N was in a state of shock (**Day 321/220/4 to Day**

321/220/6). He asked Lt. N what he was doing in Soldier 005's Pig and he "just sat there looking forward" (**Day 321/158/15 to Day 321/158/25**). He didn't find out why Lt. N was in the Pig but he "realised someone had ordered him to stay in there out of the way" (**Day 321/157/14 to Day 321/157/24**)

17.8.3.5. In these circumstances we applied to see Lt. N's full service record and any psychiatric records that may exist. However, this application was refused despite the availability of material suggesting that he may have been unfit to be entrusted with the responsibility of leading the entire company into the Bogside. The Regimental Sergeant Major said at one point that he thought Lt. N was a reasonable young officer and he had never any occasion to think otherwise (**Day 321/222/20 to Day 321/222/22**). It was pointed out to him that he had said in his statement, in reference to disparaging remarks made about Lt. N in the Praxis programmes, that he agreed with the comment that Lt. N was not a good officer and that he agreed generally with the comments made about him in the Praxis programmes (**C2037.7 paragraph 41**) His reply to this was that after the incident in Londonderry, he could hardly say he was a good officer (**Day 321/223/4 to Day 321/223/5**)

17.8.3.6 Lt. N was just 23 years of age on Bloody Sunday, with just over two years in the Army (**Day 323/41/5 to Day 323/41/12**) but as commander of the first two Pigs through Barrier 12 he was effectively given the responsibility of leading the entire convoy. Yet, according to his evidence:

(i) He had not seen the written Operation Order (**322/146/24 to Day 322/147/2**).

(ii) He was not given any guidance or restrictions at any briefing by Major Loden or Col. Wilford of the Operation – specifically, he was not told that he was not to conduct any running battles down Rossville Street or even that he was not to go down Rossville Street, or that he should stop at the junction of William Street/Rossville Street (*ibid*). He was just told to go off and make the maximum number of arrests. (**Day 322/147/3 to Day 322/150/1**)

(iii) He did not know where the crowd was going to lead him; the entire convoy had to follow wherever he took them; it was really "the blind leading the blind" to wherever the crowd took him up Rossville Street; and he was going to have to end up in the middle of the crowd if he was going to carry out any number of arrests (**Day 322/150/2 to Day 322/150/24**)

(iv) Many of the people in that crowd were simply people who had been on the waste ground, rather than rioting at Barrier 12 (**Day 322/41/8 to Day 322/41/18**) and he had no way of knowing which were rioters and which were innocent stragglers (**Day 322/151/15 to Day 322/152/7**).

(v) He was not aware of any pincer movement or "cork in the bottle" strategy (**Day 322/151/9 to Day 322/151/11**). He had no recollection of it being explained that the IRA had never used a Civil Rights march to attack the Army or that the IRA had given an undertaking that they would not attack soldiers in or around the march (**Day 323/41/15 to Day 323/41/21**).

(vi) He regarded the operation as simply "a frontal assault on the crowd, a snatch, get in wherever you could and simply grab as many as you could." (**Day 322/124/2 to Day 322/124/5**)

(vii) He was not aware that the flats were monitored from Observation Posts (**Day 323/42/12 to Day 323/42/16**)

(viii) No one told him that the risk of being shot at was so minimal that, according to the Brigade Major, the last thing on anybody's mind at the Brigade Order Group conference was shooting. (**Day 323/43/3 to Day 323/43/14**)

(ix) It would be a fair inference that his men were not told that the IRA had never used a Civil Rights march as cover to attack the Army and that the IRA had given an undertaking to the Army that they would not attack soldiers in or around the march. (**Day 323/43/15 to Day 323/43/17**)

17.8.3.7 In other words, Col. Wilford and Major Loden put a junior, inexperienced officer at the head of the entire Support Company column in a position

where he would effectively determine the eventual deployment of the Paratroopers; failed (either deliberately or inadvertently) to relay to him the restrictions imposed by the Brigade Commander not to conduct running battles down Rossville Street; failed (either deliberately or inadvertently) to give him any instructions, guidance or restrictions other than the order to make "the maximum number of arrests"; and failed (either deliberately or inadvertently) to give either him or his men accurate information about the likelihood of being shot at. Indeed, he was told that Rossville Flats was "a particularly dangerous spot" (**B438.38 paragraph 14.2**) even though, in the 3 months before Bloody Sunday, according to Brigadier MacLellan, there were only 3 occasions when the flats were used by snipers. (**B1225**)

17.8.3.8 Lt. N was at the Presbyterian Church before being deployed in the Bogside. In his Eversheds statement, he claimed to have heard the "drain pipe shot". He formed the view that it had probably been fired from Rossville Flats because he heard the crack "coming from just above and behind my head" and the guttering that was struck was "behind me and below that level" so that the bullet must have been travelling in a downwards direction. The line of sight, he said, ended at the high-rise flats (**B438.4 paragraph 22**). When questioned by Counsel to the Tribunal, he accepted that the guttering must have been above him so that any deduction he made on that basis could not be right. (**Day 322/22/22 to Day 322/23/4**) He still adhered to the claim that he had heard the crack of the bullet. However, Soldier 112 gave a very different account of this incident, saying that Lt. N had come up onto the roof, inquiring about the noise and asking whether any of the soldiers there had fired. Lt N denied this (**Day 322/139/3 to Day 322/139/11**) but conceded that the shot probably did not come from Rossville Flats (**Day 322/139/21 to Day 322/140/3**). Whether or not Soldier 112 was correct, it is clear that, despite seeking to suggest to this Tribunal that the shot had come from Rossville Flats, he did not know where the shot came from since this is what he said in terms in 1972 (**B397 paragraph 4**).

17.8.3.9 Sergeant O said that, when they were in the APC but before moving through the Barrier, he was either ordered or permitted by Lt N to cock his weapon. (**B575.110 paragraph 23**) Lt. N denied giving that order or permission (**Day 322/145/12 to Day 322/145/19**). He said that there was no reason at that stage to consider that they would need to use their rifles, there was no reason to give any such instruction or permission and it would have been completely wrong to do that (**Day 322/141/19 to Day 322/141/22**). It would have amounted to "an escalation of the situation" (**Day 322/143/18 to Day 322/143/25**) and the possibility that would flow from that kind of order was that the soldiers were "one step nearer to firing their rifles" (**Day 322/145/6 to Day 322/145/11**)

17.8.3.10 As N moved through the barrier, the crowd turned and ran and he ordered his driver to follow them (**B438.7 paragraph 34** and see also the statement of the driver Private S at **B724.18 paragraph 3**).

17.8.3.11 The vehicle was parked with the rear exposed to the Rossville Flats so that when the rear doors were opened they were more or less in full view of the flats. It was not in his mind that his men may have been fired on from the flats. (**Day 322/154/25 to Day 322/155/2**) He could not therefore have had any expectation of coming under any IRA attack, despite his suggestion that he believed the Rossville Flats to be a particularly dangerous spot.

17.8.3.12 When he debussed he "immediately" became involved with a civilian who, he claimed, attacked him (**Day 322/49/8 to Day 322/49/19**) but "certainly within a minute" he had moved towards the alleyway which leads off what used to be Eden Place into Chamberlain Street. (**Day 322/43/24 to Day 322/44/3**). There he claimed to have seen the crowds surging from the junction with Chamberlain Street and felt he had no alternative but to fire warning shots at them. He remembers being nervous but he claims that he did not panic or overreact to the situation (**Day 322/61/11 to Day 322/61/17**). Although he accepted that he fired 3 shots, he claimed in his Eversheds statement that he only remembered firing 1 shot at this stage. (**B438.9 paragraph 39**). Counsel to the Inquiry mentioned during a

question that Lt. N's present recollection was of firing only 1 shot. (**Day 322/61/18 to Day 322/61/21**) Lt N himself repeated during questioning by Mr Morgan that his "mental picture now is still 1 shot" (**Day 323/46/12 to Day 323/46/18**). However, in between these occasions, he said: "my recollection is my point of aim was roughly the same for all 3 shots (**Day 322/63/6 to Day 322/63/7**) and "I have a very clear memory of firing all 3 shots at the same point of aim" (**Day 322/65/5 to Day 322/65/11**).

17.8.3.13 Whether or not he was truthful in his recollection of the number of shots he fired, he has consistently stated that, apart from the drainpipe shot some time earlier at the Presbyterian Church, **the shots he fired himself at this stage were the first shots he heard on Bloody Sunday**. He said this at the Widgery Inquiry (**B433**) when events would have been fresh in his mind and he repeated it in response to questions from Counsel to this Inquiry (**Day 322/88/2 to Day 322/88/10**) and from Counsel for Madden & Finucane (**Day 322/167/18 to Day 322/167/21**).

17.8.3.14 It is of enormous significance that this is the information that was provided to General Ford. Following the opening meeting of the Army's Widgery Tribunal Team on 2nd February 1972, General Ford spoke to Major General INQ2144, the Director of Personal Services and told him:

> " The opening shots had quite definitely come from the IRA who had fired twice when 1 Para were crossing the barricade, but it would probably be established that an officer of 1 Para had subsequently fired a burst of warning shots into a brick wall immediately before the main battle began" (emphasis added, **G114B.743.5 paragraph 12**)"

17.8.3.15 It is unclear where General Ford got the notion the IRA fired twice while 1 Para were crossing the barricade. However, the point is that he must have been told by information coming up the chain of command that Lt N had fired the first shots in the Bogside. Lt N agreed that this was "very probably" a reference to him and that this report "would have gone up through the chain of command", starting with him (**Day 322/173/5 to Day**

322/173/25). He accepted that Major Loden would have passed on that information and "presumably" did not say anything that caused General Ford to take a different view (Day 322/174/4 to Day 322/174/9). Quite clearly, the briefing given to General Ford represented the considered assessment of Col. Wilford and Major Loden, after taking into account all the evidence available to them from other soldiers and what they had witnessed themselves, of the order of events and, in particular, the order of shooting. They had introduced the suggestion that there had been a "battle" but not that the battle had been precipitated by civilian gunfire. Also of enormous significance is the fact that, no doubt because they realised its implications, this understanding of the overall picture did not appear in the statements of General Ford, Col Wilford, Major Loden, Lt. N or any other soldier. If Col Wilford or Major Loden had been anxious to prepare an accurate report of the sequence of events, they ought to have recorded that the first shots had been fired by a paratrooper. Instead, the press statements were to the effect that civilian gunmen had fired on the paratroopers first. The world was being told that the first shots in the Bogside were fired by the IRA while General Ford was privately telling Major General 2144 that the first shots were in fact fired by an officer of 1 Para.

17.8.3.16 It appears to have been general knowledge among soldiers, including those who were not even present, that it was Lt. N's shots that set off a chain reaction among the other soldiers. (See, e.g., the Praxis interview of INQ1413. (O18/3))

17.8.3.17 The circumstances in which Lt. N fired his shots are in dispute. Gilles Peress, a French photographer, was one of the last people to run down Chamberlain Street. He paused at the corner of Eden Place and Chamberlain Street, on the north side, and took photograph P274. This shows two civilians in the street and what appears to be a puff of smoke from a rubber bullet gun at the point where Soldier O19, who had a rubber bullet gun, would have been standing. After he had taken this photograph,

he crossed the street, raised his camera and shouted "Press". However, a soldier at the corner where Lt. N was present fired at him from the hip in a kneeling position. (**M65.1.1 paragraph** 4 and **M65.20 paragraph 9**) Lt. N agreed that he fired from a kneeling position but denied that he fired from the hip at a lone individual or what appeared to be a photographer trying to cross the street. (**Day 322/77/20 to Day 322/77/21**)

17.2.3.18 However, he also denied firing "about head height" (**Day 322/164/10 to Day 322/164/13**) although this was exactly what he had said twice to the Widgery Tribunal (**B420 F** and **B421 A**), He said he had no idea why he had said this. "All my shots were above head height there", he said (**Day 322/165/4 to Day 322/165/5**) even though, as pointed out earlier, he had said that he did not even recollect firing the second and third shots.

17.8.3.19 He did not see the danger inherent in firing at a house in Chamberlain St and, specifically, it did not occur to him that anyone might have been living in the house (**Day 322/163/2 to Day 322/163/10**).

17.8.3.20 With regard to the question whether he should have been firing warning shots at all, he argued that to do so was simply "outside the scope of the Yellow Card", not contrary to it. (**Day 322/127/12 to Day 322/127/20**). One of the general rules set out in the Yellow Card is: "Always first try to handle the situation by other means than by opening fire. If you have to fire: (a) fire only aimed shots, (b) do not fire more rounds than are absolutely necessary to achieve your aim". (**ED71.1 paragraph 3**). Lt. N was in breach of the Yellow Card by not choosing means other than opening fire, such as instructing Soldier 019 to fire rubber bullets if necessary. He was also in breach in that he did not fire aimed shots and he fired more rounds than were necessary. Lt. N's response to this was that he fired aimed shots at the wall above the crowd. (**Day 322/159/20 to Day 322/159/21**). Having initially said that he did not rely on anything in the Yellow Card to justify what he did (**Day 322/157/21 to Day 322/157/23**) he claimed he could rely on paragraph 12. This provides that "if there is no other way to protect yourself or those whom it is your duty to protect from

the danger of being killed or seriously injured he could fire after due warning" (**ED71.2**) even though he accepted this was a reference to firing at people, not walls. (**Day 322/162/17 to Day 322/162/21**).

17.8.3.21 Lt. N. said that firing aimed shots was "not really acceptable conduct". (**B438.2 paragraph 10**, and **Day 322/127/21 to Day 322/127/23**) He had been taught in basic training that warning shots were not to be used (**Day 322/127/25 to Day 322/128/4**) Lt. N had fired warning shots before but he could recall no "fuss" about it. (**Day 322/3/22 to Day 322/4/11**). He had reported the previous incident to his company commander but he had not been reprimanded or censured or warned about his future behaviour. (**Day 322/129/7 to Day 322/129/14**) Despite this, he rejected the suggestion that experience alone would have allowed him to believe that he could behave in a way that was unacceptable and contrary to his training but get away with it. (**Day 322/129/22 to Day 322/130/1**) When asked about the fatal shootings for which the Parachute Regiment had been responsible during the same period as the previous incident, i.e. August 1971, he claimed to have no recollection of them. He certainly had no recollection of paratroopers being disciplined or even reprimanded for those shootings.

17.8.3.22 Lt. N is no longer sure that the person he shot on the grounds that he was about to throw a nail bomb did in fact have a nail bomb. (**B438.11 paragraph 43** and **Day 322/92/18 to Day 322/92/22**). He said that he first experienced this doubt several years after the event when learning that the forensic evidence was flawed (**Day 323/6/15 to Day 323/6/21**) Apart from the fact that the forensic evidence was known at the time to be flawed in many respects, there never was *any* forensic evidence in relation to the wounded, such as Michael Bridge.

17.8.3.23 When explaining why he believed that the youth in question was about to throw a nail bomb, he said that "there must have been something in the demeanour of the youth which made me think he was about to throw a nail bomb, to make me react in the way I did" (**Day 323/7/18 to Day 323/7/20**) If, as he claimed at the Widgery Tribunal, he had seen a smoking nail

bomb in the hand of his target, this would have been a perfectly legitimate reason for believing that the man had a nail bomb. He expressed no doubt about seeing a smoking nail bomb in 1972 either to the RMP (**B374**) or to the Widgery Tribunal. (**B422**) However, in his Eversheds statement, he was at pains to point out that he only saw the person in question "for a split second" and that he "may" have seen smoke or it might have been something else". (**B438.11 paragraph 43**).

17.8.3.24 When asked what happened to the "nail bomb" after the target was hit in the leg, Lt. N said that he was still holding it, "it went with him". (**Day 322/93/21 to Day 322/93/24**) In other words, the target was clutching his injured leg with a nail bomb in his hand, according to Lt N. Nor did Lt N or any other soldier take any steps to arrest this man even though he was disabled and "there were no other visible threats after he had been shot."(**Day 322/94/10 to Day 322/94/20**)

17.8.3.25 Lt. N now recognises the possibility that the person he shot did not in fact have a nail bomb in his hand. (**Day 323/77/12 to Day 323/77/17**) This, of course, is because he knows perfectly well that the person he shot did not have a nail bomb or any other object in his hand.

17.8.3.26 The likelihood is that Lt N shot Michael Bridge as Mr Bridge was gesticulating in a virtually deserted courtyard in such a way as to make it clear that he had nothing in his hands and presented no threat to the soldiers. He was shot in full view of a number of soldiers. It is because he was shot when he presented no threat that Lt N now denies shooting him. Not one of the other soldiers is prepared to admit seeing the event. Lt N could not explain why "no one in the Mortar Platoon, either in 1972 or subsequently, has said either that he shot [Michael Bridge] or that he saw anybody else [shoot] him, when he appears to have been shot in daylight in a square which was empty around him", as Christopher Clarke QC put it. (**Day 322/100/4 to Day 322/100/10**) So anxious was Lt. N to distance himself from this shooting that he also distanced himself from the event about which Mr Bridge was protesting, namely the shooting of Jackie

Duddy. (**Day 323/17/4 to Day 323/17/22**) Nor did he admit to seeing any of his Platoon shooting anyone, even though 6 of his soldiers fired 28 other shots into the courtyard area. (*ibid*). It is also possible that he shot Peggy Deery since she was also shot in the thigh roughly in the area of Lt N.'s target. However, she was probably the first person to be shot in this sector and this probably happened when Lt N was still engaged either at Eden Place or in the vicinity of his APC.

17.8.3.27 When asked whether he exercised any kind of restraint or discipline or control of any kind over the actions of his soldiers once he had debussed, his reply was that he was "extremely preoccupied" (**Day 323/19/8 to Day 323/19/18**)

17.8.3.28 In his Eversheds statement, Lt. N claimed that he first became aware that there had been shooting (other than his own shots) when he heard the cease- fire order given by Major Loden. (**B438.12 paragraph 48**) However, he also said he became aware that there had been shooting before that, specifically when he spoke to two of his soldiers who said that they had engaged two gunmen. (**Day 323/30/4 to Day 323/30/8**). Lt. N was then involved in removing the bodies from the Rubble Barricade. He did not suggest in either of his two RMP statements (**B385** and **B394**) that either he or his men had been fired upon during this operation or at this time but in his statement to the Treasury Solicitors (**B401 paragraph 21**) he said that, during the 15 minutes or so from the time when he had collected the bodies until the Pig left with them, there were several shots which appeared to be fired at the Pigs standing outside the flats and to come from "somewhere further down Rossville Street South". His account was further embellished by the time he got to the Widgery Tribunal, when he told the Tribunal that several shots were fired "in our direction" either "from the top of the flats" or from a direction that he indicated on the model. (**B426 A-C**)

17.8.3.29 He never searched the bodies or the barricade (**Day 323/38/19 to Day 323/38/23**), so he clearly did not expect to find any evidence of civilian

firing from that point. Indeed he saw "absolutely no evidence of any civilian firing or nail bombing or petrol bombing or anything of that kind" apart from his own target in the courtyard. (**Day 323/39/3 to Day 323/39/6**).

17.8.3.30 That, however, did not prevent him from appearing on the "*This Week*" television programme telling what he admitted was a series of lies to the effect that he had himself seen a civilian with a gun firing at the soldiers (**Day 323/24/9 to Day 323/26/4**; the transcript of the broadcast is at **B405**). When asked why he told this lie several times in this interview, he said "this would be an example of what we call spin" (**Day 323/26/5 to Day 323/26/11**). Surprisingly, he did not mention in this interview that he had himself shot what he claimed to have been a nail bomber. During the same interview, another officer said in a cavalier way that it was "unfortunate that there are some 3000 other people milling around the area, some of whom may have got caught up in it, but the Army engaged gunmen and killed them". It is suggested that this reflected Lt N's own attitude. Having led his own platoon into the middle of a crowd, he proceeded to shoot recklessly at or above the heads of civilians in Chamberlain Street, he shot Michael Bridge simply because he was shouting at the troops, he did nothing to restrain the shooting by members of the Platoon and since then he has tried to cover up his criminal behaviour by inventing accounts of nail bombers and gunmen while pretending not to have been aware of anything else going on in front of his eyes.

17.8.3.31 Lt N said that over the years he developed doubts regarding his actions on Bloody Sunday although he says that the only doubt he had was whether his target was throwing a nail bomb. (**Day 323/5/22 to Day 323/6/6**) He denied that he was wracked with guilt for what he did. (**Day 323/22/22 to Day 323/22/23**) In our submission, the extent of his wrongdoing is such that he ought to be.

Soldier S

17.8.3.32 Private S was the driver of Pig 1. After he debussed he worked his way forward along the wall at the back of Chamberlain Street. From a position behind number 34 Chamberlain Street, he claimed that he fired 4 bursts of 3 shots each at a rifleman in front of the alleyway between Blocks 1 and 2. He said he hit the person or persons on 2 occasions. He said in his first RMP statement that nail bombs and acid bombs were thrown from the top of the flats on the men from his unit. He said in his second RMP statement that he saw 5 nail bombs thrown from the balcony but in his SA statement he said this was not true - he did not see any nail-bombers. He said in his second RMP statement that he saw a gunman in the ground floor window near the south-east corner of Block 1 and that O fired at him. O did not say that he fired in this direction and this suggestion did not feature in S's SA statement.

17.8.3.33 In his Eversheds statement, Private S said that he had forgotten most of what happened on Bloody Sunday (**B724.1 paragraph 7**). He did not remember making any of the RMP or SA statements attributed to him but he invited the Tribunal to accept the accuracy of those statements by saying: "It is obvious that I recalled events in far greater detail in 1972 and where there is detail in my evidence from that point in time which I no longer recall now then I must defer to those statements" (**B724.3 paragraph 21**).

17.8.3.34 Shortly after he began giving oral testimony, Soldier S said that he wished to "make a little bit of a statement" about the statements he made in 1972. He pointed out that he was 18 years of age on Bloody Sunday and there were "definitely inaccuracies in those statements and I am not proud of that fact and I am conceding to the fact that those statements are inaccurate" (**Day 331/61/6 to Day 331/61/11**) He said the statements were made quite late at night to RMP's, which can be "quite a frightening affair in itself". He regretted the fact that he had signed "a statement in 1972 that is basically inaccurate; it is not wholly inaccurate, there are bits in there

that ***have been added by the RMP's that are not wholly accurate.***" (emphasis added, **Day 331/61/12 to Day 331/62/2**) .

17.8.3.35 When questioned by our Counsel, S said that at the time he made the statements he believed them to be accurate and correct in every material respect. (**Day 332/14/7 to Day 332/14/10**) When pressed as to how he could now know that they were inaccurate, he said that he knew he could "not have been facing some of those directions or some of the other things that had been put in there". (**Day 332/14/18 to Day 332/14/20**). He said that "obviously at the time you are going to subject yourself to the, shall we say, the commands of the imposing RMPs" (**Day 332/14/23 to Day 332/14/25**). When asked if the RMPs' put things into his statement which were wrong he said: "I would agree with that". (**Day 332/15/19 to Day 332/15/21**). In other words, within the space of a few sentences, Soldier S said the RMP's put things into his statement which were wrong after he had said that at the time he believed the statements to be accurate in every respect.

17.8.3.36 It was a feature of his evidence that he repeatedly shifted his position on this issue. Having told the Tribunal that details were "added by the RMPs that are not wholly accurate" and the RMPs "put things into [his] statement which were wrong", he also said that he did not remember them putting words into his statements or that anything that appears in those statements came from the RMP's as opposed to himself (**Day 332/19/2 to Day 332/19/3**). In fact he said that he did not remember making the statements at all or anything about the way in which they were taken. (**Day 332/16/12 to Day 332/16/18**) This did not stop him saying that the statements were "inaccurate in the respect that they do not accurately reflect probably what I actually quoted to the RMPs on the day" (**Day 332/19/18 to Day 332/19/20**).

17.8.3.37 This is dealt with further in relation to specific "inaccuracies" in his 1972 statements. However, the general point is that it is impossible to know whether the reason for the "inaccuracies" is that Soldier S volunteered a

false account or that he simply agreed to sign a false account provided for him by the RMP's. In either case, Soldier S was dishonest in signing statements that he knew to be false. In the latter case, the consequences are that none of the RMP statements made by other soldiers can be regarded as reliable since, if the RMP statement-takers were prepared to encourage one soldier to sign a false account, it is likely that they did the same with the other soldiers.

17.8.3.38 In either event, he knew when he signed his Eversheds statement that his 1972 statements were false but, as appears above, he invited the Tribunal to accept that what he had said in the statements was the truth and should be relied upon since his present recollection of events was so poor. When it was put to him that he was thereby lying to the Tribunal, he replied: "by implication, I suppose I was". (**Day 332/87/15**)

17.8.3.39 For these reasons alone, the Tribunal cannot attach any weight to his evidence, except insofar as it consists of admissions against interest, such as the admissions that his RMP statements were false, either at the instigation of the RMP or otherwise.

17.8.3.40 His claim to have very little recollection of events should be regarded as no more than a screen intended to protect his testimony from detailed scrutiny. If he genuinely had no recollection of the events, he would not have been able to say that particular parts of his 1972 accounts were wrong. Likewise, he would not have been able to say that his 1972 account of the circumstances surrounding his own shots was right. Yet this is exactly what he did. He was at pains to stress that, in respect of his own involvement, the 1972 statements were correct. He said:

> "This is a truthful statement, definitely. Um, I have no doubt that this part of the statement has not been added to or enhanced in anyway, it is definitely what I saw; it is definitely what happened to me; my experience on the day; .... . that part that describes my engagement with a gunman is correct and truthful" (**Day 331/70/7 to Day 331/70/15**)

17.8.3.41 He was asked questions about this as follows:

"Q. But you are able to recall, on this occasion, the number of rounds you fired and the rounds being fired at you and hitting the men you fired at?

A. Yes.

Q. That much is clear, in your mind, in your mind's eye?

A. Yes." (**Day 332/84/10 to Day 332/84/15**)

17.8.3.42 However, what he had said in his Eversheds statement was:

> "I was then engaged in exchanges of fire with a gunman or gunmen. My only recollection now is that the exchange was over quickly, I do not recall how many rounds I fired, or were fired at me or whether or not I hit any of the men who were firing at me." (**B724.3 paragraph 15**)

17.8.3.43 When this contradiction was put to him, he said the Eversheds statement was true and that what he had meant when he said that it was clear in his mind's eye was that he recalled it from his statement. (**Day 332/85/13 to Day 332/85/24**)

17.8.3.44 Soldier S is sure that his 1972 accounts are wrong for the simple reason that he remembers these events very well but he is not prepared to admit that he was personally at fault. Bloody Sunday, according to his recollection, was the only occasion when he fired a shot during his service in Northern Ireland. (**Day 332/84/7 to Day 332/84/9**) On that occasion, he fired 12 and in circumstances so discreditable that he was obliged to invent an account in order to conceal the truth of his actions. That account will now be examined.

17.8.3.45 Soldier S said in his first RMP statement that the rioters at the junction of Rossville Street and William Street numbered about 2000 (**B724.12**) but he was not making any distinction between rioters and marchers (**Day 332/21/13 to Day 332/21/15**). He said in his SA statement that "as soon as

the vehicle stopped we debussed, we came under fire" (**B724.19**) but he had not suggested that in either of his RMP statements. He now accepts that this suggestion was "not to be taken too literally". (**Day 331/82/1 to Day 331/82/17**) However, this was conceded only after it had been pointed out to him that his first reference to civilian firing in his RMP statement was the firing that he said occurred when he had been in his position at the back of 34 Chamberlain Street for about 5 minutes. (**B724.13**).

17.8.3.46 Indeed, according to that statement, he had cocked his rifle "from taking up [his] position", i.e. behind 34 Chamberlain Street (**B724.12**) so that, according to the statement, he had his rifle cocked and ready to fire before he himself heard any firing. Lt. N, for one, did not claim that he came under fire either as soon as he debussed or at any time prior to the recovery of the bodies from the rubble barricade. The photographs, in particular **P1015** and others in that sequence, make it clear that the soldiers in those photographs, viz. N, 019 and 1918, were not behaving as if they were under fire.

17.8.3.47 In his first statement he claimed that nail bombs and acid bombs were thrown from the top of the flats onto the men from his unit who were making arrests. (**B724.12, B724.13**) In his second RMP statement, he repeated this and said that about *5* nail bombs were thrown altogether. (**B724.16**) In his SA statement, he said that "this is not really correct" (**B724.19**) and he told this Tribunal that he did *not* see any nail bombs or acid bombs.

17.8.3.48 When he was asked how he knows he didn't, he said "it was probably put to me" (**Day 332/37/14 to Day 332/37/17**). When asked if the RMP were actually putting in things that he knew to be wrong, he said "that may well have been the case" although he did not have a recollection of it, "that is the nature of the way they did things" (**Day 332/39/3 to Day 332/39/18**). When asked whether they said "look, Soldier S, you saw nail bombs and acid bombs did you not, just put it in your statement; it that what happened?", he said "probably" (**Day 332/40/5 to Day 332/40/8**). When

asked if it was because he was only 18 at the time that he allowed himself to sign the statement when he knew he had not actually seen nail bombs or acid bombs, he said "I would say that that is a fair assumption" (**Day 322/40/9 to Day 332/40/12**).

17.8.3.49 With regard to his own shooting, he suggested that on each of the 4 occasions that he fired, the gunman appeared from the midst of a crowd when a gap in the crowd opened up. Following each of the 4 episodes of firing, the crowd closed in front of the gunman. It was pointed out to him that in photographs **P1015** and **P1016** it is apparent that the crowd in the Rossville Flats courtyard thinned rapidly as soldiers approached. He accepted that the crowd were dispersing in all directions. (**Day 332/43/11 to Day 332/43/16**) However he was not prepared to accept that the crowd must have virtually disappeared by the time he reached the back of 34 Chamberlain Street.

17.8.3.50 As he was taken through his account, he took issue with a number of indisputable propositions such as that, on his account, he was pointing his rifle at the crowd (**Day 332/47/14 to Day 332/47/16**) and that the crowd must have heard the "gunman" in their midst firing towards him". (**Day 332/48/2 to Day 332/48/5**)

17.8.3.51 When asked why, when the crowd had been running so quickly to get away from soldiers whenever they debussed, they would have hung around after he had started firing in their direction, he simply said: "I am sorry, I cannot help you there, I am sorry." (**Day 332/51/5 to Day 332/51/10**).

17.8.3.52 He was asked this:

> "Q Instead of running away from the firing, they run between the two gunmen, or they move between the two gunmen, that is the civilian gunmen and yourself?
> A. Yes, yes.
> Q. Is that not ridiculous?

A. Yes, it seems so, yes, I agree". (**Day 322/49/15 to Day 322/49/20**)

17.8.3.53 This ridiculous scenario occurred 4 times in all over a space of approximately 2 minutes, according to Solider S, during which time the gunman or gunmen fired 13 shots at him and he fired 12 shots in return.

17.8.3.54 Soldier S believes that generally speaking he would expect to hit a target with a single shot at 50 yards, the approximate distance between him and the target on this occasion. (**Day 332/6/5 to Day 332/6/10**) Yet he claims to have succeeded in hitting his target only twice, possibly even only once. (**Day 332/6/20 to Day/332/7/3**)

17.8.3.55 INQ 444 was a member of C Company who saw a paratrooper on the waste ground firing between 10 and 20 shots towards Blocks 2 and 3 at an angle of 30 to 40 degrees with the rifle "under his arm at a position between his shoulder and his waist". INQ 444 thought that this soldier had "lost the plot." (**C444.5 paragraph 34**). Soldier S was the only person in the waste ground area who fired more than 10 shots and it is submitted that he was probably the soldier seen by INQ444.

17.8.3.56 It is further submitted, for a number of reasons, that he may have been the soldier who shot Peggy Deery. Peggy Deery was probably the first to be shot after Support Company entered the Bogside. Although it is not entirely clear where she was shot, it appears to have been somewhere behind 34 or 36 Chamberlain Street. Soldier S arrived in the first Pig. When he debussed he headed straight for the wall behind Chamberlain Street and was almost certainly one of the two soldiers seen in photographs **P1016** and **P278** making their way along the back wall towards Rossville Flats. Charles McMonagle, the First Aid officer seen lying on the ground in **P278**, gave evidence that one of the 2 soldiers seen with him in this photograph had jumped out of what would have been S's Pig and fired immediately from the hip towards the courtyard of the Rossville Flats.

17.8.3.57 Clearly, it is impossible to say whether S did shoot Peggy Deery or indeed anyone else but he fired 12 shots that are completely unaccounted for in the sense that his own account of how they were fired is as ludicrous as Soldier H's and has to be rejected out of hand.

17.8.3.58 In his first Eversheds statement, Soldier 013 said that one of his colleagues, whom he was not then prepared to name, had said he had seen a civilian gunman and had "dropped him". According to 013, "the colleague was tense and shaking when he was telling me. It was very hard to shoot a moving target". **(B1408.4 paragraph 19)**

17.8.3.59 In a supplementary statement, he said that the soldier in question was Private S. (**B1408.26 paragraph 3**). Soldier S did not say that any of his targets were moving. Indeed, they appear to have been stationary when he fired. 013 did not give oral testimony. If his evidence was meant to suggest that S told him that he had shot someone who was moving (which is the apparent meaning of his statement) this confirms that at least one of his targets was someone other than the gunman or gunmen he claimed to see in the alleyway between Blocks 1 and 2.

17.8.3.60 The evidence would suggest that Peggy Deery was stationary when she was shot and that neither Michael Bridge nor Michael Bradley was doing anything more than standing or walking towards the soldiers. The person who is most likely to have fitted the description of a "moving" target was Jackie Duddy.

17.8.3.61 Nor can Soldier S's account be reconciled with the accounts of other soldiers. In particular, Lt N (**P20**), Soldier R (**P24**) and Soldier V (**P28**) marked the trajectories of their shots on photographs, marking the position of their target and their own position when they fired. If Soldier S was standing behind 34 Chamberlain Street, he could not have failed to see the targets of each of these soldiers but he has never claimed to have seen any of them. The accounts of these soldiers were explored with him but he was unable to explain this. (**Day 332/58/24 to Day 332/64/25**)

17.8.3.62 In his first RMP statement, S made no reference to seeing any other soldier firing but in his second statement he said he saw a gunman firing from a ground floor window about three windows in from the southern corner of Block 1. He said this gunman fired six shots at his platoon and he saw O fire back. (**B74.16**). (Incidentally, this was one of the supporting statements made on 4th February 1972.) These shots were in addition to the 13 fired by the gunman or gunmen at whom S himself fired, which makes a total of 19 shots fired from this corner, none of which struck a soldier. When he made his SA statement, he said that he could *not* see O's target and that this target was in the south-east corner of the car park. (**B724.20 paragraph 10**)

17.8.3.63 In other words, the gunman in the ground floor window near the gap between blocks 1 and 2 no longer existed; O had not fired in that direction; and he saw O fire in a different direction at a different target in a different corner of the carpark. He accepted that this was one of the "inaccuracies" in his 1972 statements.(**Day 332/69/11 to Day 332/69/25**) It is submitted that he invented the story in the second RMP statement about seeing the gunman in order to support Sergeant O but, unfortunately for him, the details he gave were inconsistent with the details that had already been given by Sergeant O.

17.8.3.64 When asked by the Chairman how he knew that his second RMP statement was inaccurate in this respect when he did not remember the incident, he replied: "Because it was probably inserted there for me, probably." When asked if this was done by the RMP who took the statement he said "Probably, yes, Sir" and he "went along with it". (**Day 332/72/16 to Day 332/72/25**)

17.8.3.65 With regard to other shooting, S said he was not conscious of anyone firing a pistol in his vicinity (**Day 331/93/16 to Day 331/93/20**) so none of his firing could have been in response to the 2 shots fired by OIRA 4 from

behind the gable wall of 36 Chamberlain Street. Nor did S hear any automatic fire at any stage. (**Day 332/82/2 to Day 332/82/6** and **B724 D**)

17.8.3.66 Soldier S said that he served with the Army in the Middle East after Bloody Sunday. He was involved in firing thousands of rounds and admitted that he had killed "lots of people" (**Day 332/88/9 to Day 332/88/24**). It is submitted that, notwithstanding his frequent expressions of sympathy, Soldier S had no compunction about shooting people and that, bearing in mind both his apparent location and the number of shots fired by him, he is one of the prime suspects for shooting Peggy Deery. He may very well have shot Jackie Duddy too.

Soldier V

17.8.3.67 In summary, Lance Corporal V accompanied Private S and, in his RMP statement, he said that he fired only one round, at a person in the Rossville Flats courtyard *after* that person had thrown a bottle with a fuse in it. When he was interviewed by Mr Heritage of the Treasury Solicitors he said that he could not see anything in the man's hand when he fired at him. This led to the well-known exchange with Lt Col Overbury and the intervention of Messrs Stocker and Gibbens. The statement was clearly tantamount to an admission of murder but his evidence was altered in his SA statement in that he then said he fired instantaneously at a time when he believed the man still had the petrol bomb.

17.8.3.68 The clear inference is that Lt. Col Overbury, Major Bailey or someone else advised V to change his story. Although Counsel for the Widgery Inquiry was aware of the contents of V's original RMP statement, V was not challenged about this at the Inquiry.

17.8.3.69 Lance Corporal V claimed that he no longer remembers the events in any detail. He also said that he has no recollection of any of the interviews with the RMP, Mr Heritage or anyone else prior to the Widgery Tribunal. There are numerous inconsistencies in his accounts, including whether and when he heard explosions or gunfire and what type; when he cocked his

rifle; whether he saw petrol bombs; whether he saw the petrol bomb leave the hand of the person he shot before he fired and the reason for the discrepancy between the trajectory map and Loden Shot List on the one hand and the marked-up photograph on the other in respect of his own position when he fired and the position of his target. No other soldier admits to having seen V firing.

17.8.3.70 Lance Corporal V and Private S were probably the first to fire into the courtyard. According to the account apparently given by V to Major Loden and then given by him to the SIB investigator later that night, his target was hit at more or less the same spot where Jackie Duddy fell. V also said that the person he hit was attended by a group of civilians including a priest. Both these factors point to the conclusion that Jackie Duddy was shot by Lance Corporal V.

17.8.3.71 Soldier V claimed not to remember the events of Bloody Sunday in any detail. (**B821.3 paragraph 2**) He remembered the drainpipe shot although he never mentioned this in 1972. His next memory, he said, was of debussing from the back of the Pig and breaking the ice on top of a frozen puddle. He was annoyed at having stepped in a puddle (**B821.3 paragraph 2.1**). It says a lot that he remembered this but claimed to have only the most limited recollection of shooting a person dead. When asked during his oral testimony if he was seriously suggesting to the Tribunal that he remembered trivial details such as stepping into a puddle but did not remember major details such as seeing a person throwing a petrol bomb at S and S shooting him, perhaps dead, he replied: "That is correct" (**Day 333/106/16 to Day 333/106/21**)

17.8.3.72 He also remembers, as he got out of the Pig, noticing a person in uniform and wearing a respirator. He said:

> "My immediate thought was that the guys here were extremely well organised. I had never before or since seen civilians with respirators and uniforms. Because of this I ran at the man and pinned him against the wall with my rifle". (**B821.3 paragraph 2.3**)

17.8.3.73 This contention positively drips with dishonesty. The person to whom he was referring, Charles McMonagle, was carrying a First Aid bag and, as the photographs of him show, he was quite obviously a First Aider. However, Lance Corporal V was seeking to justify his assault on him by suggesting that he believed him to be a member of an organisation of rioters or possibly terrorists who dressed in uniforms like regular soldiers.

17.8.3.74 With some reluctance, Soldier V was prepared to "go along with" the suggestion that he was probably the soldier on the left in photograph **P278** and that the soldier in front of him was possibly Private S. (**Day 333/50/13 to Day 333/51/11**). The soldier to the left in this photograph has a Lance Corporal's stripe on his right sleeve and his position accords with the position suggested by V himself. In view of his own admission that he pinned a First Aider against the wall and the fact that Charles McMonagle can be seen slumped to the ground in such close proximity to him, V was clearly one of the two soldiers who assaulted him. He may also have been one of the two soldiers seen by Brian Johnston (**Day 84/104/22 to Day 84/105/15**) hitting civilians as they ran past the gap in the wire fence that can be seen in the photograph.

17.8.3.75 In his Eversheds statement, V said his next memory was of hearing a burst of machine gun fire and seeing bullets hit a wall between him and the soldier in front of him. He said it was definitely *machinegun* fire and because it hit the *wall* on his *left* he believed it came from the area of the Rossville Flats. He said it was enemy fire directed at him personally (**B821.38 paragraph 2.4**.). This was completely at odds with the account given by him in his SA statement where he said that as he was running forward behind S he heard the firing of *single* shots and saw the spurt of bullets hitting the *ground*. (**B821.12**). In other words, the single shots in 1972 became automatic fire in 2000 and bullet strikes to the ground on his right in 1972 became bullets strikes to the wall on his left in 2000.

17.8.3.76 There were also discrepancies about whether and when he heard explosions and when he cocked his rifle. In his RMP statement, the order in which events occurred was that he debussed, then heard the sound of shots, then cocked his weapon and then heard two explosions. (**B821.8**) In his SA statement he said that just before he debussed he heard the sounds of two explosions, he then cocked his rifle as soon as he debussed and as he was running forward he heard the shots. (**B821.12**) When asked to explain why he changed the order, he said he had no recollection of making the statement but he accepted that it read as if he had cocked his weapon before he had heard any shots. (**Day 333/104/12 to Day 333/104/16**). If this was right, he prepared to fire before he had heard anybody firing at him.

17.8.3.77 In his RMP statement, he said "rioters also threw petrol and acid bombs." (**B821.8**) When he came to make his SA statement, he said that "no petrol bombs were being thrown." (**B821.13**) When asked why he said this in his RMP statement when it wasn't true, he replied: "I have no idea" (**333/108**).

17.8.3.78 He also claimed in his oral testimony to the Widgery Tribunal that as he was running along the back wall of Chamberlain Street there were approximately 100 people near the end of the Chamberlain Street wall throwing stones and bricks. (**B821.19 to B821.20**) However, it is quite apparent from **P1015** and **1016**, the photographs showing V and S making their way along the back wall towards Rossville Flats, that the crowd was running away, not throwing stones or even facing V.

17.8.3.79 In his RMP statement, he said that firing was taking place at him "from several positions with several different types of weapons." (**B821.8**) However, he told Lord Widgery that what he heard was high velocity rifle fire coming from the alleyway between Blocks 1 and 2. (**B821.19 D-F**.) In other words, within the space of a few weeks, he had changed his story from "coming under fire from several positions, form several different types of weapons" to coming under fire from *one* kind of weapon from *one* position (**Day 333/113/13 to Day 333/113/24**).

17.8.3.80 Of course, in none of the photographs do any of the soldiers look as if they are under fire and, as suggested in the civilian evidence, they clearly were not.

17.8.3.81 In his RMP statement, V indicated 5 distinct stages in the incident in which he said he shot a petrol bomber. First, he saw him draw back his right arm. Secondly, he saw him throw a bottle with a fuse attached to it. Thirdly, after the bottle must have been in the air for several seconds, he saw the bottle hit the ground but not exploding. Fourthly, the petrol bomber moved from the crowd. Fifthly, V fired. (**B821.8**).

17.8.3.82 Even on his own account, therefore, V shot at this alleged petrol bomber after he had thrown his "petrol bomb" and after he had ceased to be a threat. This was pointed out by Counsel to the Inquiry during his oral testimony when V claimed that he shot the petrol bomber because he was "endangering S's life" and it was necessary to shoot him. His only explanation was that it all happened in a flash, (**Day 333/66/3 to Day 333/69/2**) "in a fraction of a second" (**Day 333/128/8 to Day 333/128/12**).

17.8.3.83 That was not the account he gave to the RMP or to Mr Heritage when he was interviewed on 5th March 1972. On that occasion, he described the episode in terms which indicated that it was even more protracted than appeared from his RMP statement. After he saw the fuse coming out in mid-air and the bottle landing without exploding, he "kept an eye on the man who had thrown it, as he moved back in the crowd. As soon as the movement of the crowd gave him a clear sight of the man he shot at him" (**B821.2**) That was the same sequence of events as set out in the RMP statement but in even more clearly separated stages. Mr Heritage asked him if he could see anything in the man's hand. He replied "no, Sir, I can't honestly say that I did".

17.8.3.84 As appears from Mr Heritage's note, Major Bailey intervened and said he wished to discuss the position with Col. Overbury before they proceeded.

Although this must have been a unique experience for Lance Corporal V, he claimed to have no recollection whatsoever of this interview (**Day 333/71/24 to Day 333/72/2**). He also claimed to have no recollection whatsoever of the meeting that must then have followed between himself and either Col Overbury or Major Bailey or both. (**Day 333/131/1 to Day 333/132/19**) It will be remembered that Col Overbury claimed to have no recollection of this meeting either. (**Day 243/145/14**) No one admits having any recollection that this meeting even occurred (when it must have done) or what advice V was given (when he must have been given some).

17.8.3.85 Nor does anyone admit to remembering how V's SA statement came to be made. Contrary to the practice evident from the other written SA statements, this statement did not bear the signature of either the statement-maker or the statement-taker and it was not dated. It is not even known whether it was prepared following a further interview with a member of the Treasury Solicitor's staff or simply presented to the Treasury Solicitor. We do know that Mr Heritage had no further part in the process and did not re-interview this soldier.

17.8.3.86 The advice that V received had a dramatic impact on V's memory of the circumstances in which he shot the "petrol bomber", as appears from his SA statement. In that statement, V gave a completely different account in which he said that "all these events took place almost instantaneously" and he claimed that it was only after he shot the man that he "then realised that he had thrown the bomb before I had shot him." (**B821.13**) This was the account that was repeated under oath to Lord Widgery. (**B821.29**).

17.8.3.87 The most striking feature of his Widgery testimony is that, although Senior Counsel to the Tribunal and Senior Counsel for the Army were both involved in the "negotiations" following the admission to Mr Heritage and both were therefore aware of the previous, strikingly inconsistent statements, neither they nor their Juniors (nor indeed Lord Widgery himself) raised this. This could not have been an oversight. The only possible explanation is that Counsel for the Widgery Tribunal and Counsel

for the Army agreed in advance that no reference would be made to the account given by V to the RMP and to Mr Heritage.

17.8.3.88 When Soldier V gave his account at the Widgery Tribunal, Mr Underhill asked him: "Did all that happen in a very short space of time?" and V duly provided the necessary answer: "A fraction of a second, Sir". (**B821.21 B**). He told Mr McSparran that he could not see that the petrol bomb had been thrown before he fired at the bomber. (**B821.29 A**) When tested about the sequence of events, he gave an account that was so contradictory as to be incoherent and it attracted the intervention of Lord Widgery. Within the space of a few seconds, he said that he saw the fuse burning but did not see it alight and that it was impracticable to shout a warning when he saw the fuse burning on the ground because the bomber still had the bomb in his hand. (*ibid*) He also told Lord Widgery that the fuse would have been in the bottle when it hit the ground (**B821.30 A**) although he had told Mr Heritage that it had come out when it was in the air.

17.8.3.89 What is clear is that Lance Corporal V shot the person he intended to shoot (**Day 333/146/17 to Day 333/146/22**) and that when he shot he was intending to kill that person (**Day 333/74/19 to Day 333/74/21**). The person he shot was attended by a group of civilians, including a priest (Widgery Transcript at **B821.30 G** and **Day 333/147/5 to Day 334/147/13**). Apart from this group, who he said all had white handkerchiefs, V did not remember any other people still in the courtyard of the flats. (Widgery Transcript at **B821.22 A**) He believed there was no one else lying on the ground in the area (**Day 333/148/6 to Day 333/148/11**).

17.8.3.90 The scene depicted by Lance Corporal V is, therefore, exactly the same scene described by civilians and depicted in the photographs (starting at **EP25.6**) of Jackie Duddy being attended by a small group of civilians, including Father Daly, in a courtyard that is otherwise virtually deserted. Soldier V denied the person he shot was the person shown in these photographs, because he did not fit the description of the person he shot at.

(**Day 333/150/1 to Day 333/150/3**) He insisted that the person he shot was wearing a white shirt and that he shot him in the stomach. No one in the courtyard area was shot in the stomach and it is submitted that Soldier V invented the suggestion that he shot his victim in the stomach and that he had a white shirt in order to distance himself from the shooting of Jackie Duddy.

17.8.3.91 In his list of engagements (**B2283.20**), Major Loden noted at No. 2: "one petrol bomber at GR 43281679 shot from GR 43291683 apparently killed (car park)" This is clearly a reference to Lance Corporal V's single admitted shot. As appears from the map (**OS1.807**) on which we have drawn the shots listed by Major Loden, the position of No.2's target matches the position of V's target as depicted in the map attached to his own RMP statement. (**B790**) The position of the target in each case is close to the position where Jackie Duddy fell.

17.8.3.92 However, when V came to mark up the trajectory photograph (**P28**), the location of his target had shifted dramatically so that it was now behind the back wall of 36 Chamberlain Street. However, even this shows V firing towards the spot were Jackie Duddy fell, as can be demonstrated if the line representing the trajectory is simply extended to the point where he can be seen in the photographs to have been lying. (**P28**).

17.8.3.93 Incidentally, as he accepted himself, Soldier V also moved his own position from behind 36 Chamberlain Street to a position close to the fence (**Day 333/164/1 to Day 333/164/20**). He said he cannot remember why he did that. (**Day 333/165/11 to Day 333/165/12**).

17.8.3.94 For completion, it should be noted that no one admitted to seeing V firing and V did not admit to seeing the other soldiers firing, except S. Although he was apparently in more or less the same position as S, he did not claim to see the gunman or gunmen allegedly seen by S on four different occasions. He did not mention anything about seeing S firing or seeing S's targets in his first statement. In his SA statement, he said he saw S

returning fire in the direction of the gap between Blocks 1 and 2 but all he saw was "flashes coming from that direction". He did not hear shots or see a gunman. (**B821.13** and at Widgery, **B821.21**).

17.8.3.95 It is in these circumstances that we respectfully submit that the evidence supports the propositions that:

(i) Soldier V is a dishonest and unreliable witness who fabricated his description of the person he shot, the way in which he shot him and the reasons for which he shot him.

(ii) The person he shot was Jackie Duddy.

(iii) He intended to kill that person.

(iv) There was no justification for shooting Jackie Duddy.

(v) Lance Corporal V therefore murdered Jackie Duddy.

Private Q

17.8.3.96 In summary, Private Q deployed to the east corner of the northern end of Block 1. He claimed to have seen a person throw a nail bomb from the junction of Blocks 2 and 3 to within 10 yards of Pig 2, i.e. a distance of 60 –70 yards, where it exploded. He fired one round and hit him in the chest.

17.8.3.97 In his Eversheds statement, he said he could hear the crack and thump of incoming fire over his head. (**B657.3 paragraph 18**) During his oral testimony to this Tribunal, he said that when he referred to the "crack and thump" of incoming fire he meant high velocity fire. (**Day 339/18/13 to Day 339/18/16**) However, at the Widgery Tribunal, he emphatically said on more than one occasion that the firing he heard was not high velocity but low velocity. (**B636**, **B642E** and **B650**)

17.8.3.98 He told this Tribunal that apart from that firing, he was not aware of any other fire during the course of the day. (**Day 339/20/21 to Day 339/20/24**) However, he had said in his Eversheds statement that before he shot the nail bomber he heard "a mixture of high and low velocity incoming fire." (**B657.5 paragraph 29**) When it was put to him that that could not be right

in the light of what he had told the Tribunal, he said he was "just confused." (**Day 339/21/2 to Day 339/21/9**)

17.8.3.99 He told this Tribunal that when he talked about incoming fire he meant that fire was being directed towards him and towards the other soldiers that were there. However, he had told the Widgery Tribunal that he did not know from which direction the shots had come or where they landed, (**B657.27 F**) Nevertheless, he insisted that rounds were being fired at him and at the soldiers near him. (**Day 339/72/7 to Day 339/72/9**) He said he was sure about this and he was on oath. What he had said on oath to Lord Widgery was: "I never heard any shots fired at me at all". He was then asked: "Throughout the whole of the period you were concerned with the operation, you were not conscious of being fired on at any time?" He answered: "No". (**B657.35 B**).

17.8.3.100 When these passages were put to him he then said he was "talking in a personal context," meaning that he was only talking in those passages about shots being fired at him personally and that what he had meant was that there were shots fired at "other soldiers near [him]". (**Day 339/74/3 to Day 339/74/8**) He was then shown the next page of the Widgery Transcript, where he was asked the following:

"Q. During the whole of the period you were there, there were a number of other men who were in that vehicle also operating about that area?

A. Yes.

Q. You were not conscious of any firing directed at you or them during that period?

A. No, Sir" (**B657.36 A – B**)

17.8.3.101 He accepted that he was there talking not just about himself but the men with him and when asked for an explanation he said he could not give one. (**Day 339/74/25 to Day 339/75/4**) He accepted that the impression given in his testimony to Widgery was that he came under no incoming fire. When asked why he gave that impression if it was not true, he replied: "It

was not an intentional lie". Eventually, he accepted that the accounts given to Lord Widgery and this Tribunal are "completely opposite". (**Day 339/77/2 to Day 339/77/3**)

17.8.3.102 In his RMP statement, he said: "As I got out of the vehicle there were stones and bottles being thrown towards our position from where Chamberlain Street runs into the forecourt of the flats". (**B657.20**) When it was pointed out to him that the vehicle from which he debussed was N's Pig, not O's, and that it had stopped near Eden Place, he accepted that it would not have been possible for him to come under any kind of stone or bottle attack in the way that he described in his statement. (**Day 339/67/8 to Day 339/67/17**) His explanation was that it was a confusing time. He said he remembered being confused when he made his statement but in his next answer he did not remember being confused when he made that statement. (**Day 339/68/3 to Day 339/68/11**) He said that by the time he got to the north gable wall of Block 1 he was not being stoned at all (**Day 339/69/11 to Day 339/69/14**), which corresponded with his statement to Eversheds. (**B657.38 paragraph 19**) It was then put to him that if he was not being stoned when he got out of his vehicle and if he was not being stoned when he reached the north end of Block 1 it is likely that he was not being stoned at all but he still insisted that he was being stoned by people in the car park.

17.8.3.103 Before taking up position at the east corner of the north gable wall of Block 1 he had gone to the west corner. He did not see anyone fire from the rubble barricade or from anywhere else in Rossville Street towards the Army or throw anything (apart from "rocks"). He claimed not to have seen any soldier fire towards the barricade. (**Day 339/29/4 to Day 339/29/8**)

17.8.3.104 When questioned by Christopher Clarke QC about the account given by him to the RMP concerning the nail bombs, he accepted that the impression was given that *several* nail bombs were being thrown so as to land close to the soldiers and that the soldiers were in effect under a nail bomb attack. (**Day 339/38/6 to Day 339/38/22**) Despite the obvious impression given in that statement that there was more than one nail bomber, Soldier Q refused to accept this. (**Day 339/39/4 to Day 339/39/25**). However, he accepted that in his account to Lord Widgery he had talked about 4 or 5 nail bombs being thrown. (**B636**) When asked if he was exaggerating the number of bombs he saw thrown, he said "not intentionally". (**Day 339/41/13 to Day 339/41/15**)

17.8.3.105 In his Eversheds statement he said that he saw a man throw a nail bomb and it landed in the car park "in among the people" and "it exploded" (**B657.4 paragraph 20**). In his testimony to this Tribunal he said the noise it made was a very audible crump which must have been heard by the civilians in the carpark and the soldiers who were in or around the Pig that was at the entrance to the carpark. (**Day 339/32/1 to Day 339/32/13**) He did not see any nails come out of the bomb. (**Day 339/32/20 to Day 339/32/24**) In other words, it was a nail bomb with no nails. Nor did he see any of the nail bombs smoking or fizzing. He accepted that, according to his RMP statement, the nail bomb must have been thrown about 60 or 70 yards, i.e. about twice the length of the chamber in the Methodist Central Hall. (**Day 339/84/10 to Day 339/84/21**)

17.8.3.106 There are a number of problems with Soldier Q's account of the nail bombing. First, his own accounts of the number of nail bombs thrown and the number of nail bombers have been at variance with each other. Secondly, the distance which he says the nail bomb was thrown is unlikely, to say the least. Thirdly, although at least one of these nail bombs landed and exploded amongst a group of civilians, no one was injured. Fourthly, the nail bomb that did explode had no nails and none of the nail

bombs he saw fizzed or smoked. Fifthly, not one member of his own Platoon and not one of those members of C Company who made their way to the end of Chamberlain Street (towards which Q said in his Widgery evidence one of the bombs had been thrown: **B657.18**) heard or saw a nail bomb explode in the courtyard. Q's account is patently an invention.

17.8.3.107 Soldier Q did not accept that he was necessarily the person seen at **P285** standing at the east corner of the north gable wall of Block 1. However, he agreed that that was certainly where he was standing at the material times (**Day 339/82/11 to Day 339/82/19**) and it is submitted that it is almost certainly Q seen in the photograph. In other words, he must have seen Jackie Duddy lying on the ground surrounded by a small group of civilians, including a priest, and he must have seen Michael Bridge being shot as he gesticulated towards the soldiers. He had no explanation as to how he could have missed seeing that event occur in an otherwise empty carpark. (**Day 339/50/11 to Day 339/50/20**)

17.8.3.108 At one stage, INQ 2003, who had a drink problem, tried to suggest that he was Soldier Q and that he had shot Jack Duddy. He told the Tribunal that he pretended to be Q because he understood from soldiers who were there that it was Soldier Q who had shot Jackie Duddy. He said that he did not know who told him that but when asked whether it was Q he said "maybe, yes." (**Day 339/53/7 to Day 339/53/23**)

17.8.3.109 Without prejudice to our submission that Jackie Duddy was probably shot by Soldier V, it is also possible that he was shot by Soldier Q. We say this for five reasons. First, he was in a position (the east corner of the north gable wall of Block 1) where he could have shot him, although if he did go first to the west corner and stayed there for any length of time he may have arrived at the east corner after Jackie Duddy was shot. Secondly, the suggested trajectory of his shot (from the north-west corner of the

courtyard to the south- east corner) is consistent with hitting Jackie Duddy at the point where he fell. Thirdly, his account of the circumstances in which he fired is clearly fabricated so that he must have fired in circumstances and with an effect to which he is not prepared to admit. Fourthly, INQ 2003 was certainly in a position to know from the talk among the men directly involved in Sector 2 who had done what and it does seem logical that if he was trying to pass himself off as the person who shot Jackie Duddy he would have used the cypher of the soldier he understood to have been responsible for that. It would, however, be unwise to place any reliance on 2003's understanding. Fifthly, Q was very confident that he hit his target and he believed that he killed the person he was aiming at. (**Day 339/59/22 to Day 339/60/6**)

17.8.3.110 With regard to the question whether he saw acid bombs, he told Eversheds that he did not see acid bombs being thrown and he did not see them land. (**B657.5 paragraph 30**). He had told Lord Widgery that he saw bottles being thrown from the flats, he saw them landing and he saw liquid that he thought was acid coming out of the bottles. (**B657.28 F**) Nor had he suggested in his RMP statement that he had seen Soldier T with acid on his trousers, as he claimed, (**Day 339/80/16 to Day 339/80/18**) even though he was discussing acid bombs in that statement.

17.8.3.111 Finally, no other soldier admits to seeing Q fire his shot and Q does not admit to seeing anyone else fire.

INQ1918

17.8.3.112 Private **INQ 1918** was Lt N's radio operator in Pig 1. He fired no shots. He did not make an RMP statement but did sign an arrest form in which he claimed that he had arrested Duncan Clarke. He said in the RMP statement form supporting the arrest that he saw the person he now knows to be Duncan Clarke throwing stones at Security Forces. (**C1918.9**)

17.8.3.113 In his Eversheds statement, INQ 1918 said that he heard incoming fire from behind him and to his left, which would have been from the direction of the William Street/Rossville Street junction.(**C1918.2 paragraph 8**) He provided a diagram illustrating this. (**C1918.5**) No one else has suggested that civilians or indeed soldiers were firing from this location. He also claimed to recall hearing a Thompson sub-machine gun at some stage but cannot recall nail bombs and saw no one with weapons. (**C1918.3 paragraph 14**) In answer to Counsel to the Inquiry, it was "perfectly possible" that he may have imported into his recollection of Bloody Sunday a recollection from another day and that the recollection of a Thompson sub-machine gun could well come from another occasion. (**Day 342/101/9 to Day 342/101/11**)

17.8.3.114 INQ1918 said that the shots that he heard from behind him were high velocity rounds. He heard "a couple of shots"- it was not an SLR. (**C1918.2 paragraph 8**). Fire was returned, he said, but he did not know who returned the fire. He only heard SLR's firing. He did not see anyone fire shots and he does not know if it was anyone near him who was returning fire. "SLR fire sends out shock waves and echoes and it is very difficult to tell where it is coming from", he said. (**C1918.2 paragraph 9**) It should also be remembered that he was wearing headphones and a respirator. (**Day 342/102/11 to Day 342/102/13**)

17.8.3.115 INQ1918 claimed to have no recollection of seeing or hearing N fire 3 shots even though, as the Chairman pointed out, he was in very close proximity to him at the time. (**Day 342/114/12 to Day 342/114/19**) It is simply impossible to accept that INQ1918 would not have heard or been aware of his Platoon Commander firing 3 shots within a matter of feet from him. This is yet another witness who preferred to feign memory loss rather than deal with difficult questions about the shots fired by other soldiers.

17.8.3.116 He was supposed to stay close to his Platoon Commander so that he could transmit and receive messages on the radio on his behalf. He accepted that

it was possible that he accompanied Lt N when he returned to the wall at the back of Chamberlain Street after depositing the prisoner in the back of the Pig (**Day 342/118/2 to Day 342/118/8**) but he claimed to have no recollection of what Lt. N did and specifically no recollection of him firing at a man he said was a nail bomber. (**Day 342/118/9 to Day 342/118/12**)

17.8.3.117 INQ1918 did not recall sending or receiving any transmissions over the radio. (**C1918.3 paragraph 16** and **Day 342/119/10 to Day 342/119/17**)

17.8.3.118 His memory of the day was so poor, he said, that he had "no memory of the whole thing", no memory of discussing it with anyone, no memory of being told that a young man called Jackie Duddy had been shot dead in the courtyard, no memory of being told that other persons had been wounded and not even any idea when he first learned that civilians had been killed and wounded on Bloody Sunday. (**Day 342/120/17 to Day 342/120/25**)

17.8.3.119 With regard to his own conduct, he said that he would not have snatched the prisoner himself because one cannot do snatch squad duties whilst carrying a radio, so that someone else must have snatched the prisoner and handed him to him. (**C1918.4 paragraph 20**) When asked to explain how he could have come to make a statement in which he said he was part of a snatch squad and arrested someone for throwing stones, he said he could not remember how "that gentleman turned up and was given to me or what happened to him afterwards". (**Day 342/96/4 to Day 342/96/11**) Even on his own account, therefore, it is likely that INQ1918 had not seen Duncan Clarke throwing stones and had not arrested him but had simply received him from another soldier, so that his statement to the RMP was false.

17.8.3.120 Fortunately, we have the independent evidence of the photographs (especially **P273**) and of Jeffrey Morris, who was working for the Daily Mail. In the statement made by Mr Morris in1972, he said that the soldier with the respirator in **P273** (i.e. 1918) was one of 2 paratroopers who forced him against a wall with a rifle across his neck and kicked him on

the thigh. (**M57.2 paragraph 5**). He then saw INQ1918 hit Duncan Clarke on the head with his rifle butt.

Soldier 162

17.8.3.121 **Corporal 162** deployed in the Eden Place/Chamberlain St area, according to his RMP statement, but then ran along the wall at the back of Chamberlain Street where he met O, took a prisoner from him and returned to his Pig. He fired no shots.

17.8.3.122 In his Eversheds statement, he claimed to have heard automatic fire as he got out of his Pig. His explanation of this is tentative and confusing. He said he heard what he "believed" to be automatic fire. Reference to his belief was not meant to imply a degree of doubt, he said. (**Day 323/212/7 to Day 323/212/25**). In his Eversheds statement he explained that the fire came "from my right in front of the Pig" (**B1962.3 paragraph 17**) which would suggest a location towards Eden Place/Chamberlain Street but he said later in the same paragraph that it came from Rossville Flats or Rossville Street area (i.e. directly behind the Pig) and repeated this in his oral testimony. (**Day 323/217/19 to Day 323/218/6**)

17.8.3.123 In the same paragraph, he said "I do not know who fired, from where or who they were firing at", which is also difficult to reconcile with the suggestion that it came from Rossville Flats or anywhere in particular. When it was suggested to him that he had really no idea where this alleged automatic fire was coming from, he said "No, absolutely, although it was on my right" (**Day 323/221/8 to Day 323/221/9**). He also said in his Eversheds statement (**B1962.3 paragraph 17**) that the firing was not an immediate threat to him, which suggests that it was not incoming fire, but that it made him "go to the left hand side of the vehicle, i.e. close to the wall at the back of the terraced houses". The left hand side of the vehicle was facing towards Rossville Street, away from the walls at the back of the houses.

17.8.3.124 However, Corporal 162's claim to have heard automatic fire is undermined principally by the fact that he made no reference in his RMP statement to hearing such fire or indeed any fire at all. If he had heard any civilian gunfire, this is exactly the kind of detail that would have been welcomed by the RMP. He could not explain why he made no reference in his 1972 statement to hearing any gunfire. (**Day 323/213/1 to Day 323/213/21**)

17.8.3.125 Corporal 162 deployed initially to Eden Place but he claimed not to have witnessed Lt. N's shooting. Indeed, he even claimed that he did not even know that Lt N had fired at all until he was told by counsel during his oral Testimony. (**Day 323/218/13 to Day 323/218/15** and **Day 323/225/17 to Day 323/226/3**)

17.8.3.126 The only offensive action on the part of civilians referred to in his RMP statement was that of a man throwing a metal stake at him (an incident he no longer remembers) and people throwing stones and bottles. Incidentally, he said that he ran towards the alleyway which runs between Eden Place and Chamberlain Street to "try to arrest these people who were throwing stones and bottles in Rossville Flats forecourt" (**B1962.7**), which is of course in a different direction. He now accepts that he did not in fact see people throwing stones and bottles and that by the time he had got out of his vehicle people were running away. (**Day 323/186/6 to Day 323/186/11**) When asked why, if he had not seen people throwing stones and bottles, he signed a statement to this effect, he said that came from Military Police, not him. (**Day 323/187/3 to Day 323/187/7**) In other words, he signed a statement that, in this respect at least, was false.

17.8.3.127 It is submitted that the rest of his evidence to this Tribunal is false insofar as he claims to have heard civilian gunfire or to have been unaware of the shooting by other soldiers. He said that, apart from the automatic fire, "there was certainly no other specific shots which made me look up or look in any particular direction. I never saw any particular individual shooting and neither did I see anyone shooting at me." (**B1962.3 paragraph 19**) This is a soldier who made his way towards Sergeant O's

Pig at a sufficiently early stage, according to his account, to be able to take custody of the civilian (William Doherty) arrested by Sergeant O, who claims not to have started firing before this point.

17.8.3.128 Mr Doherty would appear to have been put into Lt. N's Pig by Corporal 162. It is therefore probably Corporal 162 who struck him in the face with the butt of his rifle, as described by Mr Doherty (**AD113.1 paragraph 5**).

17.8.3.129 Corporal 162 admitted that he had spoken to Neil Davies of Praxis (**B1962.6 paragraph 35** and **Day 323/199/13 to Day 323/200/1**). He recognised the transcripts at **O23.1** *et seq* and **O24.1** *et seq* as reflecting conversations he had on two occasions with Mr Davis (**Day 323/203/3 to Day 323/211/17**). The one thing he apparently did not want to talk about was Bloody Sunday because "that was something in my past and that is the end of it" (**Day 323/232/16 to Day 323/232/24**). He denied that Attachment 5 to his statement (**B1962.12 to B1962.15**) was a transcript of any discussion he had with Neil Davies. (**B1962.6 paragraph 36**) In this attachment, the soldier talked about having almost a free hand, laughing at the "Yellow Card System", getting away with murder, using dirty tactics, ruling by fear and things getting out of hand. With regard to Bloody Sunday, the soldier suggested that Lt. N's "warning shot" set everybody off and "the lads starting firing", "some of those guys even fired from the hip".

17.8.3.130 Whether or not the soldier giving that interview was Corporal 162, he was certainly a member of Mortar Platoon and, it is submitted, the real reason why 162 claims not to have seen anything is because what he saw and witnessed is reflected in the contents of Attachment 5.

Soldier 019

17.8.3.131 **Soldier 019** was one of the two soldiers in Pig 1 with a baton gun. He has identified himself in **P1016** as the soldier at the corner opposite Lt. N. He said in his RMP statement that he heard 3-5 shots from Rossville Flats

before N fired. He also saw someone cutting Private T's denims off after he was hit with an acid bomb. He did not make any arrests or see any arrests. He said he fired no live rounds. Although he denied it, he is undoubtedly the subject of Praxis interviews transcribed at **O.27**, **O.28** and **O.29** in which, among other things, he discussed the "dirty tactics" and "set-up situations" in which they engaged and in which he said that on Bloody Sunday Lt. N fired first.

17.8.3.132 We say that Soldier **019** is the source of the comments recorded in these transcripts for the following reasons. First, one of the producers of the Praxis programme has already testified under oath that **019** was the source for one of the interviews and the other two are clearly interviews with the same person. Secondly, his own counsel had previously told the Tribunal that he was the source for some of the transcript and he admitted that he had given his counsel instructions to that effect. Thirdly, he, and only he, fits the profile of the interviewee. It could not be anyone else. Fourthly, the interview was conducted by a former paratrooper who actually served with **019** in Mortar Platoon so that he could hardly be fooled by an impostor pretending to be **019** in the sense of claiming the role, responsibilities and experiences of **019** on the day. We shall deal with each of these in turn.

17.8.3.133 The transcripts in question were prepared for the purposes of a documentary made by John Goddard, Tony Stark and Neil Davies for *Praxis Films*, who were commissioned by *Channel 4* for the purpose. In his Eversheds statement (**M86.11 paragraphs 35 to 36**), Mr Goddard said that he recalled the name of the interviewee recorded in transcript **O.27** but he was unable to identify him because he was given an undertaking of confidentiality. When Mr Goddard came to give his oral testimony, he was informed by Counsel to the Tribunal that 019 had released him from any obligation of confidentiality and he was asked to confirm whether he was the person to whom the transcript at **O.27** related. After a short discussion about the fact that 019 shared the same Christian name as

Corporal 162, he confirmed that it was 019. (**Day 233/134/15 to Day 233/134/25**)

17.8.3.134 During the testimony of Mr Goddard, his own senior counsel, when invited to confirm his instructions in this matter, said:

> ".. .. Soldier 019 believes that [**O27.1**] must represent part of the conversation he had, but may I say he has considerable reservations about the way it is recorded and the language which he is supposed to have used". (**Day 233/119/9 to Day 233/119/13**)

The interviewee in **O.27** is clearly the same as the interviewee in **O.28** and **O.29**. This is clear because the details given of the role and experience of the interviewee in the three transcripts correspond, not to mention the repetition of certain points and even terminology. We refer to the three transcripts for the full terms and effects thereof. By way of example, the interviewee in **O.27** says that he was armed with a baton gun; he did not fire himself; he did not see a target; he was with the Platoon Commander; the Platoon Commander fired first; the empty cases passed over his (the interviewee's) head; the world collapsed around them; and lots of careers were ruined that day. The interviewee in **O.28** said that he did not fire a bullet; he did not see any targets; he was with the Platoon Commander; he was right by the Platoon Commander; the Platoon Commander fired first; the cartridges whistled past his head; and careers were ruined. The interviewee in **O.29** said that he did not fire himself; he did not see any targets; he was right by N; N started firing first; the cases were flying right by his head; the world collapsed around them; and lots of careers were ruined that day.

17.8.3.135 Apart from the details of 019's own experience on Bloody Sunday, details of the general conduct of paratroopers in Northern Ireland appear in **O.28** and **O.29**. A number of them correspond, for example about the "set-up" situations and private supplies of ammunition.

17.8.3.136 The interviewee in these transcripts was a member of Mortar Platoon, he was in Lt. N's Pig, he was armed only with a baton gun, he was beside Lt.

N when Lt. N fired at the junction of Eden Place/Chamberlain Street and he had a recollection of seeing Soldier T having his denims cut off. These details are extensive, specific and unique to Soldier 019.

17.8.3.137 The interviews were conducted by Neil Davies, a former member of the Mortar Platoon who served with 019 in Aden. (**Day 343/94/6 to Day 343/94/17**) Mr Davies was the main contact with the paratroopers interviewed for the programme and he interviewed many of them himself. It can be assumed that he was familiar not only with 019's role on Bloody Sunday but also with the role of others in the same Platoon. It is inconceivable that he could have been fooled by an impostor.

17.8.3.138 Despite having all these matters put to him, 019 persisted in denying that he was the source of *any* of the material in the transcripts.

17.8.3.139 We repeat the requests made at the conclusion of his oral testimony that the Tribunal should consider referring this matter to the DPP with a view to prosecuting this witness for perjury. He is clearly not the only soldier who committed perjury either at the Widgery Tribunal or at this Tribunal. However, he was perhaps the most blatant offender.

17.8.3.140 Among the most relevant facts and contentions advanced by Soldier 019 in the course of these interviews are the following:

(i) You have got to be a "psycho" to get into the Paras. They use maximum violence in minimum time. They are "like Tyson in the ring – dominate, sort out, people then behave themselves, unpredictable, kick shit out of 'em."

(ii) The Paratroopers engaged in dirty tactics and had contempt for the Yellow Card.

(iii) The Paratroopers engaged in "set-up situations", including planting firearms or explosives to procure wrongful arrests and convictions, murdering civilians and fabricating evidence to cover up such unlawful activity.

(iv) They all carried extra, private supplies of ammunition and ignored the rules about ammunition.

(v) On Bloody Sunday, Lt. N fired first, "he had lost it", the shooting then started.

(vi) There was a "cover up" after Bloody Sunday.

17.8.3.141 By virtue of 019's refusal to admit that he gave these interviews, the Tribunal was unable to explore them further and was therefore seriously impeded in its search for the truth about Bloody Sunday.

17.8.3.142 Bearing the contents of his Praxis interview in mind, the Tribunal can safely disregard the account given by 019 to the RMP in 1972 insofar as he suggested he heard civilian gunfire from Rossville Flats and that he heard these shots before Lt N fired.

17.8.3.143 With regard to his claim that the crowd started to advance on himself and Lt. N throwing perhaps dozens of bottles, photographs **P272** and **P273** reveal no evidence of the bottles that 019 says were landing near him and breaking. (**Day 343/170/10 to Day 343/171/14**)

17.8.3.144 The Tribunal can also reject his evidence that he does not remember firing any rubber bullets and was not even aware of the practice of modifying rubber bullets (**Day 343/173/7 to Day 343/174/12**). Soldier 019 might have been one of the two soldiers who attacked Jeffrey Morris. As one of only four members of Mortar Platoon with a baton gun and as the person who took William Doherty into custody, he may also have been the soldier who fired his baton gun at point blank range and hit Mr Doherty when Mr Doherty was sitting in the Pig. (**AD.113.3**) He may also have fired a rubber bullet into Duncan Clarke's face when he was in the back of the same Pig. (**AC61.1**) One of these incidents was witnessed by Captain 200, the Composite Platoon Commander, who said that he saw a soldier fire a rubber bullet into the back of an APC at point blank range when the APC was parked at the northern end of Block 1. (**B1980**)

17.8.3.145 Finally, he may have been the soldier who fired the rubber bullet which apparently caused the wound suffered by Patsy McDaid, although we consider that Soldier 13 is the most likely candidate for that.

Soldier 112

17.8.3.146 **Soldier 112** was armed with a baton gun and fired a number of baton rounds. He said it was only after he had arrested a person and taken him to his Pig that he heard gunfire, including Thompson submachine gun fire. Eamon McAteer was the person said to have been arrested by him but Eamon McAteer was not arrested in Rossville Street. Soldier 112 was one of those who collected the bodies from the rubble barricade.

17.8.3.147 Soldier 112 claimed to have witnessed the drainpipe shot. He recollected that Lt. N climbed up the ladder to his position and asked if anyone had fired a shot. (**B1732.3 paragraph 12**) When his attention was drawn to Lt. N's claim that his (Lt.N's) immediate reaction was that the crack was an incoming high velocity shot, he said "what I do remember is him waving a rifle and asking did we fire one of these" (**Day 320/125/18 to Day 320/125/25**), which, if true, tends to undermine Lt N's account.

17.8.3.148 He said that when he fired at those who were rioting in the waste ground after he debussed, he fired "at the group generally as opposed to individual rioters". He was not aiming at anyone in particular. (**Day 320/132/19 to Day 320/132/21**) He initially accepted that that was not within the rules but when it was pointed out to him that he was then acting outside the rules he said it *was* within the rules. (**Day 320/133/1 to Day 320/133/9**)

17.8.3.149 At Fort George, 112 made a statement to the effect that he had seen Eamon McAteer throw stones in Rossville Street and that he had arrested him. (**ARR30.3**) When it was put to him that he had made that statement when, in fact, he had not seen Mr McAteer throwing stones there at all because he was not in Rossville Street, Soldier 112 replied "that is possible" (**Day 320/133/19 to Day 320/133/24**). It is submitted that Solider 112 knew

perfectly well that he had not seen or arrested Eamon McAteer since Eamon McAteer was, as we know, arrested at the gable end of Glenfada Park North and 112 does not recall going "anywhere near the area of Glenfada Park North". (**Day 320/102/5 to Day 320/102/8**) Mr McAteer's account of the circumstances in which he was identified by 112 at Fort George should be preferred. (**B1732.14**) Soldier 112's account of this matter is a complete fabrication, made in circumstances where he would have expected Eamon McAteer to be prosecuted for riotous behaviour and given the mandatory six months prison sentence.

17.8.3.150 Soldier 112 claimed to have heard a mixture of high and low velocity firing. When challenged about this he accepted that, because there were so many thumps and bangs and explosions going on of different kinds, including baton guns, it is possible that what he thought may have been low velocity firing may not have been. (**Day 320/135/17 to Day 320/136/1**) He could not say whether the high velocity firing was all SLR fire. (**Day 320/134/22 to Day 320/134/24**)

17.8.3.151 Despite his location at the east corner of the north gable wall of Block 1 and the fact that he was looking into the courtyard, he did not see any soldiers opening fire. (**Day 320/136/2 to Day 320/136/19**) He did see soldiers in firing positions but he said he could not recognise them, even though he was within a few yards of Sergeant O and must have been standing right beside Q when he fired from the same corner.

17.8.3.152 He claimed to be concentrating most of his attention on the alleyway between Blocks 1 and 2 (**Day 320/137/12 to Day 320/137/25**) but he did not see anyone firing a gun or carrying a gun in that alley (**Day 320/141/15 to Day 320/141/19**), which undermines S's account of seeing as many as 4 different gunmen who fired about 13 shots at him from that location.

17.8.3.153 Soldier 112 did not see any gunmen anywhere in the courtyard, or in the block of flats or on the balconies. He denied seeing any civilians lying on the ground in the courtyard. (**Day 320/142/13 to Day 320/142/19**) Nor did

he see any nail bombers or anybody of that kind (**Day 320/138/9 to Day 320/138/16**), which undermines the evidence of all those soldiers who claimed to have shot at gunmen and nail bombers there.

17.8.3.154 Although he was one of only 4 soldiers with baton guns in the courtyard area, he denied that he fired across the courtyard and did not see anyone else firing baton rounds across it to the location where Patsy McDaid was hit. (**Day 320/144/14 to Day 320/144/23**) Soldier 112 used a baton gun most of the time during his service in Northern Ireland from 1970 until Bloody Sunday but he said that he had never even heard tell of baton rounds being modified by the insertion of batteries or in any other way. (**Day 320/143/7 to Day 320/144/13**).

17.8.3.155 In his Eversheds statement, he described seeing the hand of a person holding a gun appear from a second floor window of Block 1 but he conceded during his oral testimony that it is possible he did not in fact see that. (**Day 320/116/4 to Day 320/116/11**) He said that maybe his memory was playing tricks with him but he denied inventing the account, which in our submission he clearly did. (**Day 320/145/5 to Day 320/145/16**).

17.8.3.156 He was challenged about gunfire that he claimed in his Eversheds statement to have heard which he had not claimed in his 1972 statement to have heard. It was suggested to him that as time has gone by he could have remembered hearing and seeing more than he actually did hear and see, to which he replied: "I could have imagined it". (**Day 320/145/17 to Day 320/146/7**)

17.8.3.157 As far as the suggestion in his RMP statement (**B1730**) that he had heard a Thompson sub-machine gun is concerned, he said it was possible that this was put in at the suggestion or prompting of someone in the RMP. (**Day 320/149/21 to Day 320/150/2**)

17.8.3.158 Soldier 112 was involved in removing the bodies from the rubble barricade. He said that he had no recollection of feeling under threat as he

did that and no concerns about being fired upon (**Day 320/146/23 to Day 320/147/3**), which tends to confirm that there was no firing going on at that stage. He said he did not search either the bodies or the barricade for weapons or nail bombs because he did not expect to see any. (**Day 320/147/4 to Day 320/147/10**)

17.8.3.159 He did not expect to see any, it is submitted, because he knew perfectly well that there were no civilians either in the courtyard or in Rossville Street throwing bombs or firing weapons at soldiers.

PIG 2

Sergeant O's Pig

17.8.3.160 Sergeant O was in charge of Pig 2. He made three RMP statements. In the first, he said that there were 9 members of his section in the Pig, 7 with SLR's and 2 with anti-riot guns. When he got out of the Pig he arrested William Doherty. He did not hear the sounds of any shots until after this arrest was made. He claims he came under fire from about 4 or 5 weapons of mixed calibre.

17.8.3.161 According to his account, he fired 3 shots at and hit a man with a pistol behind a Cortina close to the junction of Blocks 2 and 3; he fired 2 (sic) shots at a man with an M1 carbine on the first floor veranda between Blocks 2 and 3 and hit him in the head; and he fired 2 shots at a third gunman on the ground floor between Blocks 2 and 3 who was carrying an M1 carbine. He said that troops were stoned, bottled and petrol bombed.

17.8.3.162 In his second RMP statement made two days later, presumably when he realised he had fired 8 shots instead of 7, he said that he had fired an additional shot at the gunman on the first floor balcony in Block 3. In his third RMP statement on the 15th February, he added that he had ordered T

to shoot an acid bomber if he threw another acid bomb from the second floor balcony of Block 1. He didn't see T shoot but heard him fire 2 shots.

17.8.3.163 Sergeant O was a Scottish Protestant. He agreed that Scotland has the same sort of problems with religious bigotry and sectarian hatred as Northern Ireland, albeit on a smaller scale and that there would be Scottish Protestants who would have sympathies with Ulster loyalists (**Day 335/140/3 to Day 335/140/12**). However he said that he "would not know whether a lot of Scottish Protestants have a deep antagonism towards Irish Catholics or whether a lot of soldiers are drawn from areas, such as the housing estates of Glasgow, where that kind of problem exists" (**Day 335/140/16 to Day 335/140/25**). He said: "there is no reason to talk to the soldiers about what their attitude is about, what their bigotry is and so on". (**Day 335/141/12 to Day 335/141/15**) When it was suggested to him that soldiers would not leave their attitudes at home when they joined the Army, he said: "I never seen any traces of bigotry within any Platoon I have commanded .. .. I have never come across it" (**Day 335/141/16 to Day 335/141/24**)

17.8.3.164 He denied that there was even a *perception* in 1972 that the Paras had a strong Scottish/Protestant element. (**Day 335/142/3 to Day 335/142/8**). However, that was the evidence of the Parachute Regiment's own Regimental Sergeant Major, INQ2037, who said: "There have been lots of comments that the Army was anti-Catholic. This was not the case. The press made a big thing about the fact that there was a high percentage of Scots in the Paras and most of them were Protestants. We did not hate Catholics". (**C2037.6 paragraph 31**).

17.8.3.165 When this was put to Sergeant O he said he was not aware of such a perception. He didn't even know there was a high percentage of Scottish Protestants in the Parachute Regiment because he had no idea what religion people were. They never talked about politics. They did talk about football but he said he would not know who the Rangers supporters were or, if there were any, the Celtic supporters (**Day 335/143/13 to Day 335/143/23**). INQ 2003 said that Sergeant O was a "real true blue

Loyalist" and used to sing the Sash on occasions. When Sergeant O was reminded that 5 of the 7 or 8 NCO's in the Sergeants' Mess during the Thames TV interview were Scottish, he said "maybe you just hit us on a bad night" (**Day 335/145/8 to Day 335/145/11**).

17.8.3.166 Sergeant O denied that he was a sectarian, anti-Irish racist. However, during an interview with the Praxis producers, he said: "I do not particularly like the Irish race because of what they have done to themselves" (**B575.62**). He said that was not an expression of racism, that was "because what the Irish race are doing to themselves. Not every member of the Irish drop into that category". (**Day 335/148/10 to Day 335/148/14**).

17.8.3.167 Referring to the use of the term "Fenian" as a term of anti-Catholic abuse, he said that none of his soldiers would say that sort of thing. (**Day 335/145/18 to Day 335/146/4**) However, Dr McDermott gave evidence about how his children had been playing in Springham Street near the Paras' forming-up point at Clarence Avenue and soldiers had chased them inside, calling them "Fenian fuckers" (**AM5.1 paragraph 3**). Sergeant O had himself dealt with at least one complaint made by a local resident about the presence of the Paras in that area so he may very well have been in charge of these soldiers in the absence of officers on a reconnaissance mission.

17.8.3.168 Sergeant O objected to the No Go area in Derry (**Day 335/154/12 to Day 335/154/13**) and he described how "generally, the men's view seemed to be that this [going to Derry on Bloody Sunday] was a chance to sort out the Londonderry hooligans, who we had all seen on TV." (**B571.108 paragraph 12**) It is submitted that Sergeant O and others in the Parachute Regiment were of the view that Catholic civilians could be shot with impunity. He claimed that he was not even aware that, in one incident alone in August 1971, 5 Catholic civilians, including a priest, had been shot dead by members of the Parachute Regiment. (**Day 335/157/8 to Day 335/157/13**).

17.8.3.169 Sergeant O claimed to have heard the drainpipe shot and told Lord Widgery that it came from inside the Bogside (**B472 E**) but he had no idea where the shot had come from. (**Day 336/1/9 to Day 336/1/10**). He even told the Praxis interviewers that it "could have been the British Army." (**B575.70**)

17.8.3.170 He suggested in his RMP statement that there were about 2000 people rioting at the junction of Rossville Street and William Street (**B575.137** and **Day 336/5/2 to Day 336/5/9**). That was clearly a gross exaggeration and during his oral testimony he said that the bulk of the crowd was between the rubble barricade and Free Derry Corner. (**Day 335/25/12 to Day 335/25/14**) The explanation was that Sergeant O did not see any distinction between rioters and marchers, as he admitted himself, although he suggested that this was only until he moved forward and realised where he was. (**Day 336/5/14 to Day 336/5/17**)

17.8.3.171 Sergeant O cocked his rifle in the Pig before going through Barrier 12 and believes the rest of the men followed suit. (**B757.110 paragraph 23**) This was in breach of the Yellow Card (**ED.71.1**), which provides at paragraph 4 that "unless you are about to open fire no live round is to be carried in the breech". Company Commanders and above may order weapons to be cocked as appropriate. Even if Lt. N authorised this (and he denies this), he was not O's Company Commander. There is no suggestion that Major Loden ordered or authorised soldiers to cock their weapons.

17.8.3.172 Sergeant O was unaware of the instruction not to conduct running battles down Rossville Street and claimed not to be aware of any danger in becoming involved in driving through a crowd and jumping out with cocked weapons in the midst of the crowd. (**Day 336/9/15 to Day 336/9/24**) Incidentally, he admitted that it was possible that Alana Burke was knocked over by his Pig and he may not have seen it. (**Day 335/27/17 to Day 335/27/23**)

17.8.3.173 He claimed that they managed to separate a section of about 200 people between the two Pigs (**B575.137**, **B575.112 paragraph** 31, and **Day 335/31/17 to Day 335/31/24**) but he later admitted that he had no idea of the size of the crowd between his own Pig and Lt. N's Pig. (**Day 336/13/22 to Day 336/14/5**)

17.8.3.174 When he got out of the Pig he was carrying his SLR, not a baton, but he told the Praxis interviewers that all he had was a baton and was totally unarmed (**B575.2**). When it was suggested that he had told a deliberate lie, he said: "I do not know how it came up in the concept it did honestly .. ... what I said was wrong, there is no doubt about it .. ... It was not meant as a lie .. .. it was statements I made and it turned out they were wrong." (**Day 336/15/21 to Day 336/16/24**) When it was suggested that he had been trying to give the interviewers a false impression, he said: "I do not know what I was trying to do quite honestly".

17.8.3.175 He also told the Praxis interviewers that the Paras did not carry masks "because they did not believe in them". (**B575.3**) However, as appears from a number of photographs, the Paras did carry gas masks and did wear them, including Sergeant O himself (**B575.111 paragraph 26**, and **Day 336/17/22 to Day 336/117/24**). His explanation for this lie was: "We did not carry gas masks on us, on our actual bodies, the gas masks were in the Pigs". (**Day 336/18/8 to Day 336/18/9**) He denied that he was trying to give the interviewer the impression that he was not wearing a gas mask (**Day 336/18/22 to Day 336/18/24**).

17.8.3.176 Shortly after he got out of his Pig, Sergeant O set upon William Doherty, a 56 year old bystander who was trying to make his way to safety. By his own admission, Sergeant O hit Mr Doherty on the head with his rifle by using the rifle as if it were a baton with such severity that the plastic stock of the rifle shattered. (**Day 335/34/1 to Day 335/34/13**) He accepted that the wound on Mr Doherty's head as seen in photograph **ARR16.1** was the result of him hitting Mr Doherty. (**Day 335/34/14 to Day 335/34/24**) It is clear from the civilian evidence that, as soon as he debussed, Sergeant O

"immediately turned his rifle upside down and started using it like a baseball bat, clubbing people who were running past" (**AM152.2 paragraph 9** per John McCrudden) and that when he grabbed Mr Doherty he beat him repeatedly with the rifle. (per William Barber **AB9.2**, Charles Glenn **AG43.3 paragraph 21** and Patrick McCrudden **AM153.12**)

17.8.3.177 With regard to the first shots that Sergeant O claimed to hear, he claimed to see bullet strikes on the wall at the back of 36 Chamberlain Street and also on the ground between the wall and the Pig. Unfortunately for him, he gave different accounts on different occasions of when and in what circumstances these occurred (**Day 335/50/2 to Day 335/53**, **Day 336/21/24 to Day 336/23/21** and **Day 336/138/4 to Day 336/138/22**). If these bullet strikes had really occurred it would have been difficult to remember such details as the order in which they occurred. Sergeant O's problem was that they did not occur at all but he was inventing detail to give a convincing account and then could not remember the details he had invented.

17.8.3.178 He told the Tribunal that he was next to the front left wheel of the Pig when the firing started (**Day 336/23/23 to Day 336/24/5**) but said in his RMP statement that when the firing started he was positioned at the *rear* of the vehicle (**B575.138**). When this was pointed out to him, he said: "The Humber is not exactly, you know, one hundred yards long, it is a very small vehicle, you have – 4 or 5 yards covers it, I was in that area. I could not give you the exact position obviously" (**Day 336/24/6 to Day 336/24/14**). However, he *had* tried to give the exact position and the reason he told the RMP that he was at the back of the vehicle was presumably to explain why he was not hit by the burst of firing from 4 or 5 different weapons. The third account was given in his oral testimony to Lord Widgery, when he said that he was "moving back to the vehicle" when he came under fire (**B475 E**)

17.8.3.179 It is submitted that he gave three different accounts of when he came under fire because he never came under fire at all and therefore had to invent a

recollection of where he was when this happened. If he had really come under such heavy fire, one of the things he would have remembered would have been where he was at the time it started and, in particular, whether he was out in open wasteground without cover or at the front of his vehicle facing what he claims to have been was the source of the firing or under cover at the back of his vehicle.

17.8.3.180 With regard to the "4 or 5 weapons" and the "mixture of high velocity and low velocity fire", (**Day 335/47/2 to Day 335/47/14**) this account was of course fictitious and he could not always remember the details he had invented. He told the Tribunal that he was not aware of any *automatic* fire (**Day 335/48/2 to Day 335/48/10**) but when asked by the Praxis interviewers whether he had any idea what sort of weapons might have been responsible for the 10 round burst that he claimed to have heard, he said "automatic, that is all I will say". (**B575.74**). When this discrepancy was put to him, he said that "it was wrong" and he could not remember saying that to them (**Day 335/49/17 to Day 335/49/24**). This was a recurring problem for Sergeant O.

17.8.3.181 When the firing started, Sergeant O did not even take simple precautions such as taking cover behind the Pig. (**Day 336/24/15 to Day 336/24/25**) or putting his helmet on - he was bare-headed throughout the shooting which he characterised as "the heaviest I have heard in Northern Ireland". (**B575.74**)

17.8.3.182 With regard to his first target, it was put to him that, contrary to the location suggested in his trajectory photographs **(P21),** the Cortina car behind which he claimed to have seen a pistol man was, according to the grid reference (43291678) given by him in his RMP statement (**B575.138**), in line with the gap between Blocks 2 and 3. That was also the location suggested by Mr Martin Tucker (**AT17.5 paragraph 29**), who saw soldiers shooting at a car there in a bizarre fashion.

17.8.3.183 Sergeant O accepted that he was firing in this direction and that he was therefore firing in the direction of people who were trying to exit the courtyard (**Day 336/28/9 to Day 336/28/15**). He said he was firing like that because someone was firing at him and he was trying to save his life even though he accepted that he could have saved his life by simply stepping behind the Pig. (**Day 336/28/16 to Day 336/28/22**) At one stage he suggested he was not conscious of civilians being in the area, then he accepted that he was perfectly well aware of them. (**Day 336/29/1 to Day 336/29/10**) When it was put to him that he was firing without regard for the welfare of civilians, he said: "that never entered my mind". (**Day 336/29/15 to Day 336/29/25**) When asked if he made any judgement about whether or not civilians might be endangered by his firing, he said "I did not think about that at the time". (**Day 336/30/4 to Day 336/30/8**) Put another way, he was shooting with impunity.

17.8.3.184 Nor did he see it as part of his responsibility to monitor the firing by other soldiers, especially more junior soldiers in his Platoon who were nearby. (**Day 336/31/18 to Day 336/31/21**)

17.8.3.185 Soldier T said he was about 3 feet behind O at this stage looking in the same direction in which Sergeant O was firing but he said he could not see what he was firing at. (**B736** and **B745 B-F**)

17.8.3.186 Sergeant O's account of the reactions of the alleged pistol man behind the car is also difficult to accept at face value. He says that the gunman did not take cover or duck behind a wall or do anything else to avoid being shot when Sergeant O "returned" fire. The "gunman" stood there exposed and firing his handgun until he was shot (**Day 336/36/10 to Day 336/36/20**).

17.8.3.187 Sergeant O had difficulty with the location of his second "target". In his RMP statement, he had suggested the gunman was on the walkway *between* Blocks 1 and 2 (**B441**). He repeated this in his RMP statement (**B575.141**) and in his Treasury Solicitor's statement (**B575.147**

paragraphs 12 to 13). Also, when he gave his evidence to Lord Widgery, he specified that the second gunman was on the lowest of the two adjoining catwalks in between Blocks 2 and 3 (**B478 D**). However, as appears in **P292**, this walkway was completely enclosed. When this was put to him, he said: "Looking at this I was obviously mistaken in where I thought the gunman was, I think the gunman was on the balcony, on the corner" (**Day 336/43/20 to Day 336/43/22**).

17.8.3.188 He clearly realised this problem before he made his Eversheds statement because there, for the first time, he suggested that the gunman was on the balcony at the southern end of Block 3 (**B575.115 paragraph 49**). He recognised the difference himself (**Day 336/39/3 to Day 336/39/9**). When it was first put to him that when he had made his first RMP statement he was clearly talking about the walkway between the two blocks, his reply had been: "I can see how that can be misinterpreted there, yes". (**Day 336/37/23 to Day 336/38/1**)

17.8.3.189 It was clear that he altered his account for the purposes of the Eversheds statement after he had seen photographs of the walkway and balcony. In his statement, he referred to the description in the first RMP statement of the gunman on the veranda between Blocks 2 and 3 and went on: "Having now looked carefully at a photograph of the Rossville Flats, I have identified that the veranda or balcony was actually towards the south end of Block 3 of the Rossville Flats, not on the walkway between Blocks 2 and 3". (**B575.123 paragraph 93**) However, that alteration was not enough to remedy the problem for O.

17.8.3.190 As appears from **P280**, below the "balustrade" there are individual railings between which are gaps, so that it is perfectly possible to see right down to the floor of the balcony. In other words, people moving along the balcony were visible down to their feet, so that the picture painted by Sergeant O of heads bobbing up and down above the balustrade level (with their bodies otherwise hidden behind some kind of solid screen) did not correspond with reality and must have been invented. When this was put to sergeant

O, he adhered to his account and said : "All I could see of them was parts of their heads above the balcony rail; that is the impression I still have in my mind". (**Day 336/44/25 to Day 336/45/3**)

17.8.3.191 During these incidents, Sergeant O claimed that his section was under "constant small arms fire from several positions in the Rossville Flats area". (**B441**) During his testimony he said that between 60 and 120 rounds could have been fired at him. (**Day 336/47/8 to Day 336/47/11**) We know that no soldiers were hit by any gunfire but, in addition, Sergeant O and at least two other soldiers were beside the Pig during this period and even the Pig does not appear to have been hit. Certainly Sergeant O never suggested that it was and there does not appear to have been any damage to the Pig. The windscreen, headlamps, tyres and radiator were all exposed to any incoming gunfire but they remained intact.

17.8.3.192 During this period, O claims to have seen Private S's gunman in the gap between Blocks 1 and 2 and said that there were civilians near the gunman. His attitude towards the safety of civilians is reflected in the exchange between himself and Counsel for the Inquiry, as follows:

"Q. You did not consider retreating to the safety of the pig so as to avoid the risk (a) of either of you being shot and (b) any civilians being shot?
A. You do not retreat, Sir
Q. What, never?
A. There is no reason for it. We had targets and we went for them.
Q. Whatever the risk to civilians?
A. We had targets and we went for the targets.
Q. Regardless of the risk to civilians?
A. We had targets and we went for the targets, that is all I can say." (**Day 335/76/6 to Day335/76/17**)

17.8.3.193 Sergeant O told the RMP that there were petrol bombs thrown at them (**B575.139**) but he conceded that he had not seen any petrol bombs. Nor did he see any nail bombs. (**Day 336/56/9 to Day 336/56/13**) That means

that he did not see any of the targets N, Q and R claimed to see. N placed his target in a location where, if he had existed, he would have been virtually within touching distance of Sergeant O. (**P20**). Soldier Q claimed to shoot at a nail bomber at the junction of Blocks 2 and 3 (**P23**), which is exactly where O said that, most of the time, he was looking and occasionally firing but during none of that time did he see Q's target. (**Day 336/61/6 to Day 336/61/8**) Indeed, if Sergeant O is to be believed, neither Q nor N even said to him that they had shot nail bombers in those locations.

17.8.3.194 Sergeant O accepted that the soldier seen in photograph **P285** standing against the passenger side of the Pig is probably him. (**Day 336/65/18 to Day 336/65/23** and **Day 336/68/18 to Day 336/68/20**) That soldier looks as if his left hand is resting on the mudguard and it appears that he is looking down the barrel of his rifle in the direction of Michael Bridge. Whether or not he is at that moment looking in that direction, it is quite obvious that anyone in that position could not help but see Jackie Duddy on the ground in the middle of the courtyard surrounded by a group of civilians, including Father Daly, and also Michael Bridge as he gesticulated and shouted at the soldiers around the Pig. Yet he repeatedly denied seeing any of this. (**Day 336/68/25 to Day 336/69/5**).

17.8.3.195 Sergeant O, it is submitted, was obliged to maintain this in the face of overwhelming evidence to the contrary because he was not prepared to admit that he saw Jackie Duddy, Michael Bridge, Michael Bradley and perhaps even Patsy McDaid shot in circumstances that were completely indefensible.

17.8.3.196 Indeed he was not prepared to admit to any malpractice on the part of soldiers. He even claimed that he had never heard of the practice of soldiers having their own private supply of ammunition. (**Day 335/115/9 to Day 335/115/18**)

17.8.3.197 It is submitted that what Sergeant O was doing in Sector 2 was engaging in the kind of firing to which he referred himself in his Praxis interview when he talked about "putting ammunition into an area where you know something is happening, just trying to keep people's heads down". (**B575.20**)

17.8.3.198 When it was put to him towards the end of his examination that he still believed that what the Paras did on Bloody Sunday was not wrong, he replied: "Some of it was wrong, obviously innocent civilians got hit; I've got no doubt about that, but I do not believe that they were hit deliberately". It is submitted that he knew this because of what he had seen himself, not, as he suggested, from what he learned subsequently. (**Day 336/73/13 to Day 336/74/1**)

17.8.3.199 Having said that some of it was wrong, he was then shown part of his Praxis interview where he had said: "Derry was not wrong .. ... from our point of view, Derry was not wrong. Derry was done by a disciplined force who were caught in a situation where they had to respond". (**B575.94**). He then said he would "stand by that".

17.8.3.200 Sergeant O knew from the beginning that what happened on Bloody Sunday was wrong, which is why he refused to talk to Praxis about those events (**B575.74**). Soldier 1413 said that soldiers were told by officers and senior NCO's to "button their lip on this". (**O18.4**) It is submitted that Sergeant O was probably one of the NCO's who issued that instruction.

17.8.3.201 It was put to Sergeant O that errors of judgement were made by soldiers on Bloody Sunday. He said that he had heard that but he did not know it for a fact. (**Day 336/79/1**). When it was pointed out to him that this was exactly what he had said himself to the Praxis interviewers (**B575.95**), he said he could not remember what he was talking about. (**Day 336/80/14 to Day 336/80/22**)

17.8.3.202 Sergeant O was in charge of the soldiers who took the bodies to Altnagelvin Hospital. Ivan Cooper described how "the soldiers were joking with each other and laughing .. .. the soldiers were jubilant and gave you the impression they were thinking they had busted an IRA unit. One of these soldiers was a Scottish soldier". (**KC12.27 paragraph 81**) Sergeant O denied that he was the Scottish soldier (**Day 336/83/18 to Day 336/83/19**) but he later told Counsel to the Tribunal that he was the only Scottish soldier in Mortar Platoon on Bloody Sunday. (**Day 336/140/2 to Day 336/140/6**) He also thought that this was "a job well done". (**Day 336/83/15 to Day 336/83/17**) It is submitted that Sergeant O was one of the soldiers joking and laughing as the bodies of John Young, Michael McDaid and Willie Nash were carried to the mortuary.

17.8.3.203 All the evidence points to the conclusion that Sergeant O was a thoroughly dishonest witness who bears a heavy degree of responsibility for the shootings in the Rossville Flats courtyard. Not only did he allow other soldiers to fire unjustifiably at innocent civilians but he himself took the opportunity to spray bullets around the courtyard in much the same way as his hero, John Wayne, might have done in a war film. (**Day 336/70/10 to Day 336/70/14**)

17.8.3.204 Since his account of his own shooting cannot be accepted, it is impossible to know where and at whom he fired and whether he hit any of the deceased or wounded. However, in addition to the fact that, like all the other soldiers in his platoon, he was acting in concert with them in a joint enterprise, he was the leader of the soldiers in his Pig and actively encouraged the shooting by his own example. On this basis alone, he is criminally responsible for the murder of Jackie Duddy and the wounding of Michael Bridge, Michael Bradley and Patsy McDaid.

Soldier R

17.8.3.205 **Private R** was an 18 year old soldier designated as the vehicle guard for Pig 2. He was dropped off in Rossville Street and was taken by surprise

when the Pig drove on into the carpark. He had to run after it and as he caught up with it he said that he heard a number of shots from about six different weapons. He said he also heard explosions but couldn't say where they came from. According to his first RMP statement, he took up a position at the north-east corner of Block 1 and fired **1** round at a man with a fizzing object in his hand. He claimed a hit. He then fired **2** or **3** rounds at a man with a pistol at the junction of Block 2 and 3. He wasn't sure if he hit him.

17.8.3.206 In his second RMP statement he said that he was actually positioned between the wall and the Pig whenever he fired his first shot. He also added the fact that he had seen O's target behind the Cortina and saw O fire.

17.8.3.207 In his SA statement he said that he fired his shots from the right-hand back door of his Pig, i.e. the third location in as many statements. Acid bombs were thrown at him after he fired, not before as he had previously said in his second RMP statement. As the second acid bomb was thrown, T fired. He did not require medical attention for his acid burns.

17.8.3.208 He then said in his Eversheds statement that, in addition to the high velocity and low velocity incoming fire, he heard Thompson sub-machine gun fire.

In his first RMP statement Private R said that there were "in excess of 800" rioters at the junction of William Street and Rossville Street. (**B691.9**) He conceded during his oral testimony that he may have made that figure up on the basis of what he heard. (**Day 337/85/13 to Day 337/85/25**)

17.8.3.209 Private R debussed in Rossville Street. He said in his RMP statement that he heard the sound of shots and cocked his weapon before the Pig drove off again. In his SA statement he said this happened as he ran across the waste ground. (**B691.015 paragraph 4**) In his Widgery testimony, he first

of all said that this happened after going about 10 to 15 yds. (**B677 A**) but in cross-examination he said it happened after going about 50 yds. (**B683 F**). In his Eversheds statement, he reverted to suggesting that the incoming fire occurred when he got out of the vehicle and, apparently, before the vehicle moved off. (**B691.2 paragraphs 10 to 11**)

17.8.3.210 In his first RMP statement he said that the crowd was throwing stones and bottles at him. In his SA statement, he said he was hit twice (**B691.15 paragraph 4**). He told Lord Widgery he was hit 3 times (**B677 D**), in the thigh, calf and hip. In his Eversheds statement he said that he was hit in the thigh, calf and head (**B691.2 paragraph 12**). He told this Tribunal that he knew he had not been hit in the head. (**Day 337/91/3 to Day 337/91/16**) When asked why he had said that in his Eversheds statement when he knew that he had not been hit in the head, he said "that must have been misinterpreted." (**Day 337/91/17 to Day 337/91/21**).

17.8.3.211 He said in his first RMP statement that he heard high and low velocity shots from about 6 different weapons. (**B691.10**). He did not suggest these weapons included or sounded like an M1 carbine, an Armalite, a Thompson submachine gun and a starting pistol. However, this is exactly what he did say in his Eversheds statement. (**B61.2 paragraph 10**) During his oral testimony, he admitted that he was not able to say what sort of weapons had been responsible for firing those shots because he did not distinguish them at the time and had not heard many such weapons. (**Day 337/94/17 to Day 337/95/2**)

17.8.3.212 In his first RMP statement he said that after he reached his vehicle in the courtyard he heard explosions (**B691.10**) and he repeated this in his SA statement. (**B691.15 paragraph 5**) However, when he got to the Widgery Tribunal, he said that he heard them after about 10 to 15 yds from the point where he debussed from the Pig in Rossville Street (**B677**). When this was pointed out during his oral testimony to this Tribunal, he accepted that these were completely different accounts of when he heard explosions.

(**Day 337/97/16 to Day 337/97/23**) He said he "may have been mistaken". (**Day 337/96/22 to Day 337/96/25**)

17.8.3.213 In his first RMP statement he had said he could not determine the locations of the explosions (**B691.10**). He agreed that he did not have any idea where the explosions had come from (**Day 337/97/3 to Day 337/99/15**) but he pointed out a location on the model during the Widgery Tribunal hearing (**B677 A**), which was somewhere at the "back of the flats".

17.8.3.214 He also gave a variety of accounts about where he himself was when, as he claimed, he noticed the "nail bomber" and fired a shot. First of all, he was at the north east corner of Block 1 (as per the map attached to his 1st RMP statement, **B691.11**). Then, when he made his second RMP statement (**B691.12**), he said he was between the wall of Block 1 Rossville Flats and one of the APC's. By the time he made his SA statement, he had decided that he had fired a shot from "beside the right hand back door of the Pig" (**B691.015 paragraph 5**). He then told Lord Widgery that he noticed the nail bomber when he was "just coming round this corner", i.e. the north east corner of Block 1. (**B677 G**)

17.8.3.215 In his first RMP statement, he said that the nail bomber was wearing dark slacks (**B691.10**) but he then told Lord Widgery he was wearing light slacks (**B679 A-B**).

17.8.3.216 In his first RMP statement he said the nail bomber was running with the crowd and then stopped and attempted to throw the fizzing object (**B691.10**). In his SA statement he said that the man was "not moving in the same direction as the others" (**B691.15 paragraph 5**). By the time he came to make his Eversheds statement, the nail bomber was "pressed against the wall" and took a few steps forward from the wall before attempting to throw the object (**B691.3 paragraph 14**), a version he repeated to the Tribunal (**Day 337/32/3 to Day 337/32/5**).

17.8.3.217 In his first RMP statement, he said that the nail bomber was thrown "to the right and backwards" by the shot. (**B691.10**) but he told Eversheds that the bullet hit the man high up on the right shoulder, "causing him to spin around" (**B691.3 paragraph 14**). Private R accepted that being spun around was not the same as being thrown backwards and to his right (**Day 337/110/1 to Day 337/110/23**).

17.8.3.218 This was another nail bomb that did not explode (**B689 E**).

17.8.3.219 He said that rioters threw acid bombs, 1 of which splattered across his legs. (**B691.10**). This had changed to 2 in his 2nd RMP statement, both of which he said struck him on the legs. (**B691.12**) He explained to this Tribunal that when he made his first statement to the RMP, he thought he had been hit by 1 acid bomb (**Day 337/112/7 to Day 337/112/9**), but someone else told him that he had been hit by 2. (**Day 337/112/12 to Day 337/112/18**). He admitted to the Tribunal that he then gave the impression in all his subsequent evidence that it was his own personal recollection that he had been hit by 2, even though "it may not have been true at that time" (**Day 337/113/4 to Day 337/113/25**). He gave this impression to Lord Widgery under oath. Indeed he said that the first one "struck [him] across the leg" and that he was hit by the acid on the leg both times (**B679 B-D**). This became modified when he said in his Eversheds statements (**B691.3 paragraph 16**) that 2 bottles smashed "near" to him and the acid splashed onto his trousers. Incidentally, when he was speaking to Soldier 005 subsequently, he did not mention that he had been hit by any acid bombs. (**B1374.1 paragraph 15**) Nor did he seek any medical attention. (**Day 337/116/17 to Day 337/116/21**)

17.8.3.220 It is submitted that, if he was struck by the contents of a bottle, it was not an acid bomb, whatever he may have thought at the time.

17.8.3.221 With regard to the pistol man in the corner between Blocks 2 and 3, he said essentially that he fired at a hand containing a pistol from about 70

yds away but he could not really say whether he had any prospect of hitting the hand from that distance. (**Day 337/119/6 to Day 337/119/14**)

17.8.3.222 Interestingly, Soldier 005 made his statement (**B1370**) on 4th February, 45 minutes after R made his 2nd RMP statement, and 005's statement was concerned almost entirely with an account of shots apparently fired by R. The details corresponded with R's firing in that it referred to a man firing 2 shots with a pistol at R and R firing back 3 times. However, the man that 005 claimed to see was located on the first floor on a veranda running between Blocks 1 and 2 whereas R said the gunman was on the ground floor between Blocks 2 and 3. Soldier 005 admitted that he made this up and could not have seen anyone in the location he described. (**Day 338/160/14 to Day 338/160/20**) It is submitted that 005 must have made up his statement in furtherance of an agreement for him to provide a supporting account for R.

17.8.3.223 R was another soldier who did not suggest that the Pig was hit, even though there were dozens of shots fired by civilians by his account. (**Day 337/123/8 to Day 337/124/6**)

17.8.3.224 He did not make any reference in his first statement to seeing Sergeant O's target behind the Cortina and admitted that he did not even mention this to the RMP at the time. (**Day 337/124/9 to Day 337/124/12**) It follows from this that he was, at the very least, wrong when he told Lord Widgery that he had mentioned this in his 1st statement. (**B687 D**) Significantly, in his Eversheds statement (**B691.4 paragraph 19**), he marked on a map (**B691.8**) the location of O's target behind the Cortina in the same spot marked by O in his photograph (**P21**), the location which O now accepts was wrong.

17.8.3.225 He initially suggested that the reason he didn't mention O's firing was that the RMP had only asked him if *he* had fired but he then had to accept that that was not the case because he had included in his statement evidence

about other shots that he had heard and about high and low velocity weapons (**Day 337/124/23 to Day 337/125/24**).

17.8.3.226 Soldiers N, Q, S, and V all claim to have fired at targets which should have been readily visible to Private R but he denied seeing any of them. He also denied seeing Jackie Duddy or Michael Bridge even though he was "looking out for trouble". (**B691.3 paragraph 12**) He also accepted that he must be one of the soldiers behind the Pig at the time photograph **P285** was taken. (**Day 337/133/1 to Day 337/133/5**) He accepted that he was concerned to see what was going on in the courtyard and it was more than likely that at least every now and again he had a look to see what was happening there. (**Day 337/133/13 to Day 337/133/20**).

17.8.3.227 As far as he could recall, "nobody claimed to shoot any of the people who was actually shot that day." (**Day 337/135/16 to Day 337/135/20**)

17.8.3.228 This, therefore, is yet another soldier whose evidence is riddled with inconsistencies and discrepancies. He has clearly told lies about material matters and his account cannot be regarded as truthful. He may also, therefore, have shot Jackie Duddy or one of the wounded in the courtyard. What is clear is that when he fired at the "nail bomber" he hit the man he intended to hit (**Day 337/143/4 to Day 337/143/10**) and did so intending to kill him. (**Day 337/142/16 to Day 337/142/20**)

INQ 1579

17.8.3.229 INQ **1579** was the driver of Pig 2. He accepts that on the way into the Rossville Flats courtyard the front of the Pig "tapped" a man who was standing spreadeagled in front of him (**C1579.3 paragraph 20**). This was Thomas Harkin. He denied knocking down Alana Burke or any young girl (**Day 336/159/14 to Day 336/159/15**) even though he had apparently made contact with a soldier on his way through Barrier 12 without hearing any thud (**Day 336/176/2 to Day 336/176/10**) and he had not heard any impact when he knocked over Mr Harkin (**Day 366/177/12 to Day 366/177/16**). He also said his vision was restricted to the side of the vehicle, the engine

was noisy and the occupants, in order to be heard, had to talk above the noise (**Day 336/180/12 to Day 336/180/19**). Sergeant O accepted that it would have been possible for the Pig to hit Alana Burke without him having seen it (**Day 335/27/21 to Day 335/27/23**).

17.8.3.230 It is submitted that Sergeant O's Pig did hit Alana Burke. Moreover, when Alana Burke was giving her own evidence to the Inquiry, counsel on behalf of the soldiers told her that it was accepted that she had been struck by the Pig and at no time was she challenged on that issue. (**Day 76/101/10 to Day 76/101/12**)

17.8.3.231 INQ1579 could not recall hearing explosions. He remembered smelling petrol and acid but did not see any petrol bombs explode or any acid bombs splash or explode (**C1579.4 paragraphs 29 to 30** and **Day 336/168/8 to Day 336/168/13**).

17.8.3.232 He claimed to hear incoming fire (**C1579.4 paragraph 28**) but he could not say how many shots he heard or where they were coming from. (**C1579.4 paragraph 27**) He was not able to separate in his recollection what might be called civilian gunfire and SLR fire. (**Day 336/170/7 to Day 336/170/10**)

17.8.3.233 In support of the suggestion that the fire was incoming, he claimed to have seen the strike on the ground around the Pig and to have heard metal (presumably the Pig) being struck. (**Day 336/170/1 to Day 336/170/6**) However, he had said in his Eversheds statement: "I heard a bullet strike the ground and I would have seen them at the time but I cannot remember seeing this for sure now". (**C1579.4 paragraph 28**) When this was pointed out to him and he was asked why he could remember it in his oral testimony but not when he made his statement, he replied "It could be a possible flashback". (**Day 336/200/13 to Day 336/200/16**)

17.8.3.234 INQ1579 did not inspect the vehicle for damage after the event. (**Day 336/168/24 to Day 336/179/3**)

17.8.3.235 When asked to explain why, in his prime position, he did not see one shot being fired by any of his colleagues he said:

17.8.3.236 "Sir, there is no doubt that I have seen and heard more than what I have in my statement, but with the passage of time being in excess of 31 years, the memories have faded and disappeared." (**Day 336/188/25 to Day 336/189/3**) When asked in turn whether he had seen Peggy Deery, Jackie Duddy or Michael Bridge shot, he said he hadn't. When asked by the Chairman whether he had any recollection at all he said: "No, Sir, it is all faded and gone, Sir". (**Day 336/189/25**)

17.8.3.237 This is another witness who was "stone-walling" the Inquiry because he could not have given an honest account of the events he witnessed without implicating his former colleagues in shooting at civilians without justification.

Soldier 006

17.8.3.238 Soldier 006 debussed in Rossville Street and, together with Soldier 037, arrested William Dillon. It was only then that he heard shooting break out and he took cover. After that, he "and a couple of lads from [his] Platoon" went to the stairwell of Block 1. He went up one flight of stairs and looked along the balcony but didn't go any further. In his Eversheds statement, he says that **the only firing he heard was that of SLR's.** (**B1377.5 paragraph 24**) He thought the firing was coming from soldiers behind the low wall. He was further forward than they were. He could not see anyone behind the rubble barricade at the time. (**B1377.5 paragraph 25**) He saw no civilians with guns and heard no explosions. Soldier 006 was one of the soldiers who picked up the bodies on the rubble barricade. He also says that at Fort George the officers wanted soldiers to say they had arrested men and the soldiers were saying they had not. (**B1377.5 paragraph 28**)

17.8.3.239 In his Eversheds statement, all that 006 could say about where he debussed was that the Pig was facing towards the high flats (**B1377.5 paragraph 20**). However, in his RMP statement, he said that the vehicle stopped at the junction of Eden Place and Rossville Street and he debussed. (**B1375**) Bearing in mind also that he was with Soldier 037 when he arrested William Dillon, it seems likely that he debussed when Sergeant O's Pig came to a temporary halt on Rossville Street at the end of Pilots Row so that 5 soldiers in all debussed at this point, viz R, U, P, 017 and 006.

17.8.3.240 He was the first to grab hold of William Dillon and he said that he probably hit him with the butt of his rifle. (**Day 334/22/10 to Day 334/22/23**) He said that Mr Dillon did not have a weapon or missile in his hand, he had not seen him throwing any kind of missile and he could not remember him taunting the soldiers in any way. When asked whether he had threatened the soldier in any way, 006 said: "Well, he were coming straight at us, so ... .." In answer to the question "what made him different from the other people who were running past you?", he said: "everybody else had dispersed". (**Day 334/18/10 to Day 334/18/12**)

17.8.3.241 Soldier 006 said that he had probably seen his colleagues using their rifle butts in the same manner as himself (**Day 334/35/22 to Day 334/36/1**); that Sergeant O and Lt. N may well have been aware of that *(ibid)*; but he was never prevented from doing it. (**Day 334/37/1 to Day 334/37/3**) Indeed, in his Eversheds statement he said: "We thought that if we went in, we would give them all a good hiding .. ... " (**B1377.2 paragraph 5**).

17.8.3.242 Soldier 006 accepted that although the arrest form suggested that William Dillon was arrested for assault, that was not the reason in his mind why he was arrested (**Day 334/55/18 to Day 334/55/21**). He said that he must have said to the RMP that he had arrested a youth for assault "as you had to say something" (**B1377.9 paragraph 43**). He thought that the RMP just wrote in the statement that Mr Dillon was arrested for assault and he just

agreed with it. He said that it was an experience of his that the RMP wrote things which may not even be true. (**Day 334/56/19 to Day 334/56/22**)

17.8.3.243 Soldier 006 was familiar with the sound of gunfire. He had come under Thompson submachine gun fire in the Falls Road in Belfast and he had been close to a nail bomb that exploded in Belfast. (**Day 334/34/1 to Day 334/34/11** and **Day 334/62/16 to Day 334/62/20**) He did not hear any non-Army gunfire or explosions or nail bombs or petrol bombs at any time. (**Day 334/60/17 to Day 334/63/25**) The only fire he remembered hearing was the sound of SLR's (**B1377.6 paragraph 24**).

17.8.3.244 In his RMP statement, he said he heard shooting break out and took cover. He was not able to locate where the shots came from. He saw that the vehicle had moved (another indication that he debussed in Rossville Street) to a position about 10yds from Block 1. It was from this position that he saw a member of his Regiment firing at the Barricade. (**B1376**) He said that he did not recall hearing shots from SLR's in the courtyard (**Day 334/63/21 to Day 334/63/25**) but it is fair to remember that he went inside Block 1 and up a flight of stairs. He said he was not certain if this was before the shooting or not (**B1377.6 paragraph 26**).

17.8.3.245 Soldier 006 was involved in collecting the bodies from the rubble barricade. He did not search them because he did not expect to find anything of interest to the Army. (**Day 334/66/3 to Day 334/66/11**)

17.8.3.246 Solider 006 was an unusual witness. To his credit, he was the only member of Mortar Platoon prepared to say that he neither saw nor heard any civilians engaged in any attack on soldiers in the form of shooting or bombing of any kind. He was also the only member of Mortar Platoon to say that, although he had experience of civilian gunfire, the only gunfire he heard was that caused by Army SLR's. It is surprising that he did not hear or see Army shooting in the courtyard but we do not consider that there is a sufficient basis for suggesting that his account of this aspect of the matter is dishonest. The first shooting he heard, perhaps behind him, was

probably Lt. N's shots, followed by those of V, S and the others in the courtyard area. He then entered Block 1 itself and may not therefore have been in a good position to see or hear further Army firing in that area.

17.8.3.247 Soldier 006 clearly had no reason to fabricate an account that was unfavourable to the Army. Given the robust attitude, to put it mildly, he exhibited towards the arrest of William Dillon and the handling of the bodies at the rubble barricade, he was obviously not unduly sympathetic to the families. Whilst we regard certain aspects of his evidence as unsatisfactory and we are not convinced that he disclosed the full extent of his recollection of events on the day, we recognise that he gave his evidence with a frankness and candour that was lacking in every other member of the Mortar Platoon. We respectfully invite the Tribunal to accept his evidence that there was no civilian gunfire or bombing attacks and that all the firing he heard was from soldiers.

INQ 768

17.8.3.248 INQ 768 appears to have been in Sergeant O's Pig. He claimed to have heard a short burst of incoming automatic fire at the back of the Pig followed by Army SLR fire. He didn't recall any other civilian gunfire or any bombs or explosions. He claimed that he did not remember hearing any baton rounds or seeing any soldier firing. He said he did not fire himself.

17.8.3.249 INQ 768 said he did not have a clear memory of the events but rather a number of vague recollections interspersed with a couple of clear recollections (**C768.1 paragraph 2**).

17.8.3.250 When he was in the Pig and before they went through Barrier 12, someone said: "If my men do not go in now, we are going back to Belfast" (**C768.2 paragraph 14**). INQ 768 definitely remembered these words but he could no longer remember whether they were spoken before he got into the Pig or when he was in the Pig. Nor could he remember whether it was an

officer who said these words (**Day 323/137/25 to Day 323/138/2**) although it is unlikely that anyone other than an officer would have said this. The only person who would have been in a position to refer to "my men" and to have the authority to order them back to Belfast was Col. Wilford, so this is a further indication of the pressure Col Wilford was apparently putting on 8 Brigade HQ to move in.

17.8.3.251 The incoming fire that he claims to have heard soon after he got out of the Pig was "just a small burst of automatic fire or what I thought was automatic fire" (**Day 323/143/22 to Day 323/143/23**). He said he heard 5 or 6 rounds (**C768.3 paragraph 18**). It was "definitely high velocity" (**Day 323/144/18 to Day 323/144/19**) so it could not have been a Thompson. He said the rounds were fired "from either a machine gun or a rifle adapted to fire automatically, but I could not identify the exact weapon" (**C768.3 paragraph 18**). When asked if it could have been single but very rapid fire he said that it could not, "because there was not sufficient pauses" (**Day 323/144/22**).

17.8.3.252 Although he also denied that it could have been fire from more than one weapon fired at the same time (**Day 323/144/23 to Day 323/145/1**), this is exactly what it could have been in view of his Eversheds evidence that it could have come from a rifle adapted to fire automatically. There can be no difference in sound between the same rifle fired automatically and several identical rifles being fired within a short space of time of each other especially when only five or six rounds were heard.

17.8.3.253 At one point, in order to reinforce the suggestion that fire was incoming, INQ768 said that he thought the fire came from "the centre" of Rossville Flats (apparently Block 2) (**Day 323/156/13 to Day 323/156/19**) but in his examination-in-chief he had said that he did not know which block it was (**Day 323/146/16**)) and indeed, in his Eversheds statement he had said he "could not say who fired and from where" (**C768.3 paragraph 20**).

17.8.3.254 INQ 768 said that he heard between 3 and 10 rounds fired by the Army in reply to the "incoming" fire and, other than this, had no recollection of hearing any other firing. (**C768.3 paragraphs 19 to 20**) During his oral testimony, he confirmed that he had no recollection of hearing Lt. N's 3 SLR shots from behind him (**Day 323/148/21 to Day 323/148/23**) or of hearing anything like 100 live rounds fired by the soldiers (**Day 323/149/7 to Day 323/149/11**) or any baton rounds at all (**Day 323/149/12 to Day 323/149/15**). Not only has he no recollection of seeing soldiers firing, he does not even have a recollection of seeing any soldiers in the firing position (**C767.3 paragraph 20**).

17.8.3.255 This simply cannot be accepted as truthful evidence. INQ768 was in a prime position behind the Pig to see a number of soldiers firing, not only in his own sector but in Sector 3. When pressed about these matters, he said: "I just cannot remember anything going on around me". (**Day 323/163/5 to Day 323/163/6**) Among the soldiers firing from positions just a few yards (and in at least two cases just a few feet) from him were S, T, R and Q. It is submitted that the reasons for his refusal to admit a recollection of seeing these soldiers firing is that he knew they were firing at unarmed civilians. His evidence is summed up in his final answer to Counsel for the Madden & Finucane families: "I did not see anybody misbehaving". (**Day 323/170/1 to Day 323/170/2**)

17.8.3.256 However, unlike most of the soldiers in Mortar Platoon, he did admit that he did not see any kind of missile thrown or any civilian with any kind of weapon. (**Day 323/146/22 to Day 323/147/1**) Indeed, apart from the 5 or 6 rounds that he said opened the firing, he did not hear or see anything that could have been interpreted as civilian gunfire or bombing. Like the other soldiers involved in taking the bodies to Altnagelvin, he could not explain the delay in getting there.

17.8.3.257 Soldier 013 said he expected to be going into a gun-battle situation but his job was to fire a baton gun. He said he was expecting to be shot and could hear bangs all around but he didn't know where they were coming from. It could have been from soldiers, he said. He did not see any civilians carrying weapons and did not hear amongst the bangs anything he thought was a nail bomb. He said he did not fire a live round him.

17.8.3.258 Soldier 013 was required by the Tribunal to give oral evidence and he did attend on Day 339. However, he refused to give oral testimony. It was suggested that there was a medical reason but no details were given. It had not been suggested by his representatives that there were medical grounds justifying a failure to testify and we have seen no medical evidence in support of this suggestion. We took issue with the decision to excuse 013's attendance but our complaint was rejected without explanation. We maintain our submission that this witness should have been required to give oral testimony.

17.8.3.259 In his Eversheds statement, 013 said that hearing the drain pipe shot was a contributory factor to what followed in that it meant there were snipers in the area so that "as far as we were concerned this was now a gun battle and not just a riot" (**B1408.2 paragraph 10**). In other words, if he is right, the paras went in anticipating that they would be shooting.

17.8.3.260 He also went expecting that they would be "giving the rioters concerned a good going over" (**B1408.3 paragraph 12**). He admits that he probably came out of his Pig firing his rubber baton gun. (**B1408.3 paragraph 13)**

17.8.3.261 After he debussed he said he could hear bangs going off all around him although he did not know where they were coming from – "it could have been from us" (**B1408.3 paragraph 14**). Significantly, he did not in his Eversheds statement repeat the

suggestion made in his RMP statement (which was another one made on 4th February) that he heard the sound of gunfire and saw 2 or 3 bullets strike the ground behind him on his right. (**B1406**)

17.8.3.262 He clearly did not consider that he was under fire since he proceeded to deal with "rioters" in the sense that he "gave a few of them a doing over" (**B1408.3 paragraph 15**). He concedes that he was probably over-aggressive as a soldier *(ibid)*. He claims to have chased someone into the stairway in the northern end of Block 1 and fired his baton round up the stairs. He claims he did not remember seeing people in the stairway at the time but the likelihood is that he was the soldier who fired his baton round at Barman Duffy at close range. No other soldier with a baton gun admits to going to this or any other block.

17.8.3.263 It is of considerable significance that this soldier, who said he was expecting to be shot (**B1408.3 paragraph 14**), "didn't really think about snipers as [he] went in" to Block 1 (**B1408.3 paragraph 16**). This, of course, is completely at odds with the suggestion in his RMP statement that he had seen bullets strike the ground and that he believed the firing had come from the flats. He now says that he cannot remember saying this and cannot recall seeing bullets hit the ground (**B1408.6 paragraph 34**)

17.8.3.264 He also fired a number of baton rounds at windows in the Rossville Flats "as these were also good firing positions" even though he did not see anyone fire from there or anywhere else. (**B1408.3 paragraph 16**) He said that he "kept firing his [baton gun] to keep people away". (**B1408.4 paragraph 17**)

17.8.3.265 He is therefore a prime contender for firing the baton round which struck **Patsy McDaid.** In this connection, it should be noted that the other soldier in Sergeant O's Pig with a baton gun was 017,

who had debussed in Rossville Street and remained in Sector 3. Of the two soldiers with baton guns in Lt. N's Pig (019 and 112), 019 accompanied Lt. N. and would therefore have been delayed before even arriving at the courtyard of Rossville Flats. Soldier 112 is the only other soldier who had a baton gun but since he also debussed from the Pig at Eden Place he would presumably not have had as much opportunity as 013 to fire at civilians in the courtyard before they dispersed completely.

17.8.3.266 He was apparently not asked about modifying rubber bullets but he did admit that he carried "buckshee" live rounds later on in 1972 and that it was possible to get them (**B1408.5 paragraph 31**).

17.8.3.267 013 did not see any civilians carrying weapons. He said "I cannot say we were shot at" and he did not hear anything he thought was a nail bomb. (**B1408.4 paragraph 17**)

17.8.3.268 He said he did not remember seeing anyone hit in the car park "although I saw people falling over in the crowd" (**B1408.4 paragraph 18**).

17.8.3.269 As noted above, 013 was not initially prepared to identify Private S (**B1408.4 paragraph 18**) as the soldier who had told him he had "dropped" a civilian gunman, who was apparently moving rather than stationary. (**B1408.4 paragraph 19**). The fact that he was not prepared to name him initially suggests that he knew that Private S had no justification for shooting.

17.8.3.270 With regard to bottles and acid bombs being thrown in Block 1, he remembered being in the Pig with Private T and seeing liquid all over his boot. He said that he thought it might be acid but "it was actually probably a bottle of piss" (**B1408.6 paragraph 35**). This would help to explain why Private T and others might have

been in a panic about the possibility of sustaining acid bomb burns when in fact he did not.

17.8.3.271 Soldier 013 does not make any reference to seeing any soldier firing or even adopting a firing position. He did not say that he saw anything that would indicate that the soldiers had fired unjustifiably. However, he remembers O "calming everyone down" and 013 thought to himself "Fucking hell, we have done it now, haven't we?" (**B1408.5 paragraph 27**) In the barracks back in Belfast that night, he said: "I did think that we would be in deep shit" (**B1408.5 paragraph 29**). He also remembered thinking "that we were on our own now and we would pay for this" (**B1408.5 paragraph 30**).

17.8.3.272 It is difficult to understand why any of these thoughts would have occurred to him if he had not known perfectly well that the Paras had shot and killed unarmed, innocent civilians for no good reason.

17.8.3.273 With regard to talk in the barracks, he said: "No one said that they felt they should not have shot, but then again they would not say so, even if they did think that" (**B1408.5 paragraph 30**).

17.8.3.274 Soldier 013 claimed that he did not now know which Paras did the shooting. (**B1408.6 paragraph 36**) Quite apart from the fact that S told him that he had fired, it is quite clear from his recollection of talking to soldiers in the barracks who "felt they had shot at people who had either shot at them or were going to" (**B1408.5 paragraph 30**) that he had certainly known at one stage, in which case the likelihood is that he still knows but is not prepared to say.

17.8.3.275 This, in our submission, is one of the reasons why he was not prepared to give oral testimony. He knew who had done what and he also knew that it had been done without justification. He therefore is liable to have feigned a medical condition, which he did not apparently have before he arrived at

the Central Hall, in order to avoid either committing perjury or implicating his former colleagues in murder.

17.8.3.276 Soldier 013 said he would "classify the day as an accident" (**B1408.6 paragraph 37**). The tone and contents of his statement suggest his belief that the Paras simply made understandable misjudgements and then covered it up when they realised the enormity of what they had done.

Private T

17.8.3.277 Private **T** is now dead. In summary, he claimed to have been splashed by liquid from an acid bomb and to have fired at an acid bomber on a balcony on Block 1. He did not see any civilian firing and did not see or hear any nail bombs. There are a number of significant discrepancies in his statements, in particular concerning his position when he fired (the trajectory map is different from his marked-up photographs), whether the acid bomber he fired at was on the 3rd floor veranda or the 6th floor veranda, whether the target was in the act of throwing when fired at and whether he saw where the bullets struck. There is no Eversheds statement.

17.8.3.278 In his RMP statement, Private T said that when he got out of his APC he assisted in making 2 arrests and when he moved back to the Pig the soldiers there were under a heavy stoning attack. He said that one of the bottles thrown from the balcony broke near him and he was splashed with the liquid. "It covered the front of my trousers from the waist to the knee" (**B725**). Sergeant O had told him to fire at anyone dropping acid bombs and he said he fired the next time a man appeared with a bottle in his hand. He fired two shots that missed.

17.8.3.279 Although this liquid covered the front of his trousers from the waist to the knee, he felt no more than a "tingling" on his leg (**B726**). If the liquid had indeed been acid he would clearly have felt more than a tingling sensation. He also passed the trousers to Warrant Officer Wood and they were then labelled, presumably for the purpose of being used as an exhibit (*ibid*). Whoever examined them must have realised that the liquid was not acid

and they were not used as an exhibit at the Widgery Tribunal. At the Widgery Tribunal, Charles Hill, for the families, seemed to have instructions that the liquid may have been Windolene (**B744**), a suggestion echoed by Patrick Friel, who referred to his father throwing such a bottle from a balcony. **(Day 118/139/12 to Day 118/139/15)** Alternatively, Soldier 013's suggestion that the liquid in the bottles was no more than urine may be correct.

17.8.3.280 Significantly, Soldier T did not make any reference to even hearing civilian gunfire at any time or seeing Sergeant O or any other soldier shoot.

17.8.3.281 However, when he made his SA statement, he talked about hearing a burst of low velocity fire which was either automatic or very rapid single shots coming from inside the courtyard (**B735**). The bottle of liquid was thrown, he says, from one of the verandas that were *three* stories up. It is also in this statement that he first introduced the suggestion that he saw Sergeant O firing. The trajectory photograph (**B747**) indicates a target on about the *sixth* floor.

17.8.3.282 By the time he came to give oral testimony before Lord Widgery, he was able to say that the first round that he fired at the "acid bomber" hit the roof of the building (**B742 F**) although he had said in his RMP statement that he did not see the result of this shot. (**B726**)

17.8.3.283 When asked what he felt when the "acid" splashed on his legs, he said that he had cut his leg just above the left knee and it began to seep in there. (**B742 G – 743 A**) Again, it may be observed that if acid had seeped in to an open wound he would have felt more than a tingling. Indeed he appears to have waited until after the shooting had died down before he went to the rear of the vehicle and had water thrown over his trousers (**B743A**). It is hardly surprising that Warrant Officer Wood disbelieved him.

17.8.3.284 As regards Sergeant O's firing, he appears to have been a matter of 3 feet from Sergeant O but he did not see what the Sergeant was shooting at and he personally did not see anyone firing at the troops at all. (**B745 D**). Indeed, when he was asked whether he saw any persons firing, he said "no person actually fired at a target" (**B745 D**). This may not have been transcribed correctly but it tends to suggest that soldiers were not firing at targets. Nor did Private T see any nail bombs even though he accepted that in certain conditions he could hear a nail bomb as much as a mile away (**B746 B**).

Corporal P, Private U and Private O17

17.8.3.285 The last 3 soldiers in Mortar Platoon can be dealt with compendiously. Corporal P, Private U and Private O17 were all in Sergeant O's Pig and debussed in Rossville Street at the end of Pilot Row. Corporal P and O17 moved to Kells Walk and were involved in Sector 3. Private U followed the Pig towards Block 1 but took up a position at the north-west corner of Block 1 and became involved in Sector 3. The evidence of these soldiers is discussed in the Sector 3 submissions.

17.8.4. C Company

Introduction

17.8.4.1 C Company went through Barrier 14 in William Street. The Officer Commanding was Acting Major 221a and the Company was comprised of 3 platoons: 7 Platoon under the command of Lt. 110, 9 Platoon and then 8 Platoon under the command of Lt. 26.

17.8.4.2 7 Platoon was first through the Barrier and went to the junction of William Street and Rossville Street only to find that Support Company had gone in ahead of them to take up positions in Rossville Street and on the waste ground behind Chamberlain Street. 8 Platoon went in next but turned left to deploy into Chamberlain Street. They paused at the end of Chamberlain Street and then again at the junction with Harvey Street, where they were in position when Jackie Duddy was carried along Chamberlain Street and up Harvey Street. Following this they moved to the end of the street and arrested all the men present in No. 33.

17.8.4.3 Photograph **P253** shows Sergeant 2000, Corporal 579, INQ2045, INQ2051, INQ12 and INQ471 of 8 Platoon at the west corner of the William Street and Chamberlain Street junction. **P948** *et seq* show members of the platoon at the junction of Chamberlain Street and Harvey Street with Father Daly leading the group of civilians carrying Jackie Duddy from Rossville Flats courtyard.

17.8.4.4 None of the soldiers of C Company admits to firing a shot but most of them suggest that they heard "incoming" fire of some kind and many suggest they heard Thompson submachine gun fire. In our submission, their evidence of hearing or seeing civilian gunfire or bombing is either fabricated, imagined or mistaken. Although they do not appear to have engaged directly in shooting civilians, they were among those soldiers who engaged in the displays of triumphalism afterwards, as evidenced by the

graffiti they daubed on the wall at the entrance to the chemist's shop in William Stand photographed by Jimmy Porter (**AP9.99**): "the Paras were here and they fucking hammered fuck out of you".

17.8.4.5 In Table 7 at **Appendix 7**, the evidence of the 33 members of C Company who have made Eversheds statements is summarised in tabular form insofar as it relates to the issues **whether they saw civilians with guns, petrol bombs or nail bombs or heard nail bombs**.

17.8.4.6 None of the claimed sightings match or, therefore, provide any corroboration for each other. Put another way, no soldier in this company saw the same sinister occurrence as any other soldier, so that a gunman who, according to a given soldier, appeared in full view of everyone was somehow not seen by anyone except himself.

17.8.4.7 Only 5 members of C Company even claim to have seen a civilian with a weapon and none saw any civilian firing a weapon. Only 2 claim to have seen civilians with petrol bombs and in both cases they claim to have seen them at Barrier 14. The overwhelming evidence is that no petrol bombs were thrown at Barriers 12 or 14. None of the soldiers saw nail bombs and only 1 suggests that he heard a nail bomb but even this soldier says he is not certain about that.

17.8.4.8 The claimed sightings of civilian gunmen do not correspond with each other or with any of the sightings claimed by members of Support Company. Lt 110 claims to have seen a youth with a long weapon like a rifle running between Blocks 1 and 2 from right to left. INQ 444 claims to have seen a civilian with a rifle move between the same Blocks but in the opposite direction and in different circumstances. INQ 1799 says he saw a man with an M1 carbine in the Rossville Flats courtyard between Blocks 2 and 3. These all appear to be at different times from, i.e. later than, the times when gunmen were allegedly seen in these areas by members of Support Company.

17.8.4.9. The other sightings do not correspond in any way with those claimed by Support Company. INQ1799 also claimed to have seen a man with a pistol in Chamberlain Street. INQ 2121 and INQ12 both claim to have seen a man with a rifle on the roof at Rossville Flats but the features of these claimed sightings do not match. In particular, one of these "gunmen" was "seen" on Block1 and the other on Block 2.

17.8.4.10. With regard to **the order for the paratroopers to go in**, a number of soldiers in C Company suggest that the officer commanding the troops in charge of Barrier 14 refused to lift the barrier for the paratroopers to go though into William Street:

17.8.4.11. Major 221a says in his Eversheds statement that he heard the orders given over the radio to both call signs 3 and 5 to move through the barriers. He says that the orders came from *Battalion* HQ (i.e. not Brigade HQ). The Royal Anglians did not lift the barrier so the first two platoons went through on foot.

17.8.4.12. INQ488 was a Platoon Sergeant. He says in his Eversheds statement that Major 221a asked an officer of the Royal Green Jackets to let a company through the barrier but he refused. Major 221a told INQ 488 to go over the barrier.

17.8.4.13. INQ876 was the driver of one of the C Company pigs. He says that the "crap hats" wouldn't move the barrier and he had to ram it.

17.8.4.14. INQ1093 said the Officer Commanding the local unit at the barrier wouldn't let them through and a Brigadier had to come and talk to him. He said they had to physically climb over the barrier.

17.8.4.15. INQ1334 said that General **Ford** was standing in a doorway near the barrier. General Ford could see that the barrier had not been lifted and "he just pointed towards the rioters beyond the barrier and looked to us as if to say "go on". So we did."

17.8.4.16. INQ2121 was listening to the *Battalion* net when he heard the order to move forward and then in.

17.8.4.17. INQ12 said "the crap hats" were saying that the Paras couldn't go in. They had to push their way though the "crap hats" and climb over the barrier to go in.

17.8.4.18. This evidence would tend to suggest that the Officer Commanding the local soldiers at Barrier 14 had not heard or received, either on the Brigade net or otherwise, an order to lift the barrier to permit C Company to move through into the Bogside.

17.8.4.19. Very few of the soldiers in C Company admit to seeing members of Support Company in action. However, INQ 444 says he saw a soldier firing with his rifle under his arm into the Rossville Flats courtyard area. He fired between 10 and 20 rounds. This may have been Private S, who admitted firing 12 shots into the Rossville Flats courtyard. Whoever it was, this is clearly damning evidence against a soldier firing in Sector 2.

17.8.4.20. A number of the soldiers in C Company also refer to their role in arresting civilians in 33 Chamberlain Street. This is dealt with separately in the Arrests Section.

Individual Soldiers

Major 221a

17.8.4.21. According to a statement dated the day after Bloody Sunday and therefore made with full knowledge of the gravity of the events of the previous day, **Major 221a** said that at 16.10 hrs he was ordered to "asslt. rioters in east end of William Street" (**B2166**) Note that the order related to rioters in William Street rather than Chamberlain Street or Rossville Street.

17.8.4.22. He claimed that he heard gunfire "from [his] right"; that he heard an M1 carbine across the open ground to the north (*sic*); and that he saw the strikes of several enemy rounds in the Rossville Street/William Street area. (*ibid*) He did not specify whether the gunfire from his right was civilian gunfire or Army gunfire or was indistinguishable. Significantly, he made no reference to hearing Thompson submachine gun fire or any other automatic fire or hearing nail bombs.

17.8.4.23. In his Eversheds statement, Major 221a said that his order to move came from Battalion Headquarters but the Officer Commanding the Royal Green Jackets at Barrier 14 clearly did not get any order to move the Barrier either from his own Battalion Headquarters or from Brigade Headquarters because he did not move it. C Company therefore went through and over the Barrier on foot rather than in their vehicles as planned. (**B2168.3 paragraphs 16 to 17**)

17.8.4.24. Major 221a did not seem to have a clear recollection of gunfire. After describing events without mentioning that he had heard any gunfire, he said:

> "In addition to the low velocity (hand gun) shooting I heard in the waste ground, I believe I heard an M1 carbine shooting at some time during the day. It may have been the shooting I heard over the radio while C Company were based in the Foyle College car park. We may even have been shot upon while in the Foyle College car park. I cannot really recall". (**B2168.4 paragraph 30**).

17.8.4.25. During his narrative he did not mention hearing any low velocity or other shooting on the waste ground. Indeed he said that he was "initially surprised to see C Company adopting a defensive stance" (**B2186.3 paragraph 22**), which suggests that he had not himself heard any civilian firing before he saw Support Company in the waste ground. Otherwise he would not have been surprised to see them adopting a defensive stance. While in the waste ground, he talked of having a "strong feeling of being exposed and vulnerable", not that he was aware of any civilian gunfire. He

says that members of Mortar Platoon "briefly explained to me that they were under fire" (**B2168.3 paragraph 22**) but he would hardly need that explained to him if he had heard civilian gunfire himself.

17.8.4.26. If Major 221a's recollection is taken at face value, he had no idea what his own Company was up to in Chamberlain Street. He said that his Company had been very effective in the Chamberlain Street area and had made 22 arrests in the space of about 10 minutes. "That would have taken at least 44 members of the Company and probably more".(**B2168.4 paragraph 25**). He said that most of the rioters ended up being cornered in alleyways or blocked off streets along Chamberlain Street or High Street or Harvey Street and most of them "came quietly once they realised they were going to be arrested". (**B2168.4 paragraph 26**). Obviously, he had either forgotten or had no idea that all the arrests were carried out in one house by 2 or 3 soldiers who simply ordered the occupants out.

17.8.4.27 Major 221a's dishonesty or, alternatively, startling lack of awareness of what was going on around him, is reflected in his suggestion that he was "not aware of allegations of brutality against members of the Battalion during the afternoon in the Bogside". Brutality, he said, was never tolerated; it was simply not the way the Battalion operated. He said: "we were one of the very few units in Northern Ireland at the time who were able to restore and maintain law and order ***without resorting to the use of physical force***." (**B2168.5 paragraph 33**, emphasis added)

Warrant Officer 204

17.8.4.28 **Warrant Officer Soldier 204** was not called to give oral testimony. He was the Company Sergeant Major of C Company. He says he would have accompanied the Company Commander but all that he can recall, he says, it that his Company went to Derry that day. He cannot remember where he went or what he did. He did not hear any firing personally (**B2117.2 paragraph 8**). He did make an RMP statement in 1972 but made no reference to seeing or hearing any civilian gunfire.

7 Platoon

Lieutenant 110

17.8.4.29 **Lt. 110** was the commander of 7 Platoon, which consisted of Sergeant INQ 488, Corporal INQ444, Lance Corporals 1799, 003, 736, 939 and Privates INQ 131, 815 and Soldier 5. Lt 110 would appear to have made two statements to the RMP, one on 3rd February (which we do not have) and one dated 4th February, when the RMP were particularly busy taking supplementary statements from soldiers and in many of which, for the first time, soldiers claim to remember hearing civilian gunfire of various kinds, including in particular Thompson submachine gun fire.

17.8.4.30 Lt 110 did not remember the contents of his first statement but he starts off his second statement by saying "Further to my statement ..I would like to add...." (**B1726.8**) so the facts that appear in the second statement presumably did not appear in the first statement. The two facts that appear in the second statement are that, firstly, he heard a burst of 8 shots from a Thompson submachine gun being fired from a two-storey block of flats west of Kells Walk and, secondly, he saw a man with a weapon about 100 yds away in a location not specified but which appears to have been in the direction of Rossville flats.

17.8.4.31 It is submitted that if Lt. 110 had really heard a Thompson submachine gun and had really seen a gunman, he would have said so in his first statement. It is simply not credible that he would have left such matters out of his first statement, especially when he does not appear to have seen or heard anything else of any significance so it is difficult to understand what it was that he could have put in his first statement that was more important than the details in his second statement.

17.8.4.32 Significantly, he did not recall any of the Thompson submachine gun fire when he made his Eversheds statement (**B1726.5 paragraph 29**) and he could not remember it when he gave his oral testimony to this Tribunal

(**Day 350/83/17 to Day 350/83/22**) although he was reluctant to admit that and he initially gave the impression that he did (**Day 350/64/19 to Day 350/65/3** and **Day 350/82/5 to Day 350/83/22**).

17.8.4.33 With regard to the weapon, he said in his 1972 RMP statement that "all I saw was the butt of the weapon sticking out underneath his arm". When he made his Eversheds statement, he said he could not describe the weapon "in any way save that it was a long weapon, like a rifle" (**B1726.5 paragraph 22**). However, by the time he gave his oral testimony, he claimed he could see "the butt *and the barrel*" (**Day 350/73/22 to Day 350/73/25** and **Day 350/103/19 to Day 350/105/15** emphasis added). He said this was a clear recollection in his mind's eye (*ibid*) when it clearly was not in 1972. This was obviously a detail he added in 2003 in order to bolster his evidence about seeing a weapon.

17.8.4.34. In his RMP statement he had said that he was at the junction of William Street /Rossville Street at 15.45 hrs and at 1600 hrs he was at the rear of the Chamberlain Street houses when he saw the man with a weapon. These times were clearly wrong but, more importantly, he was suggesting that he saw the man with the weapon 15 minutes after he had arrived at the junction of William Street and Rossville Street, which was itself some time after Support Company had already entered the Bogside. By the time Lt 110 claimed to see his gunman, Support Company were in the process of withdrawing from Rossville Street altogether. This was suggested by Mr Elias and established by reference to actuality footage in Video 1 at 5 minutes 10 seconds **V1/5.10 to 6.30** (**Day 350/75/15 to Day 350/78/14**).

17.8.4.35. Lt. 110 identified his men in this clip crossing the waste ground at the time when Mortar Platoon's Pigs had withdrawn and at least 1 Pig was making its way *northwards* towards William Street. This ties in with Lt. 110's own recollection, which was that by the time his Platoon moved across the waste ground "people had been moved away from this area" and he had no memory of seeing any military vehicles on the waste ground (**B1726.4 paragraph 21**).

17.8.4.36. In other words, the gunman allegedly seen by Lt. 110 could not have been the gunman referred to by any member of Support Company. The alleged sighting occurred at a time when it was inherently improbable that any civilian would have been in the Rossville Flats courtyard, let alone with a weapon. Not surprisingly, Lt. 110 is the only soldier in the entire Battalion to claim to have seen this gunman. Likewise, his account of the Thompson does not tally with any account of any member of Support Company because he suggested in his 1972 statement that it was being fired from a 2 storey block of flats west of Kells Walk.

17.8.4.37. Initially Lt 110 said that the reason he didn't shoot this gunman was because he didn't have a rifle (**Day 350/98/25**) but, when it was pointed out to him that he had told Eversheds he could not remember whether he had a rifle or a baton (**B1726.3 paragraph 12**), he said he started off with a baton but could not recall whether that changed (**Day 350/103/1 to Day 350/103/3**).

17.8.4.38. As appears below, some of Lt 110's men claim to have been fired on as they crossed the waste ground but Lt 110 did not recall any shots being fired at his platoon at any stage (**Day 350/94/18 to Day 350/95/3**); none were noted as having been fired at them (*ibid*); and no such firing was mentioned in his 1972 statement.

17.8.4.39. The truth, it would appear, is that Lt 110 and his entire platoon arrived at the waste ground after everything of significance had occurred but, possibly in response to a request from the RMP, he provided a statement on 4th February saying that he had heard a Thompson submachine gun fire and seen a gunman in Rossville Flats when he had clearly witnessed neither event.

INQ 488

17.8.4.40 **Sergeant INQ 488** gave oral testimony on Day 300. In his Eversheds statement, he said that he and Major 221a asked an

officer of the Royal Green Jackets to let them through the barrier but he refused. Major 221a was not very happy at this and said to Sergeant 488 "over you go". (**C488.2 paragraph 14**). This is a further indication that the Paras went through Barrier 14 without an order having been received from Brigade HQ.

17.8.4.41 He said that about 20 yards from the corner of William Street and Rossville Street he heard low velocity shots but he could not say what type of gun it was from. It could have been anything but he knew that it was low velocity fire because of the "booming sound that it made". (**C488.3 paragraph 17**) However, he also said that he did not hear any rubber bullets being fired and since we know that between 51 and 64 rubber bullets were fired in the waste ground area it is likely that this was the booming sound he heard. When asked by Counsel to the Inquiry why he was so sure that the shots he had heard were low velocity shots rather than the sound of rubber bullets, he replied "because there was crack and then thump" (**Day 300/37/10**). As was pointed out by Counsel to the Inquiry, crack and thump is the classic description of *high* velocity fire but Sergeant 488 was not prepared to accept this and insisted that "all rounds had a crack and thump" (**300/37/13**), which is simply wrong and confirms Sergeant 488 as an unreliable historian.

17.8.4.42 He then says he heard high velocity sounds which he believed to be Support Company – "it was certainly not the IRA firing". (**C488.3 paragraph 18**).

17.8.4.43 His platoon then deployed across William Street but did not go south around the corner and believes he was there for about 45 minutes. (**C488.3 paragraphs 19 to 20**). If, therefore, any member of his platoon did cross the waste ground he was not one of them. He does not suggest either that the platoon came under fire or that he heard Thompson submachine gun or any other automatic fire. Incidentally, another indication of the unreliability of this witness is his insistence that Support Company did not come from Little James Street but drove in their vehicles along William

Street and took a right turn into Rossville Street (**Day 300/63/23 to Day 300/64/13**). It was only when the Chairman intervened that he was prepared to accept that it was possible that Support Company's vehicles came from Barrier 12, although he still insisted that he saw them coming towards him even though he must have arrived at the junction after these vehicles had passed. (**Day 300/65/6**).

Corporal INQ 444

17.8.4.44 **INQ 444's** evidence has to be treated with particular caution because his recollection of the whole affair was "very fuzzy" (**C444.2 paragraph 14**) and "very vague" (**C444.3 paragraph 18**). He also volunteered that he had made assumptions as well as including in his statement information that he had picked up from other soldiers after the event (**Day 344/85/15 to Day 344/85/17** and **Day 344/92/18 to Day 344/92/24**).

17.8.4.45 He said that, almost as soon as he had moved through the barrier, he heard live gun fire "coming from the direction of the junction of William Street and Rossville Street" (**C444.3 paragraph 20**). Nobody else suggested that there was gunfire coming from that area and during his oral testimony he accepted that his recollection of where gunfire was coming from was wrong – it could have been coming from "anywhere". (**Day 344/119/13 to Day 344/119/17**) He was not able to identify the rest of the "general gunfire" he claimed to have (**Day 344/119/20 to Day 344/119/25**)

17.8.4.46 He claimed to remember hearing 2 bursts of Thompson submachine gun fire, each burst being 6 to7 seconds at most (**C444.3 paragraph 21**) but he "cannot remember whether it was when I was going up William Street or back down it or what particular stage it was". (**Day 344/120/12 to Day 344/120/14**). He said we should not pay much attention to the sequencing that he had suggested in his statement. (**Day 344/120/18 to Day 344/120/20**)

17.8.4.47 He was not prepared to accept that he could have mistaken the sound of other weapons for a Thompson. Although he recognised that there was a

"huge difference" between the sounds of nail bombs and rifles and that at times one could get confused between the two (**Day 344/123/24 to Day 344/124/2**), he was not prepared to accept the logic that even if there is a huge difference between the Thompson and a rifle one could get confused between the sounds of the two depending on the surrounding conditions.

17.8.4.48 He said in his Eversheds statement that he was "fairly sure" that the bangs he heard in William Street were nail bombs (**C444.4 paragraph 23**) but conceded that these could have been the shots fired by Lt. N (**Day 344/98/15 to Day 344/98/23**). According to his recollection, each of these bangs "could have come from just about anywhere" (**Day 344/126/12 to Day 344/126/24**). It followed that the sound he identified as Thompson submachine gun fire could have been coming from just about anywhere because he said that the "sporadic rifle fire" that he heard about the same time sounded as though it was coming in the same direction as the Thompson submachine gun" (**C444.4 paragraph 23** and **Day 344/127/1 to Day 344/127/19**). In other words, the so-called Thompson submachine gun fire was so indistinct that it could have been coming from anywhere. When pressed to accept the logic of this, he said: "all I know is the rifle and Thompson – all I know is I heard it" (**Day 344/128/14 to Day 344/128/15**).

17.8.4.49 He had suggested in his Eversheds statement that he had an "impression" that a gun battle was going on (**C444.4 paragraph 25**). But he accepted that, apart from what he said about the Thompson machine gun fire, all the firing he heard could have been SLR fire (**Day 344/129/9 to Day 344/129/13**).

17.8.4.50 With regard to the claimed sighting of a gunman, his recollection of where he was when this happened and how he got there is, by his own admission, completely unreliable. (**Day 344/101/22 to Day 334/102/2**)

17.8.4.51 In his statement, he said that after reaching the junction of Rossville Street and William Street his platoon turned around and went back along William

Street, turned down Chamberlain Street, moved near the south end of Chamberlain Street, turned right into a small alleyway and ended up on wasteground. (**C444.4 paragraphs 24 to 29**). There is no such alleyway and no other member of his platoon describes this route.

17.8.4.52. INQ 444 had already said that the Tribunal should not rely on his sequencing of events but it appears that this claimed sighting occurred some time after the Mortar Platoon Pigs had withdrawn from the waste ground at a time when Major Loden's Command Vehicle was parked at the north gable wall of Block 1. (**Day 344/104/4 to Day 334/104/22**) In other words, as with Lt. 110, this "sighting" must have occurred at least 15 minutes after Mortar Platoon went in and after all the material events in the courtyard area were over. Incidentally, this cannot be the same sighting as the sighting claimed by Lt 110. Lt 110's gunman was running from right to left with his weapon partly concealed under his right arm (**B1726.5 paragraph 22**) whereas INQ 444's gunman was running left to right making no attempt to conceal the weapon (**Day 344/102/10 to Day 334/103/4**), unless of course it was the same gunman running back and forth across this gap until he was spotted by soldiers. INQ 444 said that, at best, he had a "fleeting glimpse" of this individual but he was not prepared to concede that his recollection of this glimpse could be unreliable (**Day 344/133/15 to Day 334/113/21**).

17.8.4.53 The second incident that he said "sticks out in mind" is seeing a person on the roof of Block 1 throwing a bucket of liquid at a Pig which is marked on his map (**C444.9**) in a position not far from where Sergeant O's Pig was parked. He saw a couple of soldiers jumping about, with other soldiers dousing them with water, which is how he knew it was acid (**C444.5 paragraph 32**).

17.8.4.54 The problem with all this is that, if such an incident happened at all, it happened when Sergeant O's Pig was parked at the mouth of the courtyard. Neither INQ 444 nor any other member of his platoon arrived

until some time after Sergeant O's Pig had been withdrawn from that position so that INQ 444 could not possibly have seen this.

17.8.4.55 The third incident recalled by INQ 444 was seeing a soldier with his rifle under his arm firing between 10 and 20 shots at an angle of 30 to 40 degrees towards Blocks 2 and 3. (**C444.5 paragraph 34**) This, he agreed, was not a fleeting glimpse. (**Day 344/136/23 to Day 344/136/25**) The firing could only be described as reckless firing of a kind that was bound to endanger life. (**Day 344/141/20 to Day 344/142/2**)

17.8.4.56 It may be suggested that this account could be as unreliable as all of INQ 444's other accounts but there is an obvious and important distinction. The other accounts were designed to suggest civilian gunfire and acid bomb attacks of such a kind as to have warranted "return" Army fire. The account of seeing a soldier firing recklessly into the flats is an admission against interest. It was also clearly one that he had been reluctant to make. He had not admitted to it in 1972. It was something he felt "pretty bad about" because he was "shirking [his] responsibilities". (**Day 344/112/21 to Day 334/113/4**)

17.8.4.57 He also tried to resile from it to the extent that he suggested that this soldier had probably started firing "with his rifle properly in his shoulder" and that the rifle had "slipped out of the shoulder and was working its way down his body." (**Day 344/108/6 to Day 344108/11**)

17.8.4.58 With regard to the timing, there is reason to believe that, contrary to his evidence, he did not in fact see this incident from the back of Chamberlain Street at a time when Sergeant O's Pig had withdrawn to the north gable wall but from Rossville Street near the junction with William Street *before* he crossed the waste ground. Ironically, this possibility emerged when INQ 444 was trying to dilute the quality of his evidence on this issue. On the basis of his own map, it was put to him that he was very close to the soldier who was firing but he rejected this and said that, although his map

suggested it was a distance of between 25 and 30 yds, it was more like 50 yds. (**Day 344/137/3 to Day 334/137/20**).

17.8.4.59 Unlike the rest of his recollection, this was an event that was clear in his mind. (**Day 344/137/1 to Day 344/137/2**). If he was not absolutely sure that he had seen this, he would not in our submission have admitted to it. He felt guilty about not reporting the matter (**Day 344/143/1 to Day 334/143/3**) and, although he denied it, he could not think of a more likely reason for not admitting it than a wish not to break ranks with his comrades. (**Day 344/143/21 to Day/344/144/25**) He did, however, tell at least one of his colleagues that he had seen a soldier fire in this manner. (**C2597.2 paragraph 8**)

17.8.4.60 Again, this was not a witness who was going out of his way to do any favours for the families. Indeed, when Eversheds showed him a photograph (probably **E14.4**) showing two crouching figures behind the gable wall at the back of 36 Chamberlain Street, he suggested that one of these figures was holding "what might possibly be a Thompson". "It is not an SLR magazine on the weapon", he added. (**C444.8 paragraph 51**) In other words, he was trying to suggest that these two figures were probably civilian gunmen with at least one Thompson submachine gun of the kind that he had claimed to have heard being fired that day. It was only when the whole photograph was shown to him that he realised that the figures were soldiers.

17.8.4.61 The Tribunal can be satisfied that this soldier did see a member of Mortar Platoon fire between 10 and 20 shots into the Rossville Flats. Whilst the availability of private supplies of ammunition means that it could have been any soldier, the only solider who admits firing that number of rounds is S.

17.8.4.62 Finally, it should be noted that INQ 444 did not see any civilian fire and he did not recollect anyone else from his own platoon (including Lt.110)

saying that they had seen civilian gunmen that day. (**C444.6 paragraph 41**)

Lance Corporal INQ1799

17.8.4.63 **Lance Corporal INQ1799** gave oral testimony on Day 314. It quickly became apparent that he was an unreliable witness.

17.8.4.64 His impression of the briefing given by Major 221a was one of "serious business" and that they would be required to go into the No Go area, which was going to be challenging (**C1799.2 paragraph 8**).

17.8.4.65 He wanted to place himself beside Col Wilford and remembered Col Wilford asking on several occasions for permission to deploy his units but "he seemed to be being kept on hold" (**C1799.4 paragraph 25**). Counsel for the Inquiry demonstrated that Col Wilford was not where 1799 said this happened and he had to resile from that suggestion. He believes that his Platoon Commander was Lt. INQ1267 (**C1799.4 paragraph 26**) but he also said that he was in 7 Platoon and refers to Corporal 444 so he must be mistaken about this too.

17.8.4.66 Although other members of 7 Platoon recall going to the junction with Rossville Street, INQ1799 said that he turned into Chamberlain Street and just before he reached Harvey Street he saw a civilian gunman directly in front of him (**C1799.5 paragraph 31**). He said that he "closed on the crowd to within about 5 feet of them" and "the gunman I saw was about 2 or 3 people deep into the crowd" (*ibid*). No other soldier claims to have seen this gunman and indeed no other soldier claims that any of the soldiers came so close to the crowd. Indeed, it emerged during his testimony that 1799 didn't actually remember being in Chamberlain St at all and then suggested this could have happened in William St.

17.8.4.67 Private INQ815 said that he was one of 1799's "buddies" on the day and that they walked south down Chamberlain Street together. INQ815 said

that there were "a few civilians about, but no one for us to chase and arrest .. .. there were some soldiers further ahead of me, that is, further south down Chamberlain Street." He did not see any civilian gunmen or hear any shots and certainly does not appear to have seen INQ1799 dive into the doorway of a house. (**C815.5 paragraphs 20 to 21**).

17.8.4.68 Nor did any civilians, including journalists such as Gilles Peress, see the gunman or see any soldier so close to the crowd as it made its way down Chamberlain Street

17.8.4.69 Although this gunman was pointing an automatic pistol in 1799's direction he apparently did not fire but allowed 1799 to dive "obliquely across the barrel of the gun" into the doorway of a house and take cover, where he exchanged his baton gun for an SLR that he had slung around his shoulder. (**C1799.5 paragraph 34**).

17.8.4.70 It is submitted that this account of seeing a gunman must be rejected as a fabrication, not only because it is inconsistent with all the other civilian and indeed soldiers' evidence but it is inherently improbable, to say the least.

17.8.4.71 As he was in this house, he claims that he heard two distinct bursts of Thompson machine gunfire "close enough to be potentially threatening to me" (**C1799.5 paragraph 36**). It is submitted that this also was a pure invention.

17.8.4.72 Not content with seeing the pistol man in Chamberlain Street, 1799 claimed to see a gunman with an M1 carbine "lying in the prone position" at the east edge of a wall which, from his map (**C1799.10**), was directly in front of Block 2 (**C1799.6 paragraph 46**). It is important to note that when he claims to have seen this man he was, he said, standing at the end of Chamberlain Street with Major 221a and his radio operator. (**C1799.6 paragraph 44**). Although, according to INQ1799, the rifleman would have been just across the courtyard from the three of them, neither Major

221a nor his signaller appear to have seen him or indeed heard the "slow automatic fire ... .. from a Bren gun or LMG, possibly the 303 version" which he claims to have heard while in the same position. (**C1799.6 paragraph 45**)

17.8.4.73 INQ 1799 says that he was going to fire his SLR through the wall because "the SLR is so powerful that a round would go through a wall and strike the man behind it" (**C1799.7 paragraph 47**) but as he released the safety catch and was taking aim another man stood up beside the gunman waving his hands in the air (**C1799.6 paragraph 48).** He decided that it was dangerous for him to fire so he decided not to do so. (**C1799.7 paragraph 49**) Just after he had been taking aim at the gunman, he claimed to remember hearing Major 221a say "don't fire!" (**C1799.7 paragraph 51**). Major 221A did not suggest that he said or did anything of the kind. It is submitted that this account is either a figment of INQ 1799's imagination or simple invention.

17.8.4.74 When he returned to barracks, he reported the gunmen that he had seen to either UNK221 or Lt INQ1267 (neither of whom was his Platoon Commander). He was never asked to give a formal statement or to file a report and he remembers being surprised that he was not called to give testimony at the Widgery Inquiry. (**C1799.8 paragraph 61**). If he had seen what he claims to have seen and had reported it, INQ 1799 would have been a star witness at the Widgery Tribunal. The only explanation for the absence of an RMP statement from him or an appearance at the Widgery Tribunal is either that he made up his account some time after the Widgery Tribunal or that even his superior officers at the time regarded him as a fantasist.

Soldier 003

17.8.4.75 **Soldier 003** was a Lance Corporal who went through Barrier 14 with Lt. 110 and Corporal 444. He said he was the first soldier through the barrier (**Day 309/67/21 to Day 309/67/22**) so that by the time his company went through the barrier there were no civilians between the barrier and the

junction with Chamberlain Street. When he was in a position to see up Little James Street as far as the junction with Rossville Street, he saw that the crowd had moved right back to that junction. (**Day 309/107/21 to Day 309/107/25**). He accepted that at the time of his deployment there was no pressure on the barrier in the sense of crowds rioting there. By the time they moved in "there was no prospect of catching anyone". (**Day 309/109/6 to Day 309/109/17**)

17.8.4.76 Contrary to the accounts of Lt. 110 and Corporal INQ 444, he was aware of no shooting as they made their way up William Street and the first time he heard shooting was when he crossed the waste ground. (**Day 309/109/22 to Day 309/110/8**).

17.8.4.77 In his 1972 RMP statement, he had not suggested that he had come under fire as he crossed the waste ground. He suggested that while he was at the back of 36 Chamberlain Street there was "quite a lot of firing coming from the flats at this time directed towards us". (**B1364**). When he came to give his evidence to this Tribunal, he reversed this. He said that they came under fire as they crossed the waste ground (**B1366.4 paragraph 19**) and that they did *not* come under fire while they were at the back of Chamberlain Street (**Day 309/112/16 to Day 309/112/17**). The fire he came under as he crossed the waste ground, he said, was from a Thompson.

17.8.4.78 Two points occur in relation to this. First, as appears above, both Lt 110 and Corporal INQ 444 said that the platoon did not come under fire as they crossed the waste ground. Secondly, the sound of the Thompson submachine gun fire that Lance Corporal 003 claimed to hear did not occur at the same time as the sound of the Thompson that INQ 444 claimed to hear, so that they were not purporting to talk about the same sound.

17.8.4.79 Lance Corporal 003 said this sound was definitely from a Thompson but in his RMP statement and in his Eversheds statement (**B1366.6 paragraph 32**) he said it could "possibly" have been a Thompson. He claimed to have

heard one burst of about six or seven rounds fired in two or three seconds. When it was suggested to him that the slowest Thompson fires at a rate of 600 rounds per minute, i.e. 10 a second, he said it could have been 20 or 30 or 40 rounds that he heard. (**Day 309/117/22 to Day 309/117/23**)

17.8.4.80 He had no sense of ever coming under fire from Rossville Flats (**B1366.4 paragraph 21**) and he conceded that, when he admitted that, he did not realise that in 1972 he had said the opposite. (**Day 309/118/22 to Day 309/118/24**)

17.8.4.81 In his Eversheds statement, this soldier said that he did not see anyone in the courtyard of the Rossville Flats and did not see any vehicles parked there. He also said that Support Company came into the Bogside *after* he had reached the back of the houses at Chamberlain Street. (**B1366.4 paragraphs 21 to 22**) Like other members of his platoon, Lance Corporal 003 obviously arrived in the waste ground sometime after the material events had all occurred. It is submitted that his accounts of hearing Thompson submachine gun fire or any other civilian fire are completely unreliable.

INQ 736

17.8.4.82 **Lance Corporal INQ 736** claimed to have heard two small explosions as he ran along William Street and then some low velocity rounds when he got to the end of William Street. It sounded like a Thompson. (**C736.2 paragraph 8**) He did not go beyond this position because this was "the boundary of operations for C Company" (**C736.2 paragraph 9**). He said that he heard more incoming fire than Army fire. He tried to find out where the incoming fire was coming from by looking for smoke from gun muzzles, movement in buildings and so on but he did not see any smoke or anything else that warranted him opening fire (**C736.3 paragraph 12**). He did not make an RMP statement.

17.8.4.83 During his oral testimony, INQ736 rejected the suggestion that he could have mistaken the sound of baton round fire for the sound of a nail bomb

explosion (**Day 310/142/5**) even though he did not remember hearing any baton rounds being fired once he had gone through Barrier 14. (**Day 310/141/24**) He explained that a nail bomb explosion is much louder than a baton being discharged. When asked by the chairman about the sound of two or more baton rounds being discharged at the same time, he insisted that the volume would be exactly the same. (**Day 310/142/9**). The explosions he claimed to have heard were to his left as he ran along William Street past the entrance to Chamberlain Street, in other words in or around the waste ground off Rossville Street (**C736.2 paragraph 8**). During his oral testimony, he confirmed that this meant he claimed hearing them at a time before the vehicles of Support Company went into the Bogside. (**Day 310/171/24**). In other words, according to this soldier, nail bombs were being thrown in the Bogside in or around the Rossville Street area before any soldiers entered that area, which is difficult to understand He was "as certain as anyone can be" (**Day 310/149/12**) that the low velocity fire he heard was a Thompson machine gun. However, he was also convinced that Support Company had entered the Bogside on foot, stopped advancing on foot when they were fired on and then returned to their vehicles to replace their batons with rifles. (**Day 310/150/16 to Day151/3**) He was "absolutely" sure of this and had a vivid recollection of that happening (**Day 310/164/4 to Day/310/164/6**) even though this was clearly all wrong. Since it was the Support Company soldiers who were advancing on foot who were the object of the hostile incoming fire which 736 claimed to have heard, the entirety of his evidence on this matter has to be regarded as unreliable. It is also significant in this respect that he did not report hearing these shots to anyone (**Day 310/174/1**). It is submitted that this soldier's recollection of hearing nail bombs and low velocity fire must be either mistaken or fabricated.

Lance Corporal INQ939

17.8.4.84 **Lance Corporal INQ939** did not give oral testimony. He also went to the junction of William Street and Rossville Street. He heard shooting but could not say from which weapon they were fired. He thought they could

have been fired on from perhaps two or three weapons at the same time but he would not say that the fire was automatic. (**C939.3 paragraph 26**).

He did not see any civilians with weapons or bombs. (**C939.4 paragraph 34**).

Private INQ131

17.8.4.85 **Private INQ131** believed that the Paras were going to Derry to "break the No Go area so that the troops could go back on patrol" (**C131.1 paragraph 5**)

17.8.4.86 He also talks about coming under fire but his account of this is at variance with the accounts given by Lt. 110, Corporal INQ 444 and Lance Corporal 003. He has indicated on his map an area at the junction of William Street and Rossville Street as the point where he came under "incoming" fire. (**C131.9** and **C131.4 paragraph 19**) The shots he claimed to have heard were single shots from a low calibre weapon. Enemy fire, he said, was almost continuous (**C131.5 paragraph 27**) but he did not recall hearing any automatic fire or explosions. (**C131.5 paragraph 26**) So, whatever he heard, it was not Thompson machine gun fire.

17.8.4.87 Despite his apparent recollection of continuous enemy fire, he claims that his platoon left the cover of the buildings at the junction with Rossville Street and made its way across the open waste ground in full view of Rossville Flats. He even embellished his account of the civilian firing by adding that he could see dirt jumping on the ground (**C131.4 paragraph 19**). He accepted that as he made his way across the waste ground and along the wall behind Chamberlain Street there was no cover at all (**Day 333/29/9 to Day 333/29/12**) despite the suggestion in his Eversheds statement that he took cover in this area. (**C131.4 paragraph 21**)

17.8.4.88 By the time he reached the back of Chamberlain Street, he said that most of the crowd had disappeared but he could see people "milling around on the waste ground, on Rossville Street and in the car park of the Rossville

Flats". He had no memory of what exactly they were doing but he had no impression of them fleeing (**C131.5 paragraph 23**). He said he could see a single Pig with its back towards him between him and the car park of the Rossville Flats but cannot remember any other vehicle in the area (**C131.5 paragraph 24**).

17.8.4.89 It is submitted that this soldier's account is also unreliable insofar as he suggests hearing or seeing civilian gunfire. Like the other members of his platoon, it is likely that he arrived on the scene after the material events had all occurred but has difficulty accepting that he was present on Bloody Sunday and did not witness any civilian gunfire. Alternatively, if he was there when he heard gunfire, he must have been lying when he said that he "didn't see any soldiers actually firing in the area all day" (**C131.5 paragraph 26**).

17.8.4.90 Not even this soldier said that there was any civilian gunfire after the soldiers ceased firing.

INQ 5

17.8.4.91 Private INQ5 was a signaller. He gave oral testimony on Day 379 and identified himself as the soldier with a radio running across the wasteground in **Video 1/5.13 to 5.50** a still of which was saved as **C5.61 (Day 379/15/12)**.

17.8.4.92 He claimed to have gone down an alley which would have been Macari's Lane but he accepted during questioning that he was wrong about that and that he must have gone to the junction of William Street and Rossville Street (**Day 379/13/25**). He said that as soon as he reached the open waste ground "a whole lot of muck came down on us, by which I mean fire was opened up on us" (**C5.2 paragraph 10**) He was anxious to stress that he was definitely fired on by civilian gun fire. He said it was a mix of small arms fire and some heavy calibre weapons and machine gun fire. (**C5.2 paragraph 11**) He did not know where it was coming from or how much enemy fire there was but "there was a lot". There was then "return gun

fire from our lads" (*ibid*). Even when it must have been apparent to him that he was wrong, he insisted on adhering the story given to Lena Ferguson that he and other members of C Company were the first Paratroopers to the waste ground, that C Company were the first soldiers to be fired at and that, unknown to the gunmen who were firing at him, Support Company then came in and took the gunmen by surprise. (**Day 379/64/5 to Day 379/64/13**). It was then demonstrated to him by reference to **P272**, **P273** and **P274** that he was not behind the burnt-out van at all at the time when Support Company were in Rossville Street.

17.8.4.93 This soldier's evidence is undermined by the fact that, first of all, he claims to have immediately hidden behind a burnt-out car as soon as he heard gunfire (**C5.2 paragraph 10**) and sheltered there for between 10 and 15 minutes (**C5.2 paragraph 13**) so that his view was limited on his own account. Secondly, again, by his own admission, he did not know if Support Company was in the area at the time. (**C5.2 paragraph 12**) In other words, he clearly didn't hear Lt N firing shots just a few yards from him at Eden Place, or members of Support Company firing 29 shots into the courtyard of Rossville Flats and other members of Support Company firing shots in Rossville Street and Glenfada Park North. The explanation for all this is that he did not arrive at the waste ground until sometime after some or all of this occurred.

17.8.4.94 He claims to have kept in touch with events over the radio but, as we know from the logs and the Porter tape, there were no reports made over the radio at this time. Significantly, he had no recollection of being notified himself by any member of the platoon that contact had been made and that he should get on the radio (**Day 379/37/17 to Day 379/37/20**). The only time he recalled using the radio himself was *before* the Paratroopers went in (**Day 379/38/8 to Day 379/38/15**) even though he claimed to have personally witnessed incoming fire from the flats. In other words, although it was his job to report any contact, he did not do so, which gives rise to the inference that he was aware of no incoming fire.

17.8.4.95 **INQ 5** denied talking to the Press about Bloody Sunday (**C5.3 paragraph 19**) but later made a supplementary statement in which he admitted talking to Praxis (**C5.5 paragraph 2**), Lena Ferguson (**C5.6 paragraph 8**) and Jimmy McGovern (**C5.7 paragraph 13**). His Praxis interview is at **C5.15**. His interviews with Lena Ferguson are at **C5.28** *et seq* and notes of the McGovern interviews are at **C5.39** *et seq*. These interviews are so extensive that he could not have forgotten them, which means that he deliberately lied to the Tribunal when he said in his original statement that he had not talked to the Press. His explanation for not disclosing them was that he did not regard the T.V. as the Press (**Day 379/59/14to Day 379/59/17**) but he had been confronted by Lena Ferguson and he refused to release her from her duty of confidentiality to him (**Day 379/61/1 to Day 379/61/4**). He maintained his claim that the army had come under fire but he never saw a gunman (**Day 379/36/19**) and has no recollection of any member of his platoon indicating that any "contact" had been made (**Day 379/37/17 to Day 379/37/20**). The account he gave to Lena Ferguson and others was based, at least in part, on information he received after Bloody Sunday, not on his own recollection. (**Day 379/40/6 to Day 379/40/8**) he himself has not recollection of hearing any army fire (**Day 379/27/20 to Day 379/27/22**). With regard to the "non army" fire he claimed to have heard, he told Praxis and Lena Ferguson that it definitely came from Rossville Flats but he accepted in his testimony that this was simply an assumption on his part (**Day 379/28/22 to Day 379/29/28**). In a built up area it is "virtually impossible to tell where the rounds come from" (**Day 379/30/16 to Day 379/30/18**). This is another soldier upon whose account no reliance can be placed.

INQ 815

17.8.4.96 **Private INQ 815** went through Barrier 14 in a Pig after other members of his Platoon went in on foot. As mentioned above, he walked down Chamberlain Street with INQ1799 but there were very few civilians about

and they were some distance behind other soldiers further down Chamberlain Street. (**C815.5 paragraphs 20 to 21**)

17.8.4.97 He did not recall hearing any shooting at all during the day (**C815.4 paragraph 17**). The thing that sticks out in his mind from the day is the way the dead bodies were handled. He says that the way they were thrown into the Pig was "totally disrespectful." He was "disgusted" (**C815.6 paragraph 27**)

8 Platoon

Lt 26

17.8.4.98 **Lt. 26** was the Officer Commanding 8 Platoon, which crossed Barrier 14 after 7 Platoon and 9 Platoon. 8 Platoon went down Chamberlain Street.

17.8.4.99 Initially, during his oral testimony, he tried to justify the arrests carried out by his platoon on the basis that the people withdrawing down Chamberlain Street were throwing stones at them. (**Day 315/126/19 to Day 315/126/21**).

17.8.4.100 However, when it was pointed out that in his RMP statement he had said that the crowd remained 50 yds ahead of them and nothing was thrown at them (**B1545.7**), he said without blushing: "right, in that case I accept my version of 1972, nothing was thrown at us" (**Day 315/127/2 to Day 315/127/5**).

17.8.4.101 This made it clear at the outset that this witness was prepared to fabricate allegations of misconduct on the part of civilians in order to justify the misconduct of his own men, even in the relatively peripheral matter of arrests. Incidentally, it does not appear from his Eversheds statement that carrying out arrests was the main purpose of the operation but was no more than an "option". (**B1545.1 paragraph 14**)

17.8.4.102 Lt. 26 had no idea that he was to take part in any kind of pincer movement (**Day 315/153/17 to Day 315/153/19**).

17.8.4.103 He heard no shooting when he was moving down Chamberlain Street (**Day 315/157/7 to Day 315/157/8**). He accepted that when his Pig parked at the very end of Chamberlain Street with his men around it they were "an absolutely perfect target there for any gunmen operating in Rossville Flats" but the Pig was not fired upon and none of his men were fired upon (**Day 315/157/17 to Day 315/157/22**). He also appears to have persuaded two frightened women to move from behind a car in the courtyard to Chamberlain Street (**B1545.3 paragraph 23**) which, as he agreed, he presumably would not have done if firing had been going on at the time (**Day 315/159/3 to Day 315/159/6**).

17.8.4.104 He claimed to have heard 2 or 3 gunshots from a high velocity weapon while at the end of Chamberlain Street (**B1545.3 paragraph 24**), not the 20 or 30 he said in his RMP statement (B1541). In 1972, he said that one weapon was "almost certainly" an M1 carbine and the other was "possibly" a .303. (*ibid*). By the time he came to give his oral testimony, he could distinguish accurately between the sounds of high velocity weapons "without any doubt" (**Day 315/135/19 to Day 315/135/22**) and was "absolutely certain" that one was an M1 carbine (**Day 315/163/24 to Day 315/164/1**). In addition, it should be noted that the M1 carbine is a medium velocity weapon.

17.8.4.105 He claimed to have formed the view that the firing was coming from the roof of Rossville Flats "in the immediate vicinity of a lift housing" (**B1542**) but he had to accept that from where he was he could not have seen any such structure (**Day 315/166/23 to Day 315/167/2**). He also claimed that these rounds passed right across his front in a "north westerly direction" (**B1545.3 paragraph 24**), i.e. effectively towards soldiers. When pressed to explain how he would have known the direction in which any such bullets were travelling, he initially claimed that he heard the bullets. When it was pointed out to him that he would only have heard the

crack if it passed overhead and that it had not passed overhead, he said that he could not recall if he heard a crack or thump and agreed that he would only have heard a crack if it had passed directly overhead, which it did not. (**Day 315/168/1 to Day 315/168/10**)

17.8.4.106 The upshot of this was that, contrary to his RMP and Eversheds statements, he could not have formed the view that these shots were being fired in the direction he claimed and his evidence about the location of the alleged gunmen is undermined by the dishonesty in his account of what he could see on the roof.

17.8.4.107 He did not see any of the targets claimed by any of the soldiers in Mortar Platoon.

17.8.4.108 Based on his own evidence, it is likely that he was one of the group of soldiers who were laughing and joking when Antoinette Coyle of the Knights of Malta was seeking assistance for a number of civilian casualties. (**AC85.17 paragraph 42**)

Sergeant INQ2000

17.8.4.109 **Sergeant INQ2000** did not give oral testimony, presumably because he said in his Eversheds statement: "I have no recollection of going to Londonderry whatsoever and I have no recollection of the day at all" (**C2000.1 paragraph 3**).

17.8.4.110 He accepts that he signed formal statements alleging that William McCloskey, Charles McCarron and OIRA 8 (all arrested from 33 Chamberlain Street) were throwing stones at the military and that he also arrested James Ferguson for being in the house. .

17.8.4.111 This evidence was clearly fabricated. In his RMP statement made on 10th May 1972 he said he was chasing about 50 rioters but "this group disappeared on reaching the top of Chamberlain Street and I had assumed

that they had gone into the Rossville Flats area, because on our arrival at the top of Chamberlain Street they were nowhere to be seen". (**C2000.2**). He said he went into the house at 33 Chamberlain Street, it was full of people and these people were the ones they had chased up Chamberlain Street after having seen them throwing stones. (**C2000.2**)

1.8.4.112 However, he did not suggest either in his RMP statement or in his Eversheds statement that he had seen any civilian gunmen or heard any kind of civilian gunfire, automatic or otherwise, or bombs of any kind.

Corporal 007

17.8.4.113 By the time **Corporal 007** went through the barrier, he could see that the crowd was already dispersed some distance away from him. (**Day 310/63/12 to Day 310/63/17**).

17.8.4.114 Although he initially denied it, he signed 3 statements alleging that he had seen his arrestees throw stones when in fact he did not. (**Day 310/72/6 to Day 310/72/7**) When asked to accept that when he made a statement alleging that William Duddy had thrown stones (**ARR17.3**) he knew it was not true, he said: "I know it now not to be true" but "I obviously believed it then". When asked how he could have believed it then if he now knows it to be untrue, he said: "I'm not sure how I can answer that one". (**Day 310/72/17**). The Chairman pointed out to him that in May of the same year he had told the RMP that he had not seen any of three arrestees throwing stones (**B1384**) and asked if the position was not the same when he signed his statement on 4th February (note the date). He agreed that was correct. (**Day 310/73/1**) For this reason alone, his evidence cannot be relied upon.

17.8.4.115 His account in his RMP statement of hearing a gunman when he was at the end of Chamberlain Street bears a resemblance in several respects to Lt. 26's account. He thought that the weapon he heard was an M1 carbine. He said: "from what I could see the gunman was in the vicinity of the lift housing on the roof of Rossville Flats". (**B1378**) He admitted that as he stood in Chamberlain Street that day he did not form a view as to where

the shots had come from or what kind of shots they were. It was not until he was asked to make his statement in 1972 to the RMP that he decided this. (**Day 310/77/5 to Day 310/77/13**) He claimed that he must have believed what he said in 1972 about the high velocity shots being from an M1 carbine but "standing here today [he] could not say that" (**Day 310/76/24 to Day 310/76/25**).

Corporal INQ 579

17.8.4.116 **Corporal INQ 579** provided yet another version of events unlike that of any other soldier. He remembers his section advancing down Chamberlain Street side-by-side covering the whole width of the street. (**C579.2 paragraph 13**.) He could hear gunfire to his right but could not make out whether the shots were from an SLR or other types of weapon (**C579.3 paragraph 13**) but when they were half way down Chamberlain Street he heard the crack and thump of a bullet passing close to him. He thought it was a high velocity weapon fired from directly in front of him from Rossville Flats area. (**C579.3 paragraph 15**) "We all took cover when the shot was fired", he said. (**C579.4 paragraph 16**) He said he asked if anyone had seen the gunman but nobody had (**C579.4 paragraph 16**). Lt. 26 does not remember this.

17.8.4.117 He went into 33 Chamberlain Street and saw a wounded woman who was lying on the settee but she "did not appear to be in any great pain" (**C579.4 paragraph 18**).

17.8.4.118 Corporal INQ 579 claims to remember then withdrawing to the junction with Harvey Street and seeing a priest walking up the street in front of a group of people carrying an injured person (**C579.4 paragraph 21**). This of course happened before C Company reached the end of Chamberlain Street and went into No.33. He said that it now occurred to him that "the priest could only have been waving his white handkerchief to prevent people firing from behind him, as there was no shooting from my direction". (**C579.4 paragraph 21**) That is a fairly clear reflection of either the perspective or the standard of honesty of this witness.

Lance Corporal INQ 1334

17.8.4.119 **Lance Corporal INQ 1334** remembers that "the general feeling among the Paras was that Londonderry was out of hand" and that the leadership there was weak. He remembers the headline referring to soldiers as "beaten dogs", which made him feel very emotional, and "we were looking forward to a chance to put things right". (**C1334.1 paragraphs 3 to 4**). He remembers that the barrier was not being lifted and General Ford, who was standing in a doorway nearby, "just pointed towards the rioters beyond the barrier and looked at us as if to say "go on". So we did". (**C1334.3 paragraph 14**)

17.8.4.120 He claimed that as he ran on to Chamberlain Street he heard Thompson submachine gun fire coming from "somewhere in William Street" (**C1334.3 paragraph 16**). However, he claims not to have heard any other live firing apart from this before seeing Father Daly coming towards him with a group including Jackie Duddy. (**Day 340/108/3 to Day 340/108/7**) This is indicative of a selective memory and cannot be right since it is common case that dozens of SLR shots had been fired by this stage in or around the courtyard and on Rossville Street. .

17.8.4.121 1334 is the soldier who interrupted the passage of Father Daly's group when it reached the junction of Harvey Street. He suggested that the civilians in his group had sworn at him (**Day 340/108/23 to Day 340/108/24**) but it is clear from the Video 1 (**V1/5.00 to 6.00**) that he was simply told to "go away".

17.8.4.122 He claimed that the people in 33 Chamberlain Street were "obviously rioters because they were flushed and sweaty and some were trying to drop stones on the way out". (**C1334.5 paragraph 23**)

17.8.4.123 With regard to his claim of hearing M1 carbine fire from Rossville Flats, he told Eversheds that he could not recall from which block he thought the shots were coming. (**C1334.5 paragraph 25**) When asked about this during his oral testimony, he said: "what I meant was: I did not know the number of which block it was. I knew it was the one that was directly opposite the end of Chamberlain Street". (**Day 340/117/12 to Day 340/117/14**) However, in the very same paragraph, he had referred by number to Block 2 of the Flats and in the next paragraph he referred to both Block 2 and Block 3, so he knew the numbers perfectly well and was obviously lying about this.

17.8.4.124 He also claimed to have heard a low velocity pistol or submachine gun being fired from the direction of Block 3. (**C1334.6 paragraph 26**) In neither case did he see any gunmen. All of this firing from Rossville Flats, on his account, took place after Father Daly had moved into Harvey Street - in other words at a time when all the firing in the courtyard area must have ceased. In addition, despite his accounts of hearing Thompson submachine gun fire and various kinds of civilian gunfire from two blocks of the Rossville Flats, he was not asked to make a statement to the RMP. He claimed that he had told his Company Sergeant Major and a staff sergeant from the RMP what he had heard (**Day 340/122/12 to Day 340/122/23**) but, if this had been true, it is likely that he would have been asked to make a statement at the time.

17.8.4.125 The clearest indication of this soldier's integrity appears at the end of his Eversheds statement. In paragraph 32 he said: "On 30th January 1972 I am confident that only issued ammunition was carried in my vehicle. There had been an incident of a solider keeping his own supply of ammunition the previous October and the individual involved had been demoted. Demotion was something that everyone took very seriously and I would be amazed if anyone had dared to have any private ammunition in C Company that day". (**C1334.7 paragraph 32**)

17.8.4.126 The soldier who had been demoted was in fact himself. (**Day 340/99/4 to Day 340/99/7**) His explanation for this blatant deception, that he thought the offence was "spent" under the Rehabilitation of Offenders Act, does not bear scrutiny. Moreover, the rounds that he had stolen were tracer rounds. Tracer ammunition was not issued in 39 Brigade, so that as soon as he fired one round it would have been obvious to everyone near him that he had fired unauthorised ammunition (**Day 340/123/20 to Day 340/123/22**) The obvious inference is that he fully expected to be able to use private supplies of tracer ammunition without anyone reporting it to the authorities. This reflects the extent to which the practice occurred and was tolerated.

Private INQ 12

17.8.4.127 **Private INQ12** was another demonstrably dishonest witness. He said in the first paragraph of his Eversheds statement that when he was called upon to operate in Derry on Bloody Sunday it was the first time he had been out of Belfast. (**C12.1 paragraph 1**) In fact he had been at Magilligan the previous week, which must have been a particularly memorable occasion for him because it was the one and only time he said that he was disciplined for his conduct in the Army. These were disciplinary proceedings that were referred to by Col Wilford during the Widgery Inquiry. (**WT 11.58 B**) He had kicked a man on the ground and was "caught on television" (**Day 351/5/15**). At the beginning of his testimony to this Inquiry, he admitted to the Tribunal that he had been at Magilligan the previous week. When asked why he had said in his statement that he had not been out of Belfast before 30th January 1972 he said: "I forgot about it, Sir". (**Day 351/3/7**)

17.8.4.128 The only television footage of a soldier kicking someone on the ground at Magilligan is in Video 11 at 3 hours 12 minutes but he denied that this is the incident in which he was involved (**Day 351/6/15 to Day 351/6/19**) although he knew of no other soldiers who were disciplined for kicking a civilian in any other incident. (**Day 351/72/21 to Day 351/73/5**) Nor does

his account of the disciplinary proceedings correspond with the account given by Col. Wilford (**Day 351/74/21 to Day 351/75/11**).

17.8.4.129 In his Eversheds statement (**C12.2 paragraph 8**) INQ 12 said that there were thousands of people about 8 feet from the Barrier. He denied that this was an exaggeration and was positive that it was not more like 60 people about 25 to 30 yards away (**Day 351/81/8 to Day 351/81/13**). However, in his RMP statement this is exactly what he had said. (**C12.9**)

17.8.4.130 He also suggested that petrol bombs and acid bombs were thrown at the soldiers at Barrier 14 and their feet were set on fire. He was not prepared to admit that this was wrong even when he was shown the statement of the OC the soldiers manning the Barrier in which he said that there were no bombs of any description thrown (**C2079.4 paragraph 24**).

17.8.4.131 He also said in his Eversheds statement (**C12.3 paragraph 11**) that only 2 men from his platoon carried rifles. Apart from the evidence of the other members of his platoon, he was shown a photograph (**P253**) in which a number of members of his platoon were shown carrying rifles. In order to extricate himself from that difficulty, he suggested that this photograph had not been taken *before* they entered Chamberlain Street but *after* they had been "involved in everything, with what happened on Chamberlain Street and the prisoners at the end of Chamberlain Street and come back down". (**Day 353/87/13 to Day 353/87/19**). When it was suggested to him that the photograph had been taken just after he had gone through the Barrier and when they were assembling at the William Street end of Chamberlain Street before they went into Chamberlain Street, he said that in fact he thought it had been taken after they had come back from Fort George (**Day 351/88/3 to Day 351/88/8**), when it would have been dark.

17.8.4.132 In his Eversheds statement (**C12.3 paragraph 12**) he said that as they went into Chamberlain Street they came under fire but he had made no reference to coming under fire in any of his 3 statements made in 1972 either to the Police or the RMP. His explanation for that was that he had

never been questioned about this. (**Day 351/88/19 to Day 351/89/1**). When asked why he did not mention himself that he had live rounds fired at him, he said that it **was** mentioned. Then he said it was ***not*** mentioned. Then he said he did not say he said it was mentioned. Then he said it *was* mentioned. (**Day 351/89/2 to Day 351/90/22**) His final position was that he did tell the RMP and the police about being fired on but they did not write it down. (**Day 351/92/12 to Day 351/92/23**)

17.8.4.133 He also said that he had told them about seeing a civilian gunman (**Day 351/93/9 to Day 351/93/11**) but this did not appear in his 1972 statements either.

17.8.4.134 He explained that the firing he heard was not an SLR because the firing he heard was from a semi-automatic rifle. Then he agreed that an SLR *was* a semi-automatic rifle. (**Day 351/93/24 to Day 351/93/25**) When it was pointed out that that could not therefore be a reason why the firing he heard was not an SLR, he said the rifle he heard was a *low velocity* semi-automatic rifle, not high velocity. (**Day 351/94/3 to Day 351/94/8**) However, what he had said in his Eversheds statement was that it *was* a high velocity weapon. (**C12.3 paragraph 12**) After a pause, he said with a smirk: "I must have made a mistake, it must have been high velocity". (**Day 351/94/22 to Day 351/95/1**)

17.8.4.135 When asked how he knew the shots were being fired in the Company's general direction, he said the rounds were hitting the road (**Day 351/96/2**) but he had not suggested this in his Eversheds statement.

17.8.4.136 He claimed to have seen a gunman walking a distance of about 20 or 25 yards across the roof of Block 2. He saw him clearly (**Day 351/97/8 to Day 351/98/18**) Nobody else claims to have seen this gunman, including soldiers in the Observation Posts on the Embassy Building, soldiers on the city walls and soldiers in the helicopter that was apparently flying overhead, not to mention the soldiers he was with. Peter Pringle confirmed that the roof was overlooked by the Observation Posts on the

Embassy building and the City Walls. (**M68.225 paragraph 8** and **S3**) INQ 12 agreed that the gunman would have been "very visible" and he could not explain why others had not seen him. (**Day 351/101/6 to Day 351/101/7**) He then added that the "gunman" got up from his position and went back for more ammunition (**Day 351/101/17 to Day 351/17/18**).

17.8.4.137 INQ12 said he (12) did not have a weapon (**C12.3 paragraph 15**) but he is clearly seen in the photograph **P253** carrying his rifle.

17.8.4.138 In (**C12.4 paragraphs 18 to 20**) of his Eversheds statement, INQ 12 explained how he went into 33 Chamberlain Street and arrested a number of people. However, as appears from **OS1.819 paragraph 18** he had originally omitted all reference to this event and pretended not to remember it. When pressed about how such an important event in his day could have been omitted he talked incoherently about 5 other statements "until we finally got to here". The questioning continued as follows:

"Q. What do you mean "5 other"?

A. Well, until the document that was finally agreed as my statement, there was 5 or 6 other times I was interviewed by Eversheds and it finally came out.

Q. Does that mean there were 5 or 6 previous drafts before you got the story cobbled together that is now produced to us as your final version?

A Yes" (**Day 351/106/10 to Day 351/106/17**)

17.8.4.139 INQ 12 told the Police that he had seen George Nelis run up Chamberlain Street into a house (**C12.9**) but in his first RMP statement he had said that on his arrival in Chamberlain Street "they had disappeared" and the patrol continued along Chamberlain Street in an effort to locate the rioters "but without success". (**C12.10**). When asked which of these contradictory statements was the truth, he said: "the both of them really, Sir". (**Day 351/110/9**)

17.8.4.140 INQ12 was a 5'6" Scotsman of stocky build. (**Day 351/46/1 to Day 351/46/9**) He was clearly the person identified by a number of civilians as having subjected them to extensive physical and verbal abuse (**Day 351/46/18 to Day 351/60/12** and **Day 351/112/2 to Day 351/115/23**). INQ12 accepted that the person described in those statements behaved like a sectarian, racist thug if those complaints had any validity (**Day 351/115/24 to Day 351/116/1**) but he refused to accept that they referred to him, even though one of them (George Nelis) was able to repeat that INQ12 had been wounded in Belfast.

17.8.4.141 INQ12 initially denied participating in any media interviews but on 25th September 2003 he made a supplementary statement admitting that he did talk to Praxis, although he maintained in it that his original denials had been made "truthfully". (**C12.18 paragraph 2**). He also claimed to have difficulty identifying the portions of the transcript which could properly be attributable to him. The explanation for his difficulty is obvious.

17.8.4.142 INQ12 suggested that he had been subjected to a good deal of abuse by civilians in the house (**C12.4 paragraph 19**) but INQ579 said: "they were quiet and they did not give me any trouble....everyone was calm and not threatening (**C579.4 paragraph 19**). INQ12's attitude to civilians is reflected in the fact that when he saw Jackie Duddy's body being carried along Chamberlain Street he assumed that he had been shot by the IRA (**Day 351/120/9 to Day 351/120/11**).

Private INQ 876

17.8.4.143 **Private INQ 876** did not give oral testimony but his Eversheds statement is unreliable even on its face. Among other things, he claimed to have heard blast bombs and nail bombs going off even before the soldiers went through Barrier 14. He also "definitely saw petrol bombs being thrown by civilians towards the barricade". (**C876.2 paragraph 12**).

17.8.4.144 He claimed that ammunition within the Parachute Regiment was extremely tightly controlled and he did not know how anyone could obtain a private

supply of ammunition. (**C876.5 paragraph 32**). However, one of the soldiers in his own Pig, INQ 471, said that there were always ways and means of getting private supplies of ammunition, namely off the firing ranges: "it was common and many soldiers did it". (**C471.1 paragraph 4**)

17.8.4.145 INQ876 also says that "any suggestion that soldiers tampered with ammunition and created dumdum bullets is ridiculous. (**C876.5 paragraph 32**). INQ471 that that ammunition acquired off the firing range "could be, and often was, doctored" by filing the end flat. (**C471.2 paragraph 5**).

17.8.4.146 Nothing that INQ 876 said can, therefore, be taken at face value.

17.8.4.147 He drove one of the Pigs through the Barrier. He said that: "as [he] proceeded through the Barrier [he] could still hear the same noise as before", i.e. a sporadic mixture of gunfire, SLR fire, other high velocity fire, automatic fire, petrol bombs and nail bombs. (**C876.3 paragraph 18**) Even he didn't claim to *see* any civilian firing or throwing nail bombs or petrol bombs. Indeed he claims that it was only when he stopped at a village on the way back from Derry that he "began to learn what had happened that day". (**C876.5 paragraph 30**)

Private INQ 471

17.8.4.148 As described above, **Private INQ 471** says that many soldiers, including himself, carried private supplies of ammunition acquired off the firing ranges. The ammunition was often doctored. (**C471.2 paragraphs 4 to 5**) After jumping across the barrier, he thought he went straight down Chamberlain Street and stopped at the corner with Harvey Street but he accepted during his oral testimony that he could not be certain that it was this corner rather than the William Street corner of Chamberlain Street. (**Day 312/150/3**)

17.8.4.149 As he stood there, he heard gunfire which could have been either from a rifle or a pistol and then he heard what he assumed was return fire.

(**C471.3 paragraph 15**). He thought that the first shots were high velocity shots and accepted that they could have been Lt N's shots. Although he believed at the time that the subsequent shots were return fire, he accepted that he had no basis for suggesting that. He also accepted that all the fire he heard could have been fire from soldiers. (**Day 312/151/23 to Day 312/151/25**)

17.8.4.150 INQ 471 is the only soldier we know of who has himself been wounded by Thompson submachine gun fire. As he said: "I have been shot with one of them, I know what that sounds like". (**Day 312/152/5 to Day 312/152/6**) He "definitely" did not hear Thompson submachine gun fire (**Day 312/152/7 to Day 312/152/8**). This is one of the very few soldiers who even appeared to give his evidence in a frank, straightforward and apparently balanced manner. As someone who was also in the lead platoon of C Company as it made its way down Chamberlain Street, his evidence should be accorded considerable weight.

INQ 2045

17.8.4.151 **INQ 2045** was close to INQ12 and he says that as he was three quarters the way down the street he heard the sound of automatic gun fire and single shot gun fire. (**C2045.2 paragraph 15**) He was aware of bullets passing over his head, he said, but did not form an opinion at to whether the bullets were from military or civilian gunmen. (**C2045.3 paragraphs 19 to 20**). He claimed he took cover at the Rossville Flats end of Chamberlain Street (**C0245.3 paragraph 21**) and as he looked ahead he could see a scene of mayhem with "women and kids screaming, shouting and running around". (**C2045.3 paragraphs 21 to 23**). As we know, this platoon did not arrive at the end of Chamberlain Street until after Jackie Duddy's body had been carried up Harvey Street. It is common case that the courtyard was virtually deserted at this stage. Indeed, this soldier said that he saw a group of men, including a priest, carrying a body *after* the events he witnessed at the end of the street. (**C2045.3 paragraph 28**) This also was wrong. His evidence is unreliable.

INQ 2121

17.8.4.152 **INQ 2121** gave oral testimony on Day 369.

17.8.4.153 His evidence is seriously muddled, to say the least. He appears to have been driving a vehicle at the forming-up point in or around Clarence Avenue when it broke down. The rest of his platoon got into other vehicles and went on but he was ordered to stay with the broken down Pig. (**C2121.2 paragraphs 10 to 11**) Some time later he got a lift with the Battalion medical officer at a time when there was radio traffic indicating that there were casualties from shooting in he Bogside. He arrived in the Bogside about 5 minutes after that. (**C2121.2 paragraphs 13 to 14**) He seems to have stopped somewhere near Rossville Flats at a time when the shooting must have stopped and when Support Company's vehicles were gathered at the north gable wall of Block 1.

17.8.4.154 However, this soldier claims that as he got out he saw a figure on the roof of Block 1 "with something long that he was holding in both hands across the body". "It was only a fleeting glimpse as I formed the impression that what he had in his hands was a weapon". (**C2121. 3 paragraph 16**) By the time 2121 had put his weapon to his shoulder the figure had gone," he said. (**C2121.3 paragraph 17**)

17.8.4.155 No other soldier has given an account of this nature and, in our submission, it can be safely discounted in view especially of the timing suggested by the solider himself. He is the only soldier apart from INQ 12 who claims to have scene a gunman on the roof of Rossville Flats. It should be noted, however, that this witness' "figure" was on the roof of Block 1 whereas INQ 12's was on the roof of Block 2 so the accounts cannot be regarded as corroborating each other.

17.8.4.156 In a supplemental statement, INQ 2121 identified himself as the soldier referred to by Toby Harden as Soldier Y in the *Daily Telegraph* articles. INQ12 and INQ 2597 had also identified him as one of those who

participated in a Praxis interview (**C12.18 paragraph 4** and **C2597 paragraph 10**). He is also identified himself as one of the five soldiers who talked to *Praxis* (**C2121.7 paragraphs 3 to 5**). Although not disputing that the transcripts of the interviews were accurate, he explained discrepancies by suggesting that "it was an interview given in a relaxed atmosphere to a journalist and the facts of which I cannot recall totally" (**Day 369/238/24 to Day 369/239/2**). Although he had obviously referred to soldier H as "a nut case" and as "a lunatic", he tried to suggest that this was a reference to a person nicknamed as Callan (**Day 369/245/10**).

17.8.4.157 In one of the *Daily Telegraph* articles he is quoted as saying that individuals fired who shouldn't have done but he now says that he has no direct knowledge of that and did not see any soldiers firing on the day. He was referring to Soldier H, even though Soldier H never told him anything about the shots he fired. He says he must have discussed the day with people who did fire but he no longer recalls what he was told. (**C2121.5 paragraph 5**). He is also quoted in the *Daily Telegraph* as having stated that legitimate targets were fired at too but again he says this was based wholly on hearsay and the fact that the had allegedly seen a gunman. (**C2121.6 paragraph 6**).

17.8.4.158 INQ2121 told Eversheds on 27th July 2000 that he knew the name of "Soldier X" but was not prepared to disclose it. He has now decided that he does not know the identity of this soldier. (**C2121.6 paragraph 7**). This person's evidence can safely be discounted as totally unworthy of belief.

Private INQ 429

17.8.4.159 **Private INQ 429** was not called to give oral testimony. He was a member of the Provost Staff. "Any action that had taken place was over by the time we got there", he said. (**C429.1 paragraph 8**) He did not recall hearing any gunfire (**C429.2 paragraph 9**).

Private INQ 437

17.8.4.160 **Private INQ 437** was not called to give oral testimony. He seems to have made his way down Chamberlain Street. He claims to have heard shooting but could not work out were it was coming from (**C437.2 paragraph 16**) or what kind of weapon it was except that it was more like high velocity rifle fire. (**C437.2 paragraph 20**).

Lance Corporal INQ 457

17.8.4.161 **Lance Corporal INQ 457** has a "vague" recollection of events. (**C457.1 paragraph 3**) He claims to have heard the sound of a heavy calibre automatic weapon "in the distance" as he was sitting in the back of a Pig waiting for orders (**C457.1 paragraph 6**). He did not seem to remember where or when this was except that it must have been some distance from the Bogside. He was eventually deployed "up some road near the Rossville Flats courtyard" but could not identify were it was (**C457.2 paragraph 9**).

17.8.4.162 This witness's evidence is too vague to be given any weight. It was presumably for this reason that he was not called to give oral testimony.

INQ 559

17.8.4.163 **Private INQ 559** did not give oral testimony. He recalls "suddenly going into the riot situation, but after that my memory seems to be a blur" (**C559.2 paragraph 9**). As he ran down Chamberlain Street he heard shots but he was unable to identify the type of weapon fired or how many shots he heard. (**C559.3 paragraph 13**)

9th Platoon

INQ 587

17.8.4.164 **INQ 587** claimed in his Eversheds statement to have heard a Garand rifle, Thompson submachine gun and Army SLR (**C587.3 paragraph 15**). He claimed in his supplemental statement that the weapon he first heard was a

Thompson (**C587.7 paragraph 3**). However, he admitted in his Eversheds statement that he could not distinguish the sounds of the different weapons on the day and did not know what the different sounds were at the time. It was only later with the benefit of training as a weapons expert that he was able to "put names to the sound". (**C587.3 paragraph 15** and **C587.7 paragraph 3**) In his oral testimony, he said this was years later.

17.8.4.165 Even if, which is not accepted, this soldier was doing his best to give a truthful account of his recollection, the Tribunal could not rely on the evidence of a witness seeking to identify, years after the event, sounds when he did not distinguish them at the time.

17.8.4.166 We do not consider he can be regarded as a truthful witness because of the manner in which he gave his evidence concerning the first sounds he heard. In his Eversheds statement it was recorded that he heard the shootings start before he reached Aggro Corner. It went on: "I definitely heard both army and civilian fire but I could say objectively which came first" (**C587.3 paragraph 14**). This obviously did not make sense and it was noted in the body of his statement that Eversheds had asked the witness to clarify the amendment. During his oral testimony, he accepted that what he had told Eversheds was that he could ***not*** say objectively which came first. Nevertheless, he insisted that the civilian fire did come first This is another witness who did his best to justify the shooting by Support Company. His view was that "no one was responsible" for Bloody Sunday. (**C587.5 paragraph 25**).

17.8.4.167 In his experience, "all soldiers have extra ammunition". **(C587.5 paragraph 26**).

Private INQ 1010

17.8.4.168 **Private INQ 1010** did not give oral testimony. In his Eversheds statement, he gave an account of being heavily bombarded with petrol bombs at his barrier and seeing one of the soldiers shot as they crossed the barrier. At the end of his 3 page statement, he said that this was still his

current recollection of Bloody Sunday. He was told that that incident took place on a different day, whereupon he said that 30 January 1972 "was just another riot" and he has no specific recollection of it. (**C1010.3 paragraph 22**).

17.8.4.169 This is the kind of evidence that might have been taken seriously if it had not been known that no soldier was wounded on the day. It is a salutary reminder of how cautious the Tribunal needs to be in assessing the evidence of soldiers who were involved in Bloody Sunday at the margins and whose actual experience may not have been radically different from their experience of other riot situations if they were not involved directly in material evidence. Their recollections of petrol bombs, nail bombs and gunfire on other occasions may simply merge with their vague recollections of being in Derry.

INQ 1093

17.8.4.170 **INQ 1093** did not give oral testimony.

17.8.4.171 He was the 9th Platoon Commander's signaller. The OC of the local unit would not let him through the Barrier (**C1093.3 paragraph 13**) and they were only allowed in when a "Brigadier" cleared the way. (**C1093.3 paragraph14**). His recollection is very confused. He says that he saw support company moving vehicles between 15 to 20 feet in front of him from a street that ran at right angles to his position but then he says he walked into a street with terraced houses on both sides, which must have been Chamberlain Street, although he thinks it could have been Rossville Street, which does not of course have terraced houses on either side.

17.8.4.172 As he entered the streets he could see the soldiers from Support Company dismounting near the Rossville Flats at the end of the street, which they did not do at the end of Chamberlain Street. He then "saw" what "looked to be" a burst of automatic fire. He did not hear any sounds because of his head set but he saw the sparks as the bullets hit the road 10 -12 metres ahead of him. The sparks, he said, "came along the road towards our

position from the south (assuming that this was Rossville Street or Chamberlain Street) although they were not fired directly at us". (**C1093.3 paragraphs 14 to 15**).

17.8.4.173 This is a colourful recollection but is inherently improbable and does not match the recollection of other soldiers within his Platoon. He went on to give his impression of how the bullets bounced off the road and "danced down the street". He speculated that a gunman was probably firing from a high position on the Rossville Flats with a Thompson submachine gun or some other short barrelled gun with no aim. (**C1093.4 paragraph 16**) Given the relative positions, it is difficult to understand his earlier suggestion that this fire was not directed at him.

17.8.4.174 He claims that he then retreated and reported on the C Company net to Call Sign 3 that he had come under fire from Rossville Flats. At the same time, he said, he heard reports from other Platoons to the same effect. None of this, of course, features in either the Army's own logs or in Mr Porter's recording. (**C1093.4 paragraph 17**).

17.8.4.175 He claims to have heard sporadic firing but cannot recall whether it was from automatic weapons or from rifles.

17.8.4.176 The idea of his Regiment deliberately killing unarmed civilians was "an alien concept" to him and he believes it simply wouldn't have happened. (**C1093.5 paragraph 20**). In our submission, this explains his recollection of bullets dancing down the street.

Private INQ 956

17.8.4.177 **Private INQ 956** did not give oral evidence.

17.8.4.178 His recollection of the event was clearly confused. He said that he went down Chamberlain Street and "got hold of the one closest to me. I made two or three arrests" (**C956.2 paragraph 14**) He is not recorded as having made any arrests and must have been thinking of a different occasion. He

said that he hadn't got the "faintest idea about timings" but the first shots he said he heard were low velocity and high velocity shots. He could not remember which came first (**C956.4 paragraph 23**). He could not remember hearing any automatic fire but, as if to explain this omission on his part, he said it was "hard to distinguish rapid fire from automatic fire because of the layout of the streets and the echoes". (**C956.4 paragraph 25**) This was clearly the reason why he could have confused low velocity and high velocity shots.

2nd Platoon

Private INQ 1574

172.8.4.179 **Private INQ 1574** was a signaller in 2 Platoon who did not give oral evidence. Unencumbered by false modesty, he explained that "the Parachute Regiment were the *crème de la crème*. No one was better than us" "... .. one soldier in our Regiment was worth two in any other. .. ... Whenever the Paras were deployed, all the hardliners would go away on holiday" (**C1574.1 paragraph 3**).

17.8.4.180 When INQ1574 received the order to go in, his Pig broke down. He spent the following hour sitting in the Pig with the driver smoking and drinking cups of tea. He cannot remember hearing anything. (**C1574.4 paragraphs 23 to 26**).

17.8.4.181 His evidence was not always measured ("I recognised INQ1334 because he had the biggest nose in the world" - (**C1574.6 paragraph 41**) or balanced ("this Inquiry is political and it stinks") (**C1574.7 paragraph 46**). The metaphors may be frothy but, it is submitted, there is one which does hit the nail on the head. We obviously cannot agree that "it is not the men on the ground that are to blame" but INQ1574 makes what we regard a key point for this Inquiry, as follows:

"At the end of the day 1 Para took orders from above and those people took orders from the Government. If you have a man-eating

tiger in a cage who's to blame if it is let out and kills somebody. Is it the tiger or the handler? I believe the blame lies with the people who opened the cage. On that day, the command was given to unleash the animals." (**C1574.7 paragraph 47).**

3 Platoon

INQ 2057

17.8.4.182 **INQ 2057** did not give oral evidence. He could remember hearing shots but could not say what type of shots he heard or how many. (**C2057.2 paragraph 10**). He gave no other relevant evidence.

17.8.5 Observation Posts

17.8.5.1 According to the Operation Order,

> "The containment line and the area within it are to be dominated by physical military presence, by OP observation and by sniper posts. The maximum number of soldiers are to be in the shop window. They are to be covered by deployment of OP's and by a massive deployment of snipers in the anti-sniper role, who should be deployed at ***every possible vantage point*** within our secure area" (G95.568, *emphasis added*)

17.8.5.2 Bearing in mind that soldiers were to be deployed at "every possible vantage point", the most striking feature of the evidence of the soldiers deployed in the observation posts, both permanent and *ad hoc*, is that claimed sightings of civilians engaged in hostile action against the army are few and far between. The vast majority of these soldiers did not even claim to have seen anything that could have justified Army fire. None of them claims to have witnessed the sort of widespread and intensive shooting and bombing alleged by the paratroopers in Support Company. The credibility of the few who claim to have seen isolated incidents of civilians firing a weapon or throwing a nail bomb is undermined not only by their universal failure to report these claimed sightings at the time, either over the radio or to more senior colleagues but also by the absence of corroborating evidence of other soldiers in the same vicinity with similar opportunities for observation.

17.8.5.3 There were 19 Army Observation Posts in Derry on Bloody Sunday, located as follows:

(i) Abbey Taxis, William Street,
(ii) Back gate, City Walls,
(iii) Barrack Street,
(iv) Blighs Lane,
(v) Butcher Gate,
(vi) Castle Gate,

(vii) Charlie OP, City Walls

(viii) Derry Walls,

(ix) East Way Road,

(x) Echo OP, Embassy Building,

(xi) Foxtrot OP, Embassy Building

(xii) Harrison's Garage, William Street

(xiii) Long Tower Street / Howard Street

(xiv) 14 Marlborough Avenue,

(xv) Mex Garage, Brandywell,

(xvi) Old City Dairy,

(xvii) Pet Shop OP, Little James Street / Sackville Street

(xviii) Peter England shirt factory,

(xix) Kilo OP, Roaring Meg.

17.8.5.4 The members of the Tribunal have, we understand, visited the roof of the Embassy Building themselves and been able to form their own impression of the views currently available from there. Contemporary photographs of the area taken from the roof of the Embassy Building demonstrate that soldiers at Echo OP would have had a clear view of many of the important locations, including the junction of Little James Street/ Rossville Street/William Street, Rossville Street, the Rubble Barricade, the Rossville Street wasteground, the Rossville Flats courtyard and Chamberlain Street. Among these photographs are **P233.69A**, **P233.69**, **P279**, **P402**, **P403**, **P404**, **P406**, **P407**, **P408** and **P409.**

17.8.5.5 Photographs showing the view from the City Walls include **P233.70**, **P333.006**, **P475**, **P476**, **P477**, **P478**, **P479.**

17.8.5.7 The OP's at Harrison's Garage, Abbey Taxis, the Pet Shop and the Peter England shirt factory can be seen in EP 21.7. Taken from ground level at a point near the junction of Little James Street and Sackville Street, **P364** shows the OP's at the Pet Shop and the Peter England shirt factory (sometimes referred to as the Hogg and Mitchell factory). It was apparent from these two photographs that soldiers in the Pet Shop OP and the Peter

England shirt factory OP would have had a commanding view of most of Rossville Street, including the Rubble Barricade, parts of the wasteground and parts of the Rossville Flats courtyard. This is also apparent from the evidence of some of the soldiers deployed in these OP's.

17.8.5.8 **Captain 021** was an Intelligence Officer in 22 LADR and had responsibility for some of the photographers, including UNK 48. Both Captain 21 and UNK48 were positioned on the roof of the Embassy Building. Although he was reluctant to concede it, he had an excellent view of the area within Sector 2. He saw nothing to justify the firing by soldiers on any civilians in that area. (**Day 317/112/15**) If he had seen anything indicating the presence of civilian gunmen or bombers or anything of that kind presenting any kind of threat to soldiers he would have asked UNK48 to take photographs of that (**Day 317/10/3**). As we know from Col. Overbury's report, no such photographs were taken. It should also be noted that Captain 021 was using binoculars (**Day 317/122/16**) and had access to the "donkey's ears". Apart from a reference at serial number 58 (**W97**) to one shot, the log entries of transmissions from Echo OP make it clear that neither Captain 021 nor any of the other soldiers observing the events at or near Rossville Street from the top of the Embassy Building reported seeing or hearing any shooting or bombing by civilians or indeed the 100 plus shots that were fired by paratroopers. When asked to explain why, of all the people that were standing on top of the Embassy Ballroom watching the scene below them, not one mentioned that soldiers were firing scores of shots at civilians on Rossville Street, on the waste ground and near the flats, he said, after a pause, that he had "no idea" (**Day 317/125/25**).

17.8.5.9 **Soldier 118** was also on the roof of the Embassy Ballroom Building with Captain 021. Soldier 118 estimated that there were nearly 2 dozen soldiers of mixed ranks and duties on the roof of the Embassy Ballroom at the material time (**Day 359/206/8 to Day 359/206/13**). He saw no civilian doing anything improper in the form of throwing nail bombs or anything

of that kind even though he was perfectly placed to see that if it had happened (**Day 359/221/21 to Day 359/22/14**)

17.8.5.10 Others who were on the roof of the Embassy Ballroom at some stage in the afternoon included General Ford, Lt Col Ferguson, INQ102, Sergeant INQ0853, Warrant Officer INQ1164, Lt Soldier 009 (who claims to have been in charge of the OP), Sergeant 108, Soldier 157, Sergeant INQ1382 and Captain INQ2. Despite the availability of binoculars and "donkey's years" at the OP, not one of these soldiers claims to have seen a single civilian gunman or bomber.

17.8.5.11. **Major 159** was in charge of three observation posts on the City Walls, viz Charlie OP, Roaring Meg OP and the one near Butcher's Gate. At no time did he see any civilians with weapons. (**B1953.003 paragraphs 23 to 24**) **INQ 783** was a Corporal in A Company of 1 Royal Anglian. He claims to have seen a paratrooper running across open ground, possibly at Eden Place, firing from the hip towards civilians. He said that this was noted by others with him on the walls and that they too were surprised. None of the others who witnessed this event appears to have made a statement admitting it.

17.8.5.12 **INQ 555** was also on the walls, possibly near the Roaring Meg cannon. He claimed to see a man fall on the balcony of Rossville Flats but this does not correspond with any other evidence, civilian or military, to this effect. **INQ 236** was stationed on the walls near Butcher's Gate in a sangar. He claimed to have seen a man with a sten gun or Thompson submachine gun on waste ground around the Rossville Street / William Street junction. He said that the gunman was popping out of a doorway and shooting at a pig as it went up and down William Street. After watching this occur two or three times, he fired at the gunman and the shot hit the ground in front of him, whereupon the man retreated into the house. He then recalled seeing paratroopers enter the Bogside and move towards Rossville Flats. Again, this account does not correspond with any other evidence and, although he claims to have been seen by the SIB about the shot that he fired, he did not

make any statement at the time, which itself renders his account implausible.

INQ 564

17.8.5.13 This soldier had described being deployed on the Walls between Butcher Gate and the Observation post beside Roaring Meg. He had a good view of the Bogside and all three blocks of the Rossville Flats. He watched the march and saw Pigs go into the Bogside. He watched the Paratroopers debuss in the Rossville Flats car park. At **C564.2 paragraph 12** he claimed to have heard shooting from the top of the Rossville Flats which was directed at the Paratroopers. This happened more or less simultaneously to the Paratroopers de-bussing. He did not see anyone shooting or he would have returned fire. He claimed that because he had been in the army shooting team he could tell that the rounds had been fired from block1. They were high velocity but certainly not from an SLR judging from the speed of the bullets. His impression was a large number of single shots as opposed to an automatic weapon. He had no doubt these were the first shots of the day to be fired.

17.8.5.13.1 At **C564.2 paragraph 13** he claimed that although he could not identify a gunman he could see other people either on the roof of block 1 of the Rossville Flats or on the upper levels throwing things at soldiers below. These people were at the north end of block 1. He could not see what they were throwing. At **C564.2 paragraph 14** he claimed that when the shooting started the Paratroopers dived for cover behind the Pigs' doors. The soldiers returned fire firstly with baton rounds and then with live bullets. He had no recollection of seeing soldiers firing but he had a clear recollection of the noise of shots. He did not remember seeing any civilian being shot. At **C564.2 paragraph 15** he described an exchange of fire as the Paratroopers defended themselves. He could not remember how long the gun battle went on

17.8.5.13.2 The witness gave It is clear from his oral evidence at Day 318 that the witness had to correct and qualify a large number of the assertions made in his Eversheds statements. It is submitted the witness is manifestly unreliable on a number of the central assertions contained in his evidence:

(i) The direction of the target and the firing was surmise on his part. **Day 318/122/9 to Day 318/127/23**

(ii) His statement about shooting from the top of block 1 was put to him. He replied: "Yes, that **area**, yes".

(iii) The suggestion that the soldiers in the car park must have been the targets was surmise on his part.

(iv) He could not be sure now about his view that they were not SLR shots because they were not as fast as SLR shots.

(v) He accepted that firing in an urban environment distorted the sound of fire.

(vi) The witness missed entirely the shooting from the Abbey Taxis building and Lieutenant N's shots.

(vii) The witness could not have seen the number of events he claimed given his position on the walls. **Day 318/128/7 to Day 318/130/13**.

(viii) The witness could not make out people or see what if anything was being thrown from the balconies as claimed. **Day 318/130/23 to Day 318/131/21.**

(ix) His suggestion that the army "defended themselves" was surmise on his part. **Day 318/132/24 to Day 318/133/11** .

(x) The witness accepted his evidence was an amalgamation of information from other soldiers and an entanglement of memories of different events. **Day 318/140/15 to Day 318/145/5** .

(xi) His evidence on the issue of gunfire came into this category.

(xii) He agreed he could not have distinguished gunfire on the basis of the speed of the bullet. **Day 318/145/1 to Day 318/145/3.**

17.8.5.14 **Soldier 030**, a Gunner in 22 LADR apparently positioned on the walls "together with other soldiers" (**B1599.1 paragraph 1**), said that he saw a youth with a pistol in the gap between Blocks 2 and 3 of Rossville Flats

(**B1599.1 paragraph 3**). By drawing this soldier's evidence to Sergeant O's attention (**Day 335/129/3 to Day 335/132/25**), Mr Elias implied that the civilian seen by Soldier 030 was the same civilian gunman Soldier O claimed to have fired at in that area. However, this cannot be right since Soldier 030's account simply does not tally in any material respect with Sergeant O's account. Whereas Sergeant O claimed that the gunman was firing from behind a car to the north of the gap between Blocks 2 and 3, the gunman described by Soldier 030 told Lord Widgery that he was behind the small *wall* that we know to have been close to Block 2 (**B1604**). He did not suggest that the gunman was anywhere near a car or that he came under fire himself at any stage. It also must be queried whether or not a soldier on the walls could even have seen between Blocks 2 and 3 into the Rossville Flats courtyard to the point described by Sergeant O. Moreover, none of the other soldiers who were with Soldier 030 seems to have seen this gunman. Nor was the sighting reported over the radio.

17.8.5.15 **INQ 1351** was in an OP at Blighs Lane. He saw two paratroopers fire unaimed shots towards Rossville Flats as they ran down Rossville Street (**C1351.2 paragraph 11 to 12** and **Day 312/93/13 to Day 312/99/5**). He pointed out the location of these soldiers on a map saved at **C.1351.5**.

17.8.5.16 Taken as a whole, therefore, the evidence of the soldiers in Observation Posts with a view of **Sector 2** flatly contradicts the paratroopers' accounts of the events in that sector.

17.9 Paratrooper Brutality and Recklessness in Sector 2

17.9.1 Introduction

17.9.1.1 The soldiers of Mortar Platoon de-bussed from Lt. N's Pig and Sergeant O's Pig and began engaging in a series of sustained and brutal assaults on unarmed civilians in and around the waste ground on Rossville Street and the Rossville Flats Car Park. Such violence did not just occur during arrests but also in circumstances unconnected to arrests. The assaults on civilians were wanton and unprovoked and demonstrated clearly violent intent on the part of the Parachute Regiment on deployment. Such behaviour could only have occurred if those engaging in it were secure in the knowledge that they had the endorsement of senior officers or were at least free from the likelihood of discipline or sanction. Such behaviour was also of course a prelude to more violent and lethal assaults on innocent civilians.

17.9.1.2 The behaviour of the Parachute Regiment members in this area on the day must also be seen in the context of the behaviour of regiment members the previous week at Magilligan.

17.9.1.3 Soldier 013, who was a baton round gunner in Sergeant O's Pig described his role thus:

> " My job was to use the baton gun to keep rioters away from the Pig and to make arrests, though that usually meant giving the rioters a good going over, as it was often not worth the hassle to actually arrest someone." **B1408.003 paragraph 12**.

17.9.1.4 It is submitted that this attitude was not confined only to Soldier 013[16] amongst the soldiers of Mortar Platoon. The "good going over" was not inflicted on rioters but on civilians, first-aid personnel and members of the Press. By their attitude and actions on the day the Platoon members who de-bussed on the waste ground and at the entrance to the car park of the Rossville Flats showed a common and consistent propensity for the infliction of unlawful violence on civilians.

[16] See the evidence of Soldier 006 **Day 334/35/22 to Day 334/37/2**.

17.9.1.5 **Coleman Doyle** took the series of photographs from **EP24.1** to **EP 24.7** showing the activity of a number of soldiers towards the crowd running in the car park of the Rossville Flats. It is submitted that even a cursory examination of these photographs from **EP24.1** through to **EP24.4** shows two soldiers on the waste ground engaged in violent assault on two civilians who do not appear to be armed and who do not appear to be presenting any threat to either soldier. The civilian on the left of **EP24.2** appears to be attempting to get up. By **EP24.4** the civilian is, apparently after receiving the attention of the soldier in **EP24.3**, lying flat on the ground. The soldier on the right of **EP24.1** is approaching his civilian apparently wielding a baton or stick and in **EP24.2** and **EP24.3** is beating the civilian with the instrument in his right hand.

17.9.1.6 In addition, it is submitted that the series of photographs show a crowd moving away from the army not seeking to confront them. In addition to the persons being approached by the soldiers the photographs show a number of civilians having fallen over clearly in their haste to escape. It is submitted that the evidence of Coleman Doyle confirms these propositions. **Day 072/135/10 to Day 072/135/15** and **Day 072/136/6 to Day 072/136/10**.

The assault on Jeffrey Morris.

17.9.1.7 Jeffrey Morris was a Press Photographer present on the day. He described at **M57.2 paragraph 5** getting to the open ground in front of Rossville Flats. The Saracens had stopped in Rossville Street and the paratroopers were fanning out and running in pairs across open ground.

> " As the paratroops caught anyone they knocked him down with their rifle butts and kicked him. Then, leaving him lying, they ran on."

He would have photographed this but was caught by two paratroopers and forced against a wall.

17.9.1.8 He gave a further description of this incident at **WT2.47 B to 2.48 A**. One of the paratroopers had a blackened face and the other a gas mask. The one with the gas mask jammed a rifle across his neck forcing his head back. The soldier with the rifle and the gas mask lifted his knee to which he assumed was to stop him going in his pocket. He moved and the soldier caught him on the thigh. His press card landed on the ground. He managed to say "Press, Daily Mail". Someone ran from a nearby doorway. The paratrooper with the rifle went after this man whilst the other held onto Mr. Morris. Whilst he was being held he took **P273**. The other man was struck on the head by the paratrooper who had gone after him and just after Mr. Morris had taken the photograph which shows Duncan Clarke being held by INQ 1918. Immediately after Mr. Morris took this photograph the soldier who had gone after the man struck the man across the face with his rifle. The word "me" on the Widgery transcript should probably read "him" when the context and **M57.2 paragraph 5** are considered. Mr. Morris was thrown to the ground by the soldier holding him in response to him taking the photograph. Mr Morris then witnessed what were clearly Lt. N's shots up Eden Place.

17.9.1.9 The soldiers engaged in this incident were clearly INQ 1918 and in all likelihood Soldier 019. The evidence of Mr. Morris was put to INQ 1918 at **Day 342/82/19 to Day 342/85/9**. He claimed not to have any recollection of a confrontation with a member of the press or seeing any press photographers in the area. At **Day 342/111/3 to Day 342/111/20** he was asked about the specific suggestion from Mr. Morris that he had placed a rifle against his throat and forced him up against the wall.

Q Is it possible you did?

A. Everything is possible."

He went on to say he had no recollection of placing his knee in Mr. Morris's groin.

17.9.1.10 Soldier 019 identified himself on **B149.006** at the position marked F which was on a corner of the alleyway which was a continuation of Eden Place. He was also able to identify the positions taken up by Lieutenant N and INQ 1918. He had no recollection of Lieutenant N grappling with a rioter. He also identified himself as the soldier in **P273** at **Day 343/111/23 to Day 343/112/13** but could not recall seeing INQ 1918 grappling with a civilian.

17.9.1.11 He did not recall the incident involving two paratroopers and Jeffrey Morris nor did he recall press photographers in the area. **Day 343/110/21 to Day 343/111/12**. It is submitted that in all likelihood that given the admitted proximity of Soldier 019 the second soldier involved in the incident with Jeffrey Morris was Soldier 019.

17.9.1.12 It is submitted that the Inquiry should be slow to accept INQ 1918 's persistent claims as to his lack of recollection of events.[17] Even if he was being truthful about that he clearly did not and could not deny Mr. Morris's evidence.

The arrest of Duncan Clarke.

17.9.1.13 This incident was witnessed by Jeffrey Morris as we have seen above. Duncan Clarke whose 1972 statement appears at **AC61.1** described his initial arrest as being told to "Come with me, you bastard." He was taken to an armoured car at "Eden Terrace" and searched. After about ten minutes he opened the door to get air and was hit on the head with a rifle butt. He required two stitches for this injury. The armoured car was then driven to William Street. After about five minutes a paratrooper opened the door and asked: "What do you think of this you Irish cunt?" and fired a rubber bullet into his face from about five feet. He was badly stunned and bled profusely. Later when himself and the elderly man were being placed in another military vehicle a paratrooper hit him on

the hand with a rifle butt injuring his middle finger. At the detention centre he was made to run a gauntlet of about ten paratroopers.

17.9.1.14 INQ 1918 acknowledged at **Day 342/81/19** that he thought he was the radio operator visible in **P853**. He further acknowledged in his evidence that he would assume he can be seen in **P273**. He was asked at **Day 342/106/9 to Day 342/108/11** why as appears at **P273** he was pointing a loaded rifle at Mr. Clarke's chest. He also conceded the rifle might have been cocked. When asked if the most likely explanation was that he was using the rifle to threaten the man he replied:

" It is possible, but I do not recall threatening the man."

17.9.1.15 It is submitted that on analysis of **P273** and the evidence of INQ 1918 it is clear that he was using a loaded and possibly cocked rifle to threaten an unarmed civilian. It was suggested to him that he had not in fact seen Duncan Clarke throwing stones at all and that he signed the arrest forms knowing the allegation was untrue. He answered:

" Well, I cannot remember, this is the problem." **Day 342/126/21 to Day 342/128/17**.

17.9.1.16 It is submitted that it is clear from the photographic and civilian evidence Duncan Clarke was grabbed, assaulted and arrested by Soldier INQ 1918 without any justification whatsoever.

The arrest of William John Dillon.

17.9.1.17 **William John Dillon**[18] stated at **AD46.13** that he was grabbed by a soldier, he thought was a sergeant, by the scruff of the collar and

---

[17] INQ 1918 could not even recollect N's shots despite having been a matter of feet away on the day. **Day 342/114/12 to Day 342/114/20; Day 342/121/16 to Day 342/121/24.**

[18] William John Dillon See **P495.OO2; P496; AD46.9 10,11; V1/5:38; V1/6:12; V48/12:31.**

dragged along. The soldier kept yelling at him "run you bastard". The witness identified himself in **EP2.7** on **Day 103/178/23**.

17.9.1.18 At **M57.3 paragraph 7** Jeffrey Morris described seeing, from a position near the burnt out van seen in **P273**, a boy aged about 16 or 17 moving across open ground in the "Eden Place" area[19]. He was looking from side to side obviously very confused. A paratrooper near the three tonner on Rossville Street stood up and levelled a pistol at this boy from some yards away and shouted " Stop, you bastard or I'll shoot".

17.9.1.19 The boy turned towards him and this was repeated. Another paratrooper went out towards the boy. Unknown to the boy another came up from behind the end of the Rossville Flats building. He slammed the boy across the head with his rifle. At this point Mr. Morris took photograph 5 which is **EP2.5**. The other paratrooper came up and they both went for the boy. The boy was crying out " God, don't hit me". Mr. Morris then took photograph no. 6 which is **EP2.6**. The soldiers then hauled the boy off to a Saracen and he took photograph no.7 which is **EP2.7**. Mr Morris also gave this account at **WT2 49 C-F**.

17.9.1.20 **David Capper**, the BBC journalist gave a description which sounded similar to this incident at **M9.2 paragraph 5**. He indicated to this Inquiry at **Day 73/29/11 to Day 73/31/13** that he did not think it was the same incident because his recollection was of only one soldier involved that actually hit him with the butt of a rifle. It may be noted that Mr. Capper also recorded in **M9.2 paragraph 9** that the young man was challenged by an officer carrying a pistol. This is strikingly similar to the events witnessed by Mr. Morris found at **M57.3 paragraph 7**. The account of Mr. Capper was put to Mr. Dillon at **Day 103/181/7 to Day 103/183/17**. He thought the account could relate to him although he didn't ask permission to cross the ground. At the time of giving his oral evidence he was not conscious of being hit on the head with a rifle or the

head with a baton. **Day 103/183/8 to Day 103/183/17**. At **AD46.5 paragraph 24** he thought he was being hit on the back with a baton as he was run across.[20] Mr Dillon denied kicking a soldier. **Day 103/191/2 to Day 103/191/10**.

17.9.1.21 The soldiers involved in this incident were Soldier 006 and Soldier 037. Soldier 006 confirmed in his Evershed's statement and at **Day 334/16/12 to Day 334/17/10** that he had assisted Soldier 037 in the arrest of William James Dillon. In his statement at **B1377.002 paragraph 4** Soldier 006 described how because of Dyslexia he could not deal with paperwork. He therefore preferred to avoid arresting people and if he saw people acting unlawfully he would give them a cuff to disperse them. He used reasonable force. At **B1377.002** he stated:

> "We thought that if we went in we would give them all a good hiding and by that I mean that if we were attacked as we had seen on television we would not stand there and take it, we would confront the rioters and disperse/arrest them as we did in Belfast with controlled aggression."

17.9.1.22 He accepted that he probably hit Mr. Dillon with the butt of his rifle but not on the head. He denied Mr Dillon was moving away from him. It was pointed out to him that the photographs did not indicate any other person near them and that **EP2.5** would suggest Mr. Dillon was turning away from him. He said you could not tell this from the photograph. When asked how the young man presented a threat to him Soldier 006 replied:

---

[19] See photographs and evidence of Coleman Doyle **EP24.5, EP 24.6**; **P233.10 frame 6-11A** and **Day 072/81/24 to Day 072/82/25**. The boy was "just running."

[20] Mr Dillon also gave evidence of being kicked, hit with a baton and threatened with being thrown out of the lorry by soldiers on the way to Fort George. At Fort George he was hit with a baton. **Day 103/187/15 to Day 103/191/22.**

"Well, at the time I must have thought he was a threat. Do not forget we are still in a riot situation here." **Day 334/13/22 to Day 334/23/24**.

17.9.1.23 The sequence of relevant photographs of this incident are **EP2.5** taken by Jeffrey Morris showing Soldier 006 with the prisoner. **EP24.5** and **EP24.5A** which were taken by Coleman Doyle and appear to be next in sequence showing Mr. Dillon away from Soldier 006. Soldier 006 then approaches Mr. Dillon. Soldier 037 comes to assist and during the struggle seems to lose his helmet in **EP33.7**. Then **EP33.6** shows Soldier 037 without his helmet. Then **EP2.6** shows Soldier 037 on one side and Soldier 006 on the other side of the prisoner. **EP2.7** shows both soldiers leading him to a Pig in Rossville Street. **EP2.9** shows Mr Dillon at the corner of Rossville Street. EP5.20 shows him on William Street and possibly in **EP5.21** near the City Cabs office.

17.9.1.24 Soldier 006 was asked at **Day 334/35/22 to Day 334/37/2** whether he had seen any of his colleagues on the day using rifle butts in the same manner as himself. His answer was "probably". Sergeant O and Lieutenant N may have known that this was his or his colleague's standard practice in such situations. He was never told by a superior officer not to engage in such methods nor prevented from doing so by a colleague or a superior officer.

17.9.1.25 In his oral evidence at **Day 357/138/4 to Day 357/20** Soldier 037 who had indicated on the arrest form that he saw the prisoner kick a soldier on Rossville Street was asked did he recollect William Dillon kicking a soldier on the day. He said he recalled him struggling. He later claimed to have a limited recollection of this incident. **Day 357/185/24 to Day 357/186/1**. The essential point is also that each of the soldiers involved in this incident gave wholly conflicting reasons for his arrest. Soldier 006 made no claim at the time or following the arrest of being assaulted or kicked by William John Dillon.

17.9.1.26 Indeed Soldier 006 accepted in his oral evidence he may have hit him with his rifle. It is submitted that the incident witnessed by Mr. Morris and Mr. Capper was in all probability the arrest of William John Dillon. Whilst the recollections of Mr. Dillon and the witnesses may differ as to the precise nature of the contact it is clear that he was arrested without lawful or valid reason and was assaulted in the course of that arrest.

The arrest of Charles Canning

17.9.1.27 At **AC25.2** Charles Canning described his arrest on his way towards the Rubble Barricade in Rossville Street. He saw a Para in the vicinity of Glenfada Park North who saw him and started to run towards him with an SLR. There was also a soldier who ran after him with a baton gun. He fell and was caught. He believed he was arrested in front of Block 1 of the Rossville Flats at point H on **AC25.6**. The paratrooper carrying the SLR kept threatening to shoot him although he could not recall the precise threats. Both these paratroopers had Liverpudlian accents. The one with the SLR was small and of average build.

17.9.1.28 At **AC25.3 paragraph 16** he described being taken to one of the Pigs on Rossville Street. As they approached the pig about six soldiers started kicking into him. In his 1972 statement at **AC25.5** he had, not surprisingly it is submitted, described the incident in greater detail. As he ran he saw the soldiers deploy. He saw paratroopers leaping from the back of Saracens and proceed to shoot, baton and kick anyone who got in their way. He saw a man being beaten to the ground. He noticed two paratroopers one of whom was firing towards the people at the barricade. When they saw him they ran towards him shouting. He could not run very well and as he thought he was going to be shot he dived to the ground. He was kicked by the two paratroopers until he got up off the ground. When they got to the Saracen the paratroopers there were abusing a youth but when the witness arrived they and his captors

started to assault him.[21] The witness believed Jim Doherty was in the Saracen when he was put in[22]. He was hit in the face with a rifle by the Paratrooper who had been firing at barricade earlier. The witness then described being run off towards William Street and the beating of another man at the "City Cabs" taxi stand by paratroopers.

17.9.1.29 At **AC25.4 paragraph 27** the witness described seeing, at Fort George, one of the Liverpudlian Paras who had arrested him. This paratrooper started on him again. He was photographed with this Paratrooper and processed. The soldier who appears on Charles Canning's arrest forms is Soldier U.

17.9.1.30 Soldier U was asked at **Day 369/37/23 to Day 369/41/10** about the allegations contained in Mr. Canning's statements. Soldier U admitted that he used the stock of his weapon to hit Mr. Canning in order to subdue him. He claimed that he also may have used a wrist lock. When asked did he remember kicking Charles Canning on the ground he replied no. When asked was it possible that he hit Charles Canning in the face with the foresight of his rifle he replied:

" I do not recall." **Day 369/40/16 to Day 369/18**.

17.9.1.31 It is notable that despite indicating at **Day 369/38/9 to Day 369/38/13** that he was trained to avoid hitting people in the head he cannot rule out that that is what he did to Charles Canning. Soldier U went on to deny threatening to shoot Charles Canning.

17.9.1.32 Soldier U's arrest documentation in respect of Mr. Canning at **ARR8.2** described the arrestee as "throwing stones and bottles at security forces". His RMP statement at **B749** described the arrestee as "a man throwing

---

[21] James Charles Doherty **AD69.1 paragraph 21** confirmed Charles Canning was placed in the rear of the vehicle he was in. " Charlie got as bad a beating as I did."

stones at the vehicle." According to his Treasury Solicitor's statement at **B767** he claimed that he saw a man of about 25 in a crowd and: " he threw a bottle at me which hit me". At **WT 13.95 D** he claimed that the man had just thrown a bottle, picked up a stone and was about to throw that at me". It is submitted that it is clear that Soldier U gave utterly inconsistent reasons and lied about the grounds for the arrest of Mr. Canning. There may be two reasons for that. It may be that he had no justification whatsoever for arresting Mr. Canning and simply detained and inflicted brutality on him in the course of his dealings with him.

17.9.1.33 Another possible reason is that he simply picked Mr Canning out at Fort George and accused him of rioting. In his RMP statement at **B749** he claimed to have taken: " Charles Collins (Canning) back to an arrest vehicle which had moved up to the junction of Rossville Street and Eden Place. I handed him over to the military police." When he came to make his statement to the Treasury Solicitor at **B767** he described taking the man to " the arrest point " and did not mention a vehicle. At **WT13.96B** he described taking the man back to the arresting point at the corner of the street which was the junction of Rossville Street and William Street. On **Video 48** the soldier with Mr. Canning is clearly not on physical appearance Soldier U when compared to the arrest photograph **P503.4**. When asked at **Day 369/136/12 to Day 369/136/15** did he arrest Charles Canning that day or just go to a compound and select someone and allege they were rioting he replied that he arrested a man that day.

17.9.1.34 If that was the case it is submitted that the conduct of Soldier U was part of a pattern of unjustified and unlawful force inflicted on civilians in the course of arrests on Bloody Sunday by the Parachute Regiment. This violence by the paratroopers was not justified to any degree by the conduct of the arrestees.

---

[22] Mr Canning can be seen at **Video 48 Snap 12** being escorted by another soldier possibly of Guinness force having been handed over by Soldier U. See also **V1/6:31;V48/12:30; P496**.

The arrest of James Charles Doherty (or O'Doherty)

17.9.1.35 Mr. Doherty was moving quickly down Rossville Street towards Free Derry Corner. He saw Saracens behind and in front of him and decided to run across the waste ground and into the Rossville Flats car park. He slipped on ice at point marked B on **AD69.17**. Before he could get up he was hit hard on the back of the head with a rifle butt. He thought he was unconscious for a couple of seconds and when he came round he thought he was being dragged by the hair and clothes back across the waste ground by two soldiers. He was being called "fucking Irish, fucking Paddy" and was told "You're dealing with the Paras now." This soldier was quite small, stocky with black hair and blacked up face. This soldier at one point, as Mr. Doherty fell to the ground, brought his rifle butt down on Mr. Doherty's right hand as hard as he could. In the Saracen he was kicked and punched by soldiers and one of them wearing a visor was head butting him with it. When Charles Canning was placed in the same Saracen he got as bad a beating as the witness. **Day 104/84/6 to Day104/84/25**.

17.9.1.36 They were let out and made to stand against a wall and then taken to William Street. The witness confirmed he was at the locations in **AD69.9** at the junction of William Street and Rossville Street, then at **EP5.20** and later at **AD69.12** with his arms against the retaining fence of the GPO sorting office. At this location he was kicked on the back of the ankles and legs by a soldier.[23] **Day 104/93/13 to Day 104/93/19**. At **Day 104/111/25 to Day 104/114/5** he described further assaults in the Lorry they were placed in and on arrival at Fort George. At Fort George the witness described being forced to run a gauntlet of soldiers, being deliberately scared by an army Alsatian dog, being made to grab barbed wire, being beaten with batons, kicked, and punched. **AD69.5 paragraphs 30 to 39**. The Soldier on the arrest form for this witness is

[23] The arrest of James Charles Doherty can be seen in **P496; V1/6:12; V48/12:31**.

INQ 627 but the witness confirmed he did not look like the same soldier who arrested him or assaulted him. **Day 104/102/13 to Day 104/103/7**. He thought the photograph of the soldier who arrested Mr. Canning looked the same general height as the soldier who arrested him. That was, of course, Soldier U. **Day 104/108/1 to Day 104/108/9**.

17.9.1.37 The arrest forms and photograph for Mr. Doherty indicate that the arresting soldier was INQ 627. In his statement to Eversheds at **C627.4 paragraph 22** INQ 627 indicated that he did not snatch any rioters that day because he was operating the radio and it was not his function to arrest anyone. His role was to stay with the Major and to pass messages to and from him. At **Day 338/48/25 to Day 338/49/2** he indicated that he now remembered arresting someone on the day. It is clear this recollection came about by being shown the evidence recently that he had arrested someone. **Day 338/81/11 to Day 338/81/13**. It was suggested to him at **Day 338/87/12 to Day 338/90/20** that given his duties as Major Loden's Radio Operator on the day he would not have engaged in arrests and that the documentation in fact could have reflected an arrest he did not carry out. He was also shown Video 48. No particular comment was offered by INQ 627 on this issue.

The arrest of William Doherty

17.9.1.38 At **AD113.1** is the NICRA statement of Mr William Doherty made at the time. In it he says:

> "I was chased and caught by a soldier wearing riot equipment... ... he took me back to a Saracen about 20 yards away.. I was put inside the Saracen." Mr. Doherty then described the soldier lifting his rifle and hitting him in the face with the butt. The injury was in the area of his left eye. A soldier, who he believed was the same one, fired a rubber bullet at his left arm hitting him over the elbow. He confirmed that Duncan Clarke was in the vehicle with him. Mr Doherty also witnessed Mr. Clarke

being assaulted. Mr. Doherty described severe bruising of his left arm, severe facial bruising lacerations to his nose, bruising to his left leg, and cuts to his upper leg and knee.

17.9.1.39 At **AD113.3** is a note of Philip Jacobson of the Sunday Times headed "William Doherty, the grey haired man". The note reads "Mr Doherty is our famous grey haired man."...."He was heading towards the car park when a Para overtook him and grabbed him. 'I am not so fast on my feet any more and this little Para, he was certainly Scottish, I know that well enough for he was abusing me all the time, came running up behind me and grabbed me' He hit him several times on the top of the head with the barrel of his rifle causing cuts and abrasions to the top and the side of the head that eventually required 7 stitches, 'the Para kicked me all the way back to a Saracen that was standing about 20 yards away where Eden Street used to be'. Doherty was hurled inside; as he got up the Scottish Para said 'you Irish bastard' and crashed the butt of his rifle into Doherty's face.

17.9.1.40 Whilst the detail in the two reports differs in some respects it is clear that Mr. Doherty was describing an assault and arrest by Sergeant O who gave evidence of the arrest he was involved in. At **Day 335/33/9 to Day 335/36/20** Sergeant O was asked about his dealings with the person he arrested. He described on de-bussing having had a bottle thrown at his head by a man a couple of feet away from him. He grabbed hold of the man with his left hand and alleged he was struck by other civilians. He admitted using the stock of his rifle to hit the man and smashed the plastic stock on the man's head to subdue him.

19.9.1.41 The arrest photograph of William Doherty was shown to Sergeant O and he acknowledged that the wound to Mr. Doherty's head was the result of Sergeant O hitting him. **Day 335/34/24**. Sergeant O claimed he could not have simply seized the man as he was struggling extremely hard, trying to get away and Sergeant O was determined he would not, so he subdued him. **Day 335/36/6 to Day/36/20**. Sergeant O denied hitting

Mr. Doherty several times on the top of the head with the barrel of his rifle or kicking him all the way back to a Saracen. He denied hurling Mr. Doherty inside, calling him an " Irish bastard" or crashing the butt of his rifle into Mr. Doherty's face. The Peter Jacobsen note contained a note about scars on Mr. Doherty's left forehead and face. When asked about that he said:

> " I do not know if he was scarred, but I know he was bleeding from that area." **Day 335/38/10 to Day 335/38/20**.

17.9.1.42 It is submitted that the above evidence and response clearly established that Sergeant O used considerably more violence and force than he was prepared to admit to in dealing with Mr. Doherty.

17.9.1.43 He denied himself firing a rubber bullet gun into the Pig where Mr. Doherty was, seeing anyone else do it or hearing of anyone else who had done it. **Day 335/39/1 to Day 335/39/10**.

17.9.1.44 At **B1494.005 paragraph 15** Soldier 019 confirmed that following Lieutenant N's shots at Eden Place he returned to their Pig to get his SLR. At **Day 343/116/19 to Day 343/118/5** he confirmed he was in **P488** still positioned at the alleyway and which shows Duncan Clark being led to the Pig by Lieutenant N and INQ1918. Soldier 019 did not think it was possible he was in the group shown at **P489** at the Pig although he agreed it is likely he would have gone back to collect his rifle. Mr Doherty's accounts of events regarding the firing of a baton round at himself in the back of the Pig were put to Soldier 019 and he denied he fired a rubber bullet gun point blank at an arrestee that day. **Day 343/121/1 to Day 343/121/6**. The allegations of Duncan Clarke[24] and Captain 200[25] as to firing a rubber bullet into the back of the Pig

[24] See **AC61.1** 1972 statement of Duncan Clarke.

[25] B1980 1972 RMP statement of Captain 200.

were also put to the witness. He denied at any time firing a rubber bullet into the back of his pig. **Day 343/123/18 to Day 343/123/20**.

17.9.1.45 It is submitted that the evidence before the Inquiry on these matters as well as consideration of Soldier 019's general reliability must lead to the unmistakeable conclusion that he was responsible for the unlawful use of the baton gun as a weapon of assault in the incidents described by William Doherty, Duncan Clarke and Captain 200.

17.9.1.46 Evidence of an assault on an old man is persistent amongst the evidence of civilians in this area on the day. At **AG43.3 paragraph 21**, **Charles Glenn**, the Knight of Malta, described two paratroopers jump out of the rear of the vehicle which was parked at point C on the map attached to his statement. As they jumped out of the vehicle they were hyped up and shouting abusively at the crowd. He was then distracted as one of the Paratroopers grabbed an elderly man who was standing very close to him by the neck and started hitting him with his rifle. The Paratrooper was holding his rifle by the butt and bringing the barrel down repeatedly on the man's head. At **Day 80/182/13** he confirmed it was the pistol grip being brought down on the man's head. The elderly man was quite tall and wore an overcoat of some sort. He had grey hair and looked as though he was in his 60s. The Para may have been shorter than the older man.

17.9.1.47 At **AG43.3 paragraph 22** he described thinking that the Para was going to kill him. He recalled shouting at the para 'I order you to stop'. As he said this the Para threw the old man to one side and aimed his rifle at Mr. Glenn. He thought he was threatening him. Then very quickly another Para who he thought for some reason had some type of authority and who came from the same vehicle hit Mr. Glenn in the chest with the butt of his rifle and he fell back to the ground and felt quite dazed. At **Day 80/181/18 to Day/80/182/5** the witness thought that the scene in **P273** was familiar but thought the coat might have been different and he could not recall the radio pack. **Day 80/4/18 to Day 80/181/20**. At **Day**

335/42/15 to Day 336/43/8 Sergeant O denied this statement referred to him.

17.9.1.48 **John McCrudden** described at **AM152.2 paragraph 9** how a Saracen pulled into the car park and a soldier got out of the front passenger seat. ...He immediately turned his rifle upside down and started using it like a baseball bat, clubbing people who were running past. He stayed on the east side of the Saracen, near the front, but moved about to club people who were running past. At **Day 336/20/6** Sergeant O accepted he got out of the passenger seat of his vehicle but at **Day 336/20/17 to Day 336/20/22** he denied he was the soldier described in the above extract. **Patrick McCrudden** described at **AM153.12** a soldier attacking an elderly man when a member of the Order of Malta attempted to intervene. He described an assault on the Knight of Malta including him being struck with the butt of a rifle and then kicked. The Knight of Malta collapsed and the middle-aged man was arrested. At **Day 335/44/7 to Day 335/44/8** Sergeant O denied anything of the kind occurred.

17.9.1.49 **William Barber** was quoted in a note from the Sunday Times in 1972 at **AB9.2** describing: "a Para grasping an old man, he must have been 50 or 60, with his left hand, grasping him by the coat and trying to beat the hell out of him with the barrel of a rifle he was holding in his right hand.." He was then quoted as describing a civilian intervening, hitting the soldier and freeing the old man but the soldier getting the old man again. At **Day 335/40/24 to Day 335/41/1** Sergeant O denied this account claiming he did not let go of the man until he handed him over to the NCO.

Other Evidence of Assault on Civilians

17.9.1.50 At **AB101.1 paragraphs 4 to 5** **Alana Burke** stated that she moved onto the waste ground in Eden Place. Frankie Campbell shouted to her that the Army were coming and to run. They ran down towards the car

park at the Rossville flats to try to get out of the way. As she tried to get out of the way she looked over her shoulder and saw soldiers on foot. She saw a short elderly man struck in the face with the butt of a rifle by a soldier at the spot marked A on **AB101.4**. He seemed to rise up in the air for a split second and then fell to the ground with blood streaming down his face. She could not say whether it was either man in **P503.12** or **P503.5** who were William Doherty and Duncan Clarke respectively.

17.9.1.51 It may be the same man who is referred to by **Charles Canning** at **AC25.2 paragraph 13** who recalled when he was in Rossville Street seeing an old man being beaten up by a Paratrooper. Another man tried to stop and help him. However, the Paratrooper hit the man who stopped to help him with a baton round in the face. He thought that military policemen took these two men away.

17.9.1.52 At **AH27.2 paragraph 9**, **Patrick Harkin** described watching from the window of a flat in Block 2 of the flats. He was looking out of the front window for maybe 10 minutes when all of a sudden he saw Saracens racing south up Rossville Street. One drove in the opening between the waste ground and the car park behind the Rossville flats and stopped at the point marked C at **AH27.5** facing down towards the car park. This was clearly Sergeant O's Pig.

17.9.1.53 The witness thought it was a snatch squad of soldiers looking to arrest troublemakers. He saw about half a dozen soldiers jump out of the Saracen whilst people were fleeing across the car park towards the two between Blocks 1 and 2 and Blocks 2 and 3. He would not class those people as rioters. They were trying to get away from the soldiers as soon as possible. The soldiers then started roughing people up. One thing that stood out in his mind was that they started attacking an old man, hitting him with the butts of their rifles. He did not know the old man well but recognised him as a local refuse collector. He was a non-offensive kind of man. He did not see anyone confronting the soldiers.

17.9.1.54 The reference to the elderly man being a refuse collector or having been a refuse collector is consistent with the evidence of **Hugh O'Donnell Senior** at **AO31.3**. He had run down Macari's Lane from William Street into the wasteland when he heard the roar of the armoured vehicles. He then saw three APCs pull up at points which he described as being points 6, 7 and 8 on **AO31.9**. Point 6 is approximately in the position where Sergeant O's Pig is known to have ended up in the photographs. However, it is further over to the east. He described one of the soldiers came out of the APC at point 6 and fire two shots into the alleyway between Blocks 1 and 2.

17.9.1.55 At **AO31.3 paragraph 18** he described running into the car park after running south along the waste ground. As he went he continued to look over his left shoulder at what the soldiers were doing. When he reached the approximate position marked 12 on **AO31.9**, his eye was drawn to a tall man in his 50s picking his way through the rubble at the rear of the gardens of the houses on the west side of Chamberlain Street in the approximate position marked 13 on **AO31.9**. In oral evidence he believed the position was lower south down Chamberlain Street. **Day 79/133/20 to Day 79/134/7**. The man was leaning his left hand against the rear garden walls as he went as if to steady himself. He was not doing anything but trying to get out of the way. He recognised him as being one of their bin men. Before that, he had been a doorman at the old Rialto cinema in Market Street. He did not know his name. Suddenly the witness noticed a soldier who he thought was the soldier who had been standing at position 9 on **AO31.9**, go over to this man and knock him hard over the head with the barrel of his rifle. The man put his hands up to his head to protect himself.

17.9.1.56 The evidence of **Manus Hugh McDaid** at **AM169.2 paragraph 10** was not dissimilar. As they approached the door to Block 1, he noticed a soldier to the west of the houses on Chamberlain Street approximately at point E on the attached map at **AM169.5** striking an old man with the butt of his rifle. The soldier had his back to him and the witness saw

him strike the old man once. As he made to strike him again, the soldier turned so that the witness could see him in profile. He was a tall man, wearing a helmet, goggles and a gas mask, gloves and camouflage Army dress, and high boots which covered his ankles. The old man was in his mid 60s, wearing a flat cap and a brown overcoat and looked pale and thin. The soldier seemed to be holding the man with one arm whilst trying to strike him with the butt of the rifle in his other hand.

17.9.1.57 At **AM169 paragraph 11** he described instinctively starting to run over to help the old man, intending to remonstrate with the soldier and hit him if he would not stop striking the old man. However, his wife and another man near him restrained him and he was pulled into the stairwell of the northern end of block 1 of the Rossville flats. Point E may be found at **AM169.2** and this, as one can see, is at the rear of 36 Chamberlain Street, much further south than the location described by Hugh O'Donnell. It is possible that what is being referred to is a completely separate incident.

17.9.1.58 Another witness who places the assault on an elderly man at a similar position is **William Patrick McDonagh**, whose statement is relevantly at **AM192.2**. He had been watching from the door of his girlfriend's flat in block 1. At **AM192.2 paragraph 9**, he described looking down into the courtyard. The first thing he saw was a man who he thought at the time was quite elderly, although he does not know why. He had been seized by two or three soldiers who were standing behind a Saracen which he thought was a patchy camouflage colour. The man and the soldiers were at the south gable end of the west side of Chamberlain Street, at the approximate position marked C at **AM192.8**. The Saracen was to the south of the men, at the approximate point marked D at **AM192.8** facing south.

17.9.1.59 At **AM192 .2 paragraph 10** he stated he did not know the man who had been seized by the soldiers. It seemed to him that the soldiers were trying to hit him. Two of them were holding him and another one had

his rifle raised at shoulder height as though about to hit him. He did not however actually see the soldier hit the man. He could not hear anything that the soldiers or the man may have been saying because there was so much shouting and screaming all around. There were a couple of boys in the courtyard who tried the get to the old man but he did not think they reached him. On **AM192.8** he placed the man and the soldiers south of 36 Chamberlain Street.

17.9.1.60 At **AM402.1 paragraph 7** the witness **Susanna Miller** described watching from her flat in Block 2. She then went to the bedroom window at the back of the flat which overlooked the car park, to see what was happening. She saw large crowds of people running south through the car park towards the Rossville flats. From her bedroom window she could not see out on to Rossville Street and could only see part of the waste ground around Eden Place and Pilot Row. She did not remember looking at the waste ground as her attention was drawn to a man who was standing against the garden wall of the gable end house in Chamberlain Street at approximately the point marked B on **AM402.4**. The position marked B is at the south-west corner of number 36. This wall is also shown on the attached photograph with the place marked where the man was standing as point 2.

17.9.1.61 At **AM402.1 paragraph 8** she stated she could not say what colour hair the man had, although he was going bald and in his early 50s. He was wearing a three-quarter length dark coat. She could not see his face as he was facing west towards Rossville Street. Two soldiers were hitting the man in the face with their rifle butts. The soldiers were wearing an ordinary Army uniform and were very tall. She did not remember what they were wearing .... The man they were hitting was trying to resist by sheltering his face with his forearm but they hit him about three or four times. He seemed angry and it looked as though he was cursing them. That was the last she saw of the man. She did not know who the old man was. She never found out who he was or what happened to him and this

is something which upset her, although she believed that she would recognise him if she saw a photograph of him.

17.9.1.62 **Isabel Duffy** at **AD158.3 paragraph 18** described an old man being beaten by soldiers in car park. **Celine Frances Brolly** in her 1972 statement describes three soldiers punching and kicking a middle-aged man. A first-aider came to his assistance and was also punched, kicked and thrown the ground. A rubber bullet was also fired at him.

17.9.1.63 **Michael Cregan**, whose evidence relevantly appears at **AC119.4** paragraph 26 and therein described soldiers trying to pull an old man from the car park marked H at **AC119.7** to Saracens at the north west corner of the car park. He was pulled away and the soldiers let him go.

17.9.1.64 It is possible that some of these accounts are variations or snap-shots of the same or similar incidents. It is not surprising given the amount of activity in the area and the time frame of these events that locations or precise details might vary. However the weight of these accounts lies in the fact that they are independent recollections of witnesses in close proximity at the time they occurred and which fit into a pattern of behaviour by the Parachute Regiment in this area on the day.

The assault on the Knight of Malta

17.9.1.65 **Charles McMonagle**, a Knight of Malta, was attending to a casualty at the back of the Chamberlain Street houses by the wire fence at a position marked A on **AM367.16**. He acknowledged at **Day 102/109/10 to Day 102/109/15** that the fleeing crowd knocked him over as he was attending the casualty. A paratrooper got out of the back of a Pig and began firing straight ahead towards the car park. At **AM367.3 paragraphs 21 to 22** he described how the paratrooper turned to his left and looked at Mr. McMonagle. The witness put his hands up and the soldier shouted at him. They both had gasmasks on. The witness pointed to the Red Cross

badge on his chest and shouted "Red Cross, Red Cross". The soldier pointed his rifle at Mr. McMonagle's chest.

17.9.1.66 Mr. McMonagle is the figure in **P272** at the wall in the white gaiters and white belt. **P273** is also likely to show Soldier V and Soldier S who appear to grappling with someone located roughly in the position the figure of Mr. McMonagle occupied in **P272**. **P278** shows Mr McMonagle on the ground in roughly the location of the previous photographs with Soldier V on the left of the photograph and Soldier S on the right.

17.9.1.67 At **Day 102/120/11 to Day 102/120/25** Mr. McMonagle indicated that **EP33.5** confirmed an impression that he had had that the soldier who fired from the hip and approached him was left-handed from the way he fired his rifle on the left hand side. The soldier on the right of the photograph appeared to him to be left-handed. It was pointed out at **Day 102/152/5 to Day 102/152/18** by Lord Saville that the soldier on the left of the photograph could equally be left handed.

17.9.1.68 Soldier S did not recall any incident involving a first aid man. He had no recollection of pinning somebody against a wall and rifling through his bag. He denied firing from the hip at any stage in the general direction of the flats. **Day 331/55/13 to Day 331/56/3**. He further indicated he was right handed and carried his rifle in his right hand. **Day 331/56/4 to Day 331/56/18**.

17.9.1.69 It is notable that Soldier V at **B821.003 paragraph 2.3** acknowledged pinning a first-aider with a respirator "against the wall." He described his immediate thought as these guys were extremely well organised and he therefore ran at the man pinning him against the wall with his rifle. This incident occurred when Soldier V got out of the Pig, turned right, saw the man and went straight for him. It was certainly very shortly after getting out. **Day 333/46/5 to Day 333/46/21**. When shown **P278** Soldier V acknowledged "it was possible" that it was himself on the left with the

Lance Corporal's stripe and Soldier S on the right. He denied firing in the manner described by Mr. McMonagle or pulling the medic's respirator to one side. He said he never saw the bag emptied and that the pushing of Mr. McMonagle to the ground by one or possibly both soldiers never happened in his sight. He had no recollection of telling the man not to move as the soldiers went through the gap in the fence. **Day 333/5/7 to Day 333/53/19**. It is submitted that it was in all likelihood Soldier V, assisted by Soldier S, who carried out the assault on Mr. McMonagle.

17.9.1.70 Mr. McMonagle described the soldier screaming at him and pulled Mr. McMonagle's gas mask to one side. This soldier released him and the witness acknowledged it was another soldier who came up from his other side who went through the bag and its contents. **Day 102/149/12 to Day 102/149/18**. The witness confirmed that **EP33.5** showed himself on a heap on the ground with his gas mask lying askance. **Day 102/120/2 to Day 102/120/6**.

17.9.1.71 At **Day 102/119/11 to Day 102/119/17** the witness confirmed he could not now remember if he had been picked up of the ground by the soldier but did remember being stood against the wall with the soldier's rifle in his chest. In his hand written report in 1972 he described being pulled up by the soldier. **AM367.19**. In **EP33.5** it is clear that Mr. McMonagle has ended up back on the ground.

17.9.1.72 It is submitted that the significance of this incident is that quite apart from the evidence of unjustified firing by Soldier V on de-bussing his immediate reaction on seeing someone clearly in first-aid apparel was to treat him as one of "these guys" and presumably a threat. He pushed Mr. McMonagle against the wall and pushed a rifle into his chest. Soldier V clearly assaulted a first-aider who presented no threat to him whatsoever. He was assisted in this assault by Soldier S. It is a clear example of unjustified, inappropriate and wholly unwarranted force by Soldiers of Mortar Platoon on the waste ground. It is an illustration of

the mindset of both these soldiers towards innocent civilians and a prelude to the further unjustified discharge of their weapons in the Rossville Flats Car Park.

17.9.1.73 At **AG19.2 paragraph 6**, **Joseph Martin Gallagher** described going through the double doors into Block 2 from the stairway and getting down on their stomachs as they went through the causeway i.e. the second veranda on Block 2 marked on photograph as point 2 at **AG19.7**. He looked out on the courtyard and saw, what he believed was a first aid man being beaten up by some soldier. The man was wearing a dark coat and he had a strap over his shoulder with a box attached. He associated this box with that of a first aid man. He could not say precisely where the man was, although he believed he was approximately at the point marked C on **AG19.9**. This point was behind the back wall of No.32 Chamberlain Street on the west side. He no longer remembered the soldiers hitting the man with their boots and rifle butts, although he said this in his previous statement from 1972. He knew that the first aid man was getting a kicking but he could not recall the precise nature of the beating nor how many soldiers were involved. He heard more shots and he got down for cover.

17.9.1.74 **Hugh O'Donnell Senior** at **AO31.4 paragraph 19** whose evidence was considered above further described running south a few steps further along Chamberlain Street. He was looking behind him over his left shoulder once more. This time, when he was in the approximate position marked 14 on **AO31.4**. He saw, he thought, in the position marked 15 on **AO31.4** what he believed to be a first-aider or Knight of Malta as he had some form of armband on his arm. This location was behind the west wall of No.36 Chamberlain Street. He could not recall whether or not the man was wearing a hat of any kind. The man was up against the wall and was facing towards the witness as he kneeled or was on his hunkers crouched over to treat someone lying on the ground. Suddenly a soldier, again possibly the same one as had hit the bin man, went over to the first-aider and hit him, he thought over the head with either the

barrel or the butt of his rifle. He could not then recall which it was. The witness was terrified and continued to run towards the alleyway between Blocks 1 and 2. The witness confirmed his description of this incident at **Day 79/145/21 to Day 79/146/25**.

17.9.1.75 It is clear that **P278** shows Charles McMonagle at a spot further to the north than Joseph Martin Gallagher or Hugh O'Donnell Senior placed their first-aider but they may well have given descriptions of the same incident. Inevitably perceptions and detail of such an incident may differ but both can be reconciled with the scene described by Mr McMonagle and Soldier V.

33 Chamberlain Street.

17.9.1.76 Number 33 Chamberlain Street was the house into which Peggy Deery and Michael Bridge were taken. The people in that house were arrested and marched north up Chamberlain Street.

17.9.1.77 At **AN8.3 paragraph 16** **Anna Nelis**[26] who lived in 33 Chamberlain Street described waiting for the ambulance. When it did not arrive, she ran back out of the house into Chamberlain Street and approached two soldiers who she saw standing beside a Saracen parked outside her house. She explained about the wounded woman and asked if they could get an ambulance for her. She asked the soldiers to come into the house so they could see for themselves how badly wounded the woman was so that they would see that she desperately needed an ambulance. She told them that nothing would happen to them in her house. She remembered that the fair complexioned soldier seemed very hyped up. He seemed out of control and was drawing attention to himself by shouting out ugly remarks that could have been directed to anyone in the vicinity. He was generally loud and so offensive that it seemed to me that he wanted to provoke a fight or argument with someone. The

[26] See oral evidence Day 103

language he was using was obscene and he started swearing at me. She though that he had a northern English accent. She thought that the other darker soldier may have had a Scottish accent.

17.9.1.78 At **AN8.4 paragraph 21** she thought that the two soldiers eventually came into their house and looked at the two wounded people there. At one point, she very clearly remembered the fair complexioned soldier saying of the wounded woman: 'Let the whore bleed to death' I think it may even have been when he was actually standing looking at her. It was such a horrible thing to say and she was shocked by it. She thought it may have been after that she told the soldiers about the wounded man lying in the backyard. She thought the fair complexioned soldier then said something like: 'Let them all die'.

17.9.1.79 At **AN8.5 paragraph 23** she stated that after the ambulance had left, three or four soldiers including the two she described above pushed their way into the house and arrested most of the men who were inside. She later found out that the soldiers had arrested a total of 23 men who were all in their house at that time. The soldiers took the arrested men out of the house and back into Chamberlain Street. They were then marched north up Chamberlain Street with their hands folded behind their heads like criminals.

17.9.1.80 At **AN9.3 paragraph 20** **George Nelis**[27], Anna Nelis's brother, described Peggy Deery and another man being brought into the house. When he came down from upstairs again there were two soldiers in the house. He could not remember much about them or what they were wearing and was unable to say whether or not they were armed or whether their faces were blackened up. He could remember them making abusive comments about Mrs Deery and the other injured men in the house such as let them bleed to death and they deserve it. The house was quite full of people by this stage and everybody was scared.

[27] See evidence also of Margaret Nelis **AN11.4 paragraph 23**.

Nobody dared confront the soldiers who seemed to be very angry, unpleasant people. The two soldiers ordered everybody out of the house and out into Chamberlain Street, including himself. There may have been some other soldiers outside the house as well as the two soldiers who had come inside.

17.9.1.81 He believed that the four soldiers marched them north up Chamberlain Street with their hands on their heads. There were about twelve of them and perhaps three or four soldiers. He could remember the soldiers ordering them to walk on the pavement and then as soon as they did so ordering them to walk on the road.**AN9.4 paragraph 25**.

17.9.1.82 At **AN9.4 paragraph 28** the witness was crouched down and was facing the wall. The soldier came up behind him. The Soldier told him he had been wounded in Belfast but had then got his revenge by killing four Irish men. He told him how he had shot two of them in the head, one of them in the chest and one of them in the "balls". He remembered him saying how he had enjoyed watching the man who he had shot in the "balls" dying slowly. He then said to him that he was going to kill Mr. Nelis as well today and that he would not see tomorrow or see his wife again. After what he had seen had happened to Mrs Deery and the young boy in the Rossville flats courtyard he completely believed what the soldier told him and was certain that he was going to be killed imminently. The Soldier described by Mr. Nelis[28] was INQ 12.

17.9.1.83 The experience of the Nelis family was reflected in the experience of a number of other witnesses in the house including verbal abuse and physical brutality which continued on the journey to and at Fort George.[29]. **Mr Otto Schlindwein** was arrested in the street outside 33

[28] See evidence of Mr.Nelis at **Day 103.** He also gave evidence of brutality including running a gauntlet and threats from an Alsatian Dog at Fort George.

[29] Joseph Hutchman **AH91.7**; Maurice McColgan **AM124.5**, **AM124.2**; Matthew Campbell **AC140.1**; William Leo Carlin **AC40.4**; William Duddy **AD 152.2**; James McDermott **AM184.2**; Thomas Meehan **AM393.2**; Bridget Nelis **AM26.1**. Kevin Leonard **AL7.2**, AL7.3.
See also **AN9.16** Contemporary Police Report outlining complaints from civilians at 33 Chamberlain Street.

Chamberlain Street and, like George Nelis, described a Scottish soldier who he says hit him in the side with the butt of his rifle. **Day 104/166/16 to Day 104/167/7**.

17.9.1.84 INQ 12 features in a very substantial number of the allegations arising out of events at 33 Chamberlain Street. At **Day 351/46/10 to Day 351/60/12** a large number of the allegations against him were put to him:

"Q Do you have any idea how so many different people came to make these allegations against you if there is not a grain of truth in them?

A No, sir."

It is submitted that it is clear from his failure to mention his involvement in arrests to Eversheds until a number of draft statements were taken is further evidence of the unreliability of his denials in oral evidence of the allegations made against him. **Day 353/104/10 to Day 353/108/11**.

Assault on man at north end of Block 1 of the Rossville Flats.

17.9.1.85 At **AM173.2 paragraph 10 to 13** **Paul McDaid**, who was standing at the south of number 36 Chamberlain Street, described the car park of the Rossville flats as fairly empty. There were between one and two dozen people in the car park. Some people were on the ground, but most people seemed to have already gone through the gap between blocks 1 and 2. He could see two Saracens at the northeast corner of block 1. He did not remember a lot of soldiers, just two or three soldiers standing at the front of the Saracens, who were wearing reddish gear which he knew was the Paratroopers uniform. He could not describe the physical appearance of these soldiers.

17.9.1.86 When he first saw the soldier, he could hear shooting but could not say if this was these particular soldiers who were shooting. From his position at the gable end of Chamberlain Street he saw one soldier who

was at the northeast corner of block 1 ... shoot from chest level in the direction of the gap between blocks 2 and 3. He thought he fired a couple of shots but did not know if he hit anyone. There was a guy coming out of the northeastern exit of Block 1 into the car park. He started shouting and swearing at the soldiers who were standing by this exit. One of these soldiers attacked the man by hitting him with the butt of his rifle.

17.9.1.87 At **AM161.4 paragraph 27** **Charles McDaid** described running on the pavement on the western side of Rossville Street and as he reached just in front of the Rubble Barricade that is to the north of the barricade marked at **AM161.13**. He slowed down. There were people in front of him clambering over the rubble barricade trying to take cover. As the pace of his running slowed he glanced over his left shoulder towards the soldiers he knew to be at the northern end of Rossville Street. He glanced only for a split second and the only scene which he recalled is of a man lying on the ground near the corner of the northern end of block 1 ... with a soldier standing over him. Another soldier who had been running towards Rossville Street from the waste ground to the north of the Rossville flats then laid a boot into the man on the ground. At **Day 060/147/2 to Day 060/147/6** the witness could not elaborate any further on his description. When shown **P486** and **P487** depicting the incident with William Dillon the witness did not recollect that incident. **Day 060/148/7 to Day 060/148/22**. There remains the possibility that this witness saw an entirely separate incident.

17.9.1.88 **Thomas McAdams** saw a paratrooper near a Pig at the north gable of Block 1 move towards a man trying to get into the entrance at the north gable, and strike him with his rifle without provocation. A second soldier then fired a rubber bullet at the man. **AM36.2 paragraphs 11 to 13**.

The Injury to Rosemary Doyle.

17.9.1.89 **Rosemary Doyle** was a 19 year old Knight of Malta who was on duty on Bloody Sunday. She wore a distinctive and easily recognised white coat with a white linen kit bag strapped across the chest. She also had a badge with her name it. At **AD140.2 paragraph 6 to 7** she described walking with her colleague Robert Cadman south along Chamberlain Street to the Rossville Flats car park. People were running to the gaps between the blocks of flats. She and Robert walked north again across the wasteland in the direction of William Street. On viewing **P593**, **P594** and **P595** she accepted that they might in fact have come through the gap between Chamberlain Street and the waste ground. **Day 101/9/14 to Day 101/11/8**. She accepted it was probably herself on the right, Robert Cadman in the middle and Maureen Gallagher on the left in **P595**.

17.9.1.90 They had reached point A on **AD140.11** when a Saracen stopped a short distance to her left-hand side at point B on **AD140.11**. A soldier stepped out of the Saracen with a rubber bullet gun in his hand and fired a rubber bullet in their direction which struck her in the mask on the side of her face. She thought he was half in and half out of the vehicle when he fired. She gave the distance in her 1972 report at **AD140.6** as between 2 feet 6 inches and 3 feet and, although she could not now honestly remember precisely, her 1972 estimate was accurate or very good to accurate. **Day 101/11/13 to Day 101/11/24**. At the time she and Robert were running having heard a cry for help on the western side of Rossville Street. She remembered feeling something hit the side of her mask as she ran. She removed her mask shortly after this and felt the right side of her jaw swell up. She later learned the rubber bullet had cracked some teeth. She could not understand why they were fired at as their Knights of Malta uniforms made them clearly identifiable.

17.9.1.91 Counsel for some of the soldiers stated at **Day 101/23/20 to Day 101/23/23** that he did not dispute she was hit by a rubber bullet or that

rubber bullets were being fired. He referred to the NICRA statement of Robert Cadman at **AC1.1**, his hand written contemporaneous statement at **AC1.22** and his Eversheds statement at **AC1.35** and the statement of Maureen Gallagher at **AG21** and **Day 70/62/15 to Day 70/64/25** who both described Rosemary Doyle as being shot from a moving Saracen. It should also be noted that Maureen Gallagher was also obviously in error when she placed the shooting of Rosemary Doyle at in her 1972 account at Columbcille Court.

17.9.1.92 Robert Cadman's evidence is to be read by the Inquiry. It is submitted that the photographs cited above show the location of the incident and in all probability the soldier involved in the shooting. It is submitted that the account given by Rosemary Doyle is the correct one. Even if that were not the case the other accounts describing the firing of a rubber bullet from a moving Saracen at a woman in medical uniform could hardly be justified by reference to legal use or appropriate discharge of a rubber bullet.

17.9.1.93 The use of the Rubber Bullet gun in such circumstances was clearly not only unwarranted but potentially lethal. It was fired at the head of an innocent civilian clearly identifiable by her medical uniform. **P593**, **P594** and **P595** appear to show Ms. Doyle and two persons with her. They also show Lieutenant N's Pig. **V2/1.47** seconds also shows the discharge of two baton guns from this Pig on stopping. The two baton gunners in this Pig were Soldier 019 and Soldier 112[30].

17.9.1.94 At **Day 343/108/1 to Day 343/109/13** Soldier 019 was asked about his firing on the waste ground. He accepted it was the usual procedure for guys with the baton guns to position themselves by the doors and he himself was positioned at the back close to the doors. He was asked was it the usual tactic to fire rubber bullets almost immediately on de-bussing. He replied that he could not recall. When he was then asked

[30] At **Day 353/161/4 to Day 353/161/12** Soldier 112 gave evidence that he was in Lieutenant N's Pig.

was there a tactic of just randomly firing rubber bullets on de-bussing he replied that he did not think they would fire randomly.

17.9.1.95 Soldier 112 confirmed on Day 353 that he was of the view that he was in Lieutenant N's Pig. He claimed to have fired some baton rounds at a group who he categorised as rioters who were "firing stuff" at us. **Day 353/98/19 to Day 353/99/12**.

17.9.1.96 The evidence before the tribunal is that Soldier 019 and Soldier 112, on his evidence, were the baton gunners in Lieutenant N's Pig. Soldier 013 and Soldier 017, on his own evidence, were the baton gunners in Sergeant O's Pig. If, as appears from the evidence before the Inquiry, they were the four baton gunners who deployed in the area on the day one of these soldiers was responsible for the firing and injury to Rosemary Doyle. On her evidence it could only have been deliberate. On any view and on the evidence of the photographs it constituted reckless and unjustified use of a baton gun.

17.9.2 Patrick "Barman" Duffy Incident.

17.9.2.1 In a 1972 civilian witness statement Patrick Duffy described an incident where a paratrooper fired a baton round at point blank range at himself in the stairwell of Block 1 of the Rossville Flats.

17.9.2.2 Mr Duffy was described in the following terms by Bishop Daly at **H5.2 paragraph 9** "...a Civil Rights steward, a very much respected man in the Bogside area" and a person whom he had personally requested to keep an eye on youths on Bloody Sunday lest they do any damage to property in the William Street area.

17.9.2.3 Soldier 112 in his statement at 20:40 on 4 February 1972 at page **B1731** stated:

"I then took up position further south at the Corner of Block 1 one Rossville Flats and fired a number of baton rounds to disperse rioting persons. I then regrouped some 10 minutes later, at the corner of Pilot Row / Rossville Street ..."

His current evidence before the Inquiry is that he travelled in Lieutenant N's Pig. Soldier 112 gave an account of firing rubber bullets at persons in the car park from the northeastern corner of Block 1, before moving to the northwestern corner of Block 1 to observe the Rubble Barricade. At no time does he say that he entered the Northern entrance to Block 1 of the Rossville Flats.

17.9.2.4 It is apparent from **B1377.006 paragraph 26** that Soldier 006, also from the Mortar Platoon, entered Block 1 of the Rossville Flats and went up the stairwell to look along the balcony. He had travelled in the same Pig as 013 and also must have, if that Soldier's current evidence were accepted, travelled with Soldier 017. In his evidence at **Day 334/64/9 to Day 334/65/12** he confirmed he went into the stairwell but denied any soldier fired a baton gun or used a rifle butt to strike someone in the stairwell. He thought there were about two to three soldiers in his group and was not aware of any other group of soldiers who entered the stairwell whilst he was there.

17.9.2.5 Soldier 013, at **B1406** in his statement to the RMP said – "During the 30 minutes I was in the Car Park at Rossville Flats I fired a total of ten baton rounds at the crowd which numbered about 50 persons of mixed sex..."

In his Eversheds statement at **B1408.003 paragraph 15** he recalled:

"...I was probably over aggressive as a soldier. The Para's ethos is that if someone is going to be violent to you, you attack them. I always used aggression and it worked. It is the best form of

defence. I felt the aggression was justified given what I faced as I got out of the Pig.

17.9.2.6 At **B1408.003 paragraph 16** he remembered chasing a lad into the stairway in one of the blocks of the Rossville Flats. He thought it was the stairway at the northern end of Block 1. He chased him up the stairway and fired his baton round up the stairs...He could not remember seeing any other people in the stairway at that time. He also fired a number of baton rounds at windows in the Rossville Flats as these were also good firing positions. He wanted to keep people away from the windows to prevent them from shooting at the soldiers. He could not now recall which windows he fired at. Soldier 013 therefore admits at one point in the deployment being in the Block and firing a baton round up the stairs.

17.9.2.7 Soldier 013 also referred in his statement at **B1408.003 paragraph 13** in the context of emerging from the Pig to firing his rubber bullet gun but also having a rifle with him but not using it at all that day. At **B1408.003 paragraph 18** he described looking for firing positions and gunmen but did not use his rifle at all. His role was to use the baton gun. The significant point on the face of these parts of his statement is that Soldier 013 had both a baton gun and a rifle with him.

17.9.2.8 **Patrick Duffy** is now deceased but he gave a statement to the NCCL on 1 February 1972 which appears at **AD164.1**:

> "...I was standing at the doorway to the flats at the William Street end. A crowd of people then rushed around the corner and headed for the stairs. Two Saracens then came around the corner into the square behind the flats. These Saracens were travelling very fast and they stopped dead at the corner. I saw a boy who was actually struck by one of the Saracens and his body somersaulted a few times. My view was then blocked by another Saracen which arrived. Two soldiers jumped out of the back and rushed at me in

the doorway. I appealed to the soldiers not to fire gas or rubber bullets as the stairs were packed with women and children. One of the soldiers kicked me in the pelvis and as I did not drop to the ground, he fired a rubber bullet from close range at me. This bullet struck me in the left thigh. The soldier then pointed the rifle at my head and was going to shoot me when William McIntyre tackled the soldier and pushed him out of the way. The other soldier then hit a woman with the butt of his rifle..."

17.9.2.9 On **Day 126/175/25 to Day 126/176/19** Mr. Duffy's son Gavan Duffy gave evidence. He presented the damaged snuff box his father had in his left trouser pocket. He was questioned as follows by Ms McGahey:

MS McGAHEY: Sir, one further matter which has been brought to my attention: I understand, Mr Duffy, that you believe that your father on Bloody Sunday was slightly injured when a rubber bullet was aimed at him; is that right?

A. Yes, that is correct, yes.

Q. Did he tell you of the circumstances in which this had occurred?

A. He told me the soldiers had tried to come into the flats and he tried to prevent them because he told them there were only women and children in the flats and he was actually hit with a rubber bullet. He grabbed the gun and pushed it down and hit him in the leg. He had this in his pocket, you know, and the mark of the rubber bullet is still there clearly to be seen.

17.9.2.10 **Frank Deane** whose NCCL statement appears at **AD16.1** was 65 years old in 1972 and is now deceased.

"...Then the Saracens swung into what was previously Pilots Row. I then ran into the entrance of the High Flats, where there were a number of people including Mrs Mellon and Mr P. Duffy. A soldier ran into the doorway. Mr Duffy said, "There are a lot of women in here." The soldier immediately turned and kicked him in the pit of the stomach and then shot a rubber bullet at him at point blank range. Then the soldier ran out..."

17.9.2.11 **Margaret Mellon** whose handwritten statement appears at **AM400.5** (undated 1972) stated as follows:

"...I got into the front door at the bottom of the multi storey flats when a soldier came running. He struck Mr Paddy Duffy with the butt of a rifle. I got a slap with it as well. When Mr Duffy tried to tell him that there were women present he shot a rubber bullet at close range into his thigh. The soldier kicked Mr Duffy in the groin as he stumbled after being struck with the rubber bullet..."

17.9.2.12 Mrs Mellon made a statement to Eversheds at **AM400.1** and gave oral evidence before the Tribunal on **Day 101** when she was aged 83. She did not recall the details of her 1972 statement.

17.9.2.13 In her Eversheds statement at **AM400.1** she described heading straight for the first entrance at the northern end of Block 1. There were four other people hiding in the entrance to the stairs with her. Barman Duffy, a man called Frank Deane who she knew quite well, a woman in a camel coat and another man she did not know. At **AM400.2 paragraphs 10 to 14** she stated that by the time she reached the staircase entrance there was no one left on the waste ground. She then heard more shooting, this time two or three sharp cracks coming from the north end of Rossville Street. These had a different sound to the shots she had heard earlier and she began to get nervous; she realised that these were probably live bullets not rubber bullets. After a few minutes she tried to make a run for it, however, the shooting was continuous by now and before she was

able to get out of the staircase entrance Frank Deane pulled her back. The next thing she remembered was a soldier coming up to the entrance and sticking his rifle in. Barman Duffy raised his hand and started to say there is only women here, but the soldier lifted his rifle and hit Barman Duffy in the stomach with the butt. Barman Duffy doubled over, holding his stomach and then the soldier cocked his rifle and turned it on the rest of us. She thought he was going to shoot Barman.

17.9.2.14 He slowly pointed it in each of their faces. She was looking directly at him and thought 'oh, no this is it'. She could hear Mr Deane rattling his beads behind him as he said the rosary. She remembered that the soldier was tall and probably in his late twenties with a fair face. He was wearing camouflage clothes and had a beret on his head. She did not remember the colour of the beret, but she did notice that there was no signature or badge on it, which she thought was unusual.

17.9.2.15 **Andrew Barr** at **AB12.2 paragraph 8** described hiding under the stairs in the north east corner of Block 1 and a soldier lowered his rifle to my head and held it pointing down towards him approximately 12 inches away from his head. When the soldier pointed the gun at his head he was looking into his eyes. He was convinced the soldier was going to shoot him. The soldier was "hyped up". As the soldier was pointing his gun at my head Paddy Duffy who was standing at the side of the soldier and Paddy Duffy reached forward and tipped up the gun which the soldier was pointing at him. Paddy Duffy said to the soldier something like "We don't want any trouble here". He clearly remembered thinking that if Paddy Duffy had not done this he would have been shot by the soldier. He still felt that he, and possibly Paddy Duffy, would be shot when an officer came into the flats. He knew this man was an officer because he had pips on his shoulder. He remembered that the officer grabbed the soldier by his shoulder and pulled him out of the flats and gave him some sort of orders..."

17.9.2.16 At **Day 98/17/20 to Day 98/19/1** the witness told Peter Clarke QC that after he had come out from underneath the stairs he went up the stairs more or less together with Barman Duffy. The witness went right to the top but he "lost" Barman Duffy. He said he was positive there were no shots fired in the stairwell.

17.9.2.17 We know on the evidence before the Inquiry that according to Soldier 006 a number of soldiers "two or three" in a group entered this Block. He saw civilians there. He was not aware of any other group of soldiers apart from themselves entering the stairwell when he was there. **Day 334/64/9 to Day 364/64/23**.

In addition Soldier 013 stated he fired a rubber bullet at a lad up the stairs in Block 1 at the Northern End. **B1408.003 paragraph 16**.

17.9.2.18 Given the limited number of soldiers deployed in the area of Block 1 during the relevant short period and the even more limited number of soldiers who admit entry to Block 1 Soldier 006 and Soldier 013 are prime candidates for being present during the "Barman" Duffy incident. Mr Barr only saw one soldier, apart from the Officer who entered at the end of the incident on his description, when it is clear on the evidence of the soldiers there was two or three at some point in the Block when civilians were present. Mr Barr also was "positive there were no shots in the stairwell." **Day 098/19/12 to Day 098/19/22**. He therefore either was not present when Soldier 013 was or he completely missed his firing of a baton gun in the stairwell in which he was present.

17.9.2.19 We do know on the evidence of Mr. Barr at some point he "lost" Mr. Duffy. It is perhaps possible the incident occurred after he had left Mr. Duffy. The evidence of Mr. Duffy as to the number of soldiers present is

though closer to the suggestion of Soldier 006 who entered the Block than is the evidence of Andrew Barr. [31]

17.9.2.20 It is submitted that the evidence of Mr. Duffy himself and the testimony of his son present the most reliable accounts of this incident. The contemporary evidence of Margaret Mellon and the evidence of Mr Frank Deane are clearly corroborative of the accounts given. Given the admission of Soldier 013 as to firing inside Block 1 with his rubber bullet gun he is the most likely candidate for this assault on Mr. Duffy.

17.9.3 Conclusion.

17.9.3.1 It is submitted that the evidence before the Inquiry is overwhelming in demonstrating widespread and systematic brutality by the Parachute Regiment on Bloody Sunday. This brutality and reckless behaviour was endemic amongst the soldiers of Mortar Platoon and others and could only have been engaged in with explicit approval or tacit acceptance by their superiors. This behaviour also demonstrates the mind set of the soldiers on deployment and is highly relevant in assessing the behaviour of those who engaged in lethal force on the day. These soldiers were out of effective command and control and behaved accordingly.

[31] Rosin Stewart described being in Block 1, hearing shooting and being made aware of soldiers outside. She recalled Barnan Duffy being there. She believed when she came down to exit there were no soldiers. She gave no account of any soldiers entering Block 1 or the stairwell. Again, subject to timing, this does not accord with the evidence of even Soldier 006 and Soldier 013. **Day 097/60/9 to Day 097/65/25**.

17.10 Civilian gunmen and bombers

17.10.1 Introduction and summary of submissions

17.10.1.1 The evidence supports the following conclusions:

i) The soldiers were not attacked with nail bombs or petrol bombs.

ii) The soldiers were not attacked with acid bombs or other bombs.

iii) Civilian gunfire was limited to the shots fired by OIRA 4, also known as Father Daly's gunman, at a time and a location which did not impact at all on the actions of the soldiers.

iv) No soldier was wounded by civilian gunfire.

17.10.2 Nail, petrol and acid bombs

17.10.2.1 There is no civilian evidence whatsoever which supports the contention of soldiers of Mortar Platoon in regard to the presence of nail bombers and petrol bombers. Soldier V claimed to have fired at a petrol bomber in the car park of Rossville Flats. Lieutenant N claimed to have fired at a nail bomber in the car park of Rossville Flats. Soldier Q claimed to have fired at a nail bomber at the alleyway between blocks 2 and 3 of Rossville Flats. Soldier R claimed to have fired at a nail bomber in the car park, close to block 1 of Rossville Flats. The civilian evidence would indicate clearly that the accounts of the soldiers with regard to nail bombs and petrol bombs were completely fabricated in order to justify their shooting. As can be seen in our submissions on Observation Posts, the observations of soldiers in these posts do not provide support for the accounts given by the soldiers of Mortar Platoon.

17.10.2.2 There is a limited amount of civilian evidence with regard to the throwing of bottles from block 1 of Rossville Flats into the car park below. Thomas Wilson gave evidence at **Day 84/15/12 to Day 84/16/9**. He confirmed that the bottles thrown from the end of block 1 were thrown by "just a few

kids." He described the bottles as looking as if they contained paint, they were coloured white. Somebody told him later it was diluted acid. It was just somebody passing who gave him this information and he could not remember if it was on the day or subsequently. In his statement at **AW19.5 paragraph 17 to 20**, he described a Saracen being hit by a bottle. A soldier pointed his rifle in response, but the witness did not know if he fired. He heard a shot while the rifle was raised but he thought it might have been fired by someone else near by. In examination by Mr. Glasgow, the witness told the Inquiry that the soldier fired. When he saw a second bottle thrown, the soldier did not fire. This account does not appear in his Eversheds statement and indeed contradicted the earlier account he gave to Counsel to the Inquiry. The Inquiry should be slow to conclude that this witness was able to present credible evidence of an acid bomb attack on the soldiers in the car park of Rossville Flats.

17.10.2.3 The witness **Maureen Gerke** made a statement in 1972, which appears at **AG27.18**. It was recorded there that she saw, being thrown at the Army, "some acid from the multi-storeyed flats." In her Eversheds statement at **AG27.5 paragraph 7**, she recorded that she had no recollection of acid being thrown from roof of block 1 of Rossville Flats, nor did she recall anyone being on the roof of block 1 of Rossville Flats. Sometimes when there were riots, people would get up on to the roof of block 1 of Rossville Flats via level 8:

> "I would not have known if acid was being thrown or not."

She was asked at **Day 133/84/21 to Day 133/84/25**, whether she ever remembered acid being thrown from the flats. She replied that she remembered things being thrown from the flats:

> "...whether I would know if it was acid or not, I could not tell how I would know that."

She confirmed that she could not now remember anything being thrown from the flats on the day. **Day 133/85/1 to Day 133/85/3**. The witness has confirmed in her evidence to this Inquiry that she could not tell how she would have known if it was acid in 1972. The Inquiry is therefore dealing with testimony from a witness who recalls nothing of the events she described in her statement in 1972 and, in 2001, could not say how she would have known it was acid in 1972.

17.10.2.4 It is submitted that there is no significant credible civilian evidence to authenticate the descriptions of acid bombs presented at various times by the soldiers of Mortar Platoon. Notwithstanding the above observations, it remains clear that even on the accounts of the soldiers of Mortar Platoon, the actions in firing at an alleged acid bomber were outside the Yellow Card. The issue of acid bombs was raised and used as a pretext by the soldiers of Mortar Platoon to explain unjustified firing at the Rossville Flats.

17.10.3 **Civilian gunfire**

The Lawton document on civilian gunmen seeks to identify evidence that there were civilian gunmen present in the Rosville Flats on Bloody Sunday. This is addressed in the following section.

17.10.3.1 **Monica Barr**

The witness watched events from her house in [redacted] as the Paratroopers entered the Rossville Flats courtyard. In her Eversheds statement at **AB16.3 paragraph 12**, she recalled seeing a hand sticking out of an open window on the 8th floor of block 1 of Rossville Flats. The flat was approximately in the middle of block 1, but she could not be more precise. The hand, which was holding a pistol, appeared over the top of the window pane. She recalled one shot being fired which made a "pop" sound. The window, she recalled, tilted inwards at the top and outwards at

the bottom. Almost immediately she head a "crack" and saw the wood at the top of the window frame splinter where she presumed a bullet, fired by a soldier below the flats, had hit.

17.10.3.2 The following points arise:

i) She was examined on the difficulties that the type of window she was describing would have presented to someone firing in the manner she described. **Day 148/21/2 to Day 148/25/25**.

ii) It is submitted that the witness would have had considerable difficulties in identifying a person with a pistol in the circumstances described.

iii) It is also clear that a person endeavouring to fire in the manner described would have had considerable difficulty.

iv) The witness would also have had considerable difficulty in identifying the popping sound at the distance of her location from block 1 of Rossville Flats, given the noise and the events in the courtyard.

v) No soldier of Mortar Platoon claims to have seen a gunman at this location. In fact, Soldier T claimed to have fired up towards a balcony in block 1 at a man throwing a bottle containing acid.

vi) When it was suggested to her that her attention might have been drawn high up to the flats of block 1, by a soldier taking aim in that direction from beneath her, she replied:

"I do not honestly remember, I do not know." **Day 148/28/18 to Day 148/28/22**.

vii) Her husband was standing at her side by the window and he did not see the gunman.

viii) OIRA 4 was located in the area beneath her window, from where he fired his shots. The witness did not accept it as a possibility that they were the shots that she heard. However, given her location and the

sounds she heard it is probable that she was hearing the sound of OIRA 4 firing not far from her window, but out of her sight.

ix) It is submitted no other civilian or soldier claims to have seen this reported gunman.

x) Significantly no other soldier claims to have reacted to a gunman at that location.

xi) The witness can only be mistaken in her recollection.

17.10.3.3 **Billy Gillespie**

Peter Pringle of the Sunday Times had a note from a person claiming to have seen a gunman on the fifth floor of the Rossville Flats with an M1 carbine. This person claimed the gunman fired seven shots and three shots were returned at him by the Army. The note made at the time by Peter Pringle is as follows:

> "Story suspect and as yet unconfirmed but as far as I know we haven't had any statements from people who came out of Chamberlain Street at that end as the Army moved into the car park area. Let's face it, no-one in their right minds would have done." **AG34.17**

17.10.3.4 Billy Gillespie, to whom the claim was attributed, denied making it in his Eversheds statement. At **AG33.4 paragraph 23**, he stated that he did not see any civilians with guns that day and would not have known what an M1 carbine would have looked like. Peter Pringle gave evidence at **Day 190/40/15 to Day 190/41/7**. Mr Pringle's evidence was that he considered the story suspect at the time, because they had not heard as story like this and did not hear another like this. The second reason he considered the story suspect was that the firing from the flats would have been from a very exposed position. At his statement to this Inquiry at **M68.255 paragraph 8**, he said that there was one statement he took that did not

make much sense which mentioned firing from the flats and he confirmed that it was this statement, which was attributed to Billy Gillespie.

17.10.3.5 The following issues arise:

i. As Peter Pringle pointed out, this statement was never corroborated by any other civilian witness or journalist. If authentic, it represented an account of a major engagement in the centre of the events in Rossville Flats car park.

ii. As Peter Pringle also pointed out, this firing from the flats was in a very exposed position. It was exposed to military snipers on the Walls, as well as views from the observation posts and the Embassy Ballroom. In addition none of this activity is recorded in the Brigade or Regimental Logs.

iii. The observation of the journalist at the time clearly was one of disbelief. At **M68.255 paragraph 8** he said the following:

"I adopted the rule of thumb that one statement on its own required corroboration and I could find none in this instance."

iv. This story bears no relation to the reality of events in Rossville car park on the day. The story as related to Peter Pringle bears all the hallmarks of an invented account, perhaps given to impress a journalist.

17.10.3.6 No civilian witness, photographer or journalist has given eyewitness evidence to the Inquiry placing a gunman or bomber at the locations at which the soldiers discharged their shots or located their targets. This is because no such targets existed and no reliable civilian evidence refers to such a target. The overwhelming weight of civilian evidence is to the effect that the firing in the car park came from the soldiers on the waste ground and entrance to the car park and that was the direction of the shots fired into the car park.

17.10.3.7 **Peter Beggin**

(i) This evidence remains untested by this Inquiry. The witness reported in 1972 at **M4.3** that some of the Paratroopers who had dismounted advanced across open ground towards the Rossville Flats. Perhaps three or four shots were fired as the Paratroopers ran along in front of Rossville Flats. They were not in firing positions. He did not think any of the Paratroopers near him were firing. His impression which he shared with everyone there at the time was that the shots were coming at them from the direction of the flats. The Paratroopers on open ground in front of the buildings scattered for cover too.

(ii) His Widgery testimony contained a number of caveats at **WT2.6 A-B** When asked were the shots fired by the soldiers he was watching he said no, they did not appear to be. The soldiers scattered very slightly but did not appear to fire at that time. He "assumed" without seeing the individual firing that they came from the direction of the flats.

(iii) In examination by Mr. Hill for the families he accepted that if soldiers in a normal military movement had taken cover they would have been out of his sight. He further accepted that not every soldier was in his sight. " Not every soldier, far from it."

(iv) The witness confirmed that he had only heard rifle fire. It was not suggested to the witness in 1972 that what he may have in fact heard was Lieutenant N's shots. This is an all probability what the witness heard.

(v) Firing at the soldiers from the direction of Rossville Flats is likely to have been a mistaken observation . It is against the weight of the civilian evidence and is inherently unlikely given the number of civilians fleeing in front of and amongst the deploying troops.

17.10.3.8 **Father Bradley**

In the Praxis notes at **H1.65**, Dennis Bradley was noted was saying that he had been told by a colleague "[another priest?]" that there was an Official gunman behind block 3 of Rossville Flats. This man may have fired but he did not know. He said his friend saw the gunman. This is of course not primary evidence of the existence of such a gunman, but the witness stated in oral evidence to this Inquiry that this was a reference to Father O'Gara.

17.10.3.9 **Edward Dillon**

The witness made it clear in his Evershed's statement at **AD45 paragraph 5** that he had no doubt the shots he heard were fired by soldiers. He confirmed this in his oral testimony at **Day 174/89/5 to Day 174/89/8**. He could not pin-point in his oral testimony anything which definitely made him think there was even a possibility of the fire having come from the flats. The witness was asked about when he said that the gunfire was possibly coming from the roofs of blocks 1 and 2, could he indicate what made him think that, even as a possibility, however remote. He answered as follows:

> "No, I told you it was confusing. There was a lot of noise and a lot of echo about at that stage, you know, so I was confused at the time, regarding coming from, coming from the roof of the flats, you know, it was just a, I was not just quite sure. I cannot recall exactly why, why I would have thought that they were coming from that area, you know, because, as I say, there was quite a bit of noise or quite a bit of echo around the area." **Day 174/79/14 to Day 174/80/1**.

He was asked at **Day 174/80/2 to Day 174/80/10** was this in response to a question or a belief he had at the time. He said it was possibly in response to a question. He was not just sure. When asked was it the case that he

could pinpoint absolutely nothing definitely which made him think there was even a possibility that it could have come from the flats, he answered:

"That is correct."

17.10.3.10 It is abundantly clear on the evidence that the witness was confused in his recollection as to the source and direction of the shots on the day. The only logical conclusion on the evidence is that he heard Army firing.

17.10.3.11 **Noreen Donnelly**

In a NICRA statement at **AD127.1** the witness reported a person saying to her to look at a man on the flats with a gun. Also she was told at about Kells Walk not to come in as the boys have guns up in the flats. It is not even clear where these alleged conversations were referring to and could not possibly form the basis of a proper submission of activity by civilian gunmen in Rossville Flats.

17.10.3.12 **Patricia Jarvis**.

This does not purport to constitute evidence of civilian gunman activity on 30 January 1972 at Rossville Flats. In fact the witness was quite positive in her assertion that she did not hear any shots being fired from the flats on the afternoon in question and did not remember seeing anything thrown from the windows of the flats.

17.10.3.13 **Frank Lawton**

In his Evershed's statement at **AL6 paragraph 25**, the witness described his location in his mother in law's flat on the fourth or fifth floor of block 1 looking over the car park. He heard two or three high velocity shots which he said in his previous statements appeared to come from the floors above him in block 1 of Rossville Flats. He also said in those statements that the shots were fired at the soldiers in retaliation:

"I am no longer certain that that shots came from the floors above me in block 1 or indeed were fired in reply or retaliation. The shots sounded to me at the time to come from the southeastern corner of block 1. I also thought at the time that somebody might be having a go at the Army. However, I have since learnt there is a possibility that shots were fired by the Army from the City Walls, from a position south of my mother in law's flat. It could well be that it was these shots that I heard."

The witness gave evidence on **Day 389/131/10 to Day 389/135/13**. He was asked was it the fact that he had learnt since that shots were fired from the City Walls on Bloody Sunday that made him uncertain. He replied as follows:

" I had my doubts about the firing from the flats anyway because the soldiers, later on they were in those flats and they were on the roof and everywhere, as far as I can remember and they did not find anybody. So with hindsight and assumption, I suppose those shots I heard probably did come from a sangar by Governor's monument on the walls. "

At **Day 389/133/22 to Day 389/134/6** the witness was then asked did he see or hear shots fired in the direction of the flats. He replied "yes" as far as he could remember. He was asked did this happen after the Scaracen had picked up the bodies. He replied "no" he did not think it was although at **Day 389/132/7 to Day 389/132/10** he had said it was. All this seemed to be happening at once and there was definitely shots fired above the floor he was on. He had learned a few hours after the incident about the shots at Fulvio Grimaldi. At **Day 389/135/8 to Day 389/135/13** he said the following:

" .. it is very difficult to pinpoint actually where these shots did come from, because I was in a flat on a fifth floor in this position we

are talking about, the sound of the position was way up to my left so it could have been coming from anywhere around that direction."

It is clear that the current evidence of the witness to this Inquiry is that although in 1972 he believed he had heard shots coming from above him in the Rossville Flats he had doubts within a very short time afterwards. The witness also made the clear point himself that it was very difficult to pinpoint where these shots came from because he was in a flat on the fifth floor.

It is submitted that the witness clearly had substantial doubts about the evidence he gave in 1972 and he held an honest but mistaken belief that the shots he heard came from the direction of the flats to his left. It is much more likely that the witness heard army fire and was attempting to place the firing he heard into the context of fast moving and confusing events.

The current evidence of this witness is such that the Inquiry ought not to conclude that this witness was correct in 1972 in placing high velocity shots fired from the location he mistakenly believed them to have been fired from in 1972.

17.10.3.14 **Thomas McGlinchey**

The witness gave a statement at **AM249** and oral evidence to the Inquiry at **Day 053**. This does not purport to the evidence of the activity of IRA gunmen on the roof of the Rossville Flats either before or on Bloody Sunday. The witness was reporting something he read in newspapers that the flats had been used as a vantage point prior to Bloody Sunday.

17.10.3.15 **Eunan O'Donnell**

The witness gave a statement at **AO28** and gave oral evidence to the Inquiry at **Day 54**. He had described standing at the corner of Kells Walk, when took cover from a volley of shots. Mr. Elias questioned him at **Day**

054/119/22 to Day 054/120/25. He was asked did he think the volley of shots came from somewhere high up, either in or on the Rossville Flats. The witness said quite clearly at **Day 054/120/22 to Day 054/120/23** that "...I mean, I would never have thought they came from the top of the flats."

17.10.3.16 **Observer B**

The Inquiry is referred to our submissions on the status of Observer B, which appear at section 12.5.6.

17.10.3.16 **Officer A/Infliction**

The Inquiry is referred to our submissions on the status of Infliction which appear at 26.2.

17.10.3.18 **Sunday Times working papers**

S260. The Inquiry is referred to the submissions on Billy Gillespie at 19.10.3.4 above. The Sunday Times working papers referred to includes the following observation, of direct relevance to Bloody Sunday:

> "...the flats themselves are rarely used by IRA snipers for the simple reason that Army return fire would endanger too many non-combatants."

17.10.3.19 **Derrick Tucker**

AT16.11 contains an extract from his Widgery oral evidence. This evidence contains a question to Mr. Tucker regarding shooting from the Rossville Flats. His answer was:

"There was no shooting on that Sunday."

17.10.3.20 **John Barrett**

This witness is referred to in the Lawton document as seeing an OIRA Man between the gaps of Rossville Flats blocks 1 and 2. There was no suggestion that the man was armed.

17.10.3.21 **Hugh Foy**

This witness in his Eversheds statement at AF29.4 paragraphs 19 and 21 described the arrival of soldiers at the car park of Rossville Flats. He had the impression that the soldiers were shooting into a crowd of people in the Courtyard. There had been a gap of no more than a second or two between There were shots echoing all over the place. He clearly heard the same cracking noises as shots were fired and ,at the same time, he could recognise the sound of shots being fired in one burst from a machine gun.The machine gun seemed to be coming from the same direction as the rifle fire but from slightly further away from him perhaps from the area of waste ground to the east of Rossville Street to the east of Rossville Street near to Pilot Row. There seemed to him to be shots being fired in the area near to him and shots being fired further away from him. He was not aware of any shots being fired from block1 of the flats or shots being fired towards block 1 of the flats.The whole scene lasted no more than 30 seconds during which time there were perhaps a hundred shots which appeared to be fired, but he may have been hearing the echoes of shots.There was just one burst of machine gun fire.

(i) The witness was asked at **Day 146/106/3 to Day 146/106/12** was he sure of the location where he heard automatic fire was at the junction of Rossville Street and William Street rather than at the location he had described. He answered "Now I cannot say for certain now". It is not accepted that the witness heard automatic or machine gun fire at any location on the day.

(ii) The witness' evidence of firing in the location described in his Eversheds statement is inherently unlikely.It does not accord with the civilian evidence as to gunfire in Sector 2 ON the day.It does not accord with the testimony of the soldiers of Mortar Platoon who did not indicate they were fired on by a burst of machine gun fire from their rear.

17.10.4 **Role and responsibility of civilian gunmen and bombers in Sector 2**

17.10.4.1 There is no credible or reliable evidence identified in the Lawton document upon which the Inquiry could rely on to find that the Army were fired on by civilian gunmen in the Rossville Flats on Bloody Sunday. Further, with the exception of OIRA 4, there were no weapons fired by civilians at the Army in Sector 2 on Bloody Sunday. In addition there were no petrol or nail bombs used against the Army in Sector 2 on Bloody Sunday. Contrary to the evidence of the soldiers of Mortar Platoon, they fired not at civilian gunmen, petrol bombers, nail bombers or acid bombers, but at innocent civilians in an unlawful and reckless manner.

17.10.5 **Father Daly's Gunman.**

17.10.5.1 Father Daly's gunman was seen as Jackie Duddy was about to be lifted and carried from Rossville Flats Car Park. Father Daly saw a man move along the southern gable wall of the last house on the western side of Chamberlain Street. He described the man at the time as appearing to be in his thirties and wearing a brown car coat. He suddenly appeared at the corner of this house and moved along the gable. Suddenly the man produced a small hand gun and fired two or three shots around the corner at the soldiers. Father Daly recalled that the soldiers in this area were facing the flats and were stepping out in the open from time to time. He

could not recall the soldiers reacting or firing in his direction. He did not believe that they were aware of the gunman. They screamed at the gunman to go away because they were frightened that the soldiers might think that the fire was coming from where they were located. The gunman looked at them and just drifted away across or into the mouth of Chamberlain Street. **H5.6 paragraph 24**.

17.10.5.2 **Father Daly's** evidence establishes that the gunman who we now know as OIRA 4 fired his shots at a late stage in the car park certainly following the shooting of Jackie Duddy and Michael Bridge. It was after this that the group carrying Jackie Duddy's body were about to move off when he saw OIRA 4 fire. It is clear that OIRA 4's shots were fired in the direction of the soldiers in the waste ground and that the soldiers did not react to these shots in any way. They did not return fire. OIRA 4's shots did not influence the actions of the soldiers on the day in any way and had no influence on the shooting into the car park and towards the flats.

17.10.5.3 A number of witnesses to the Inquiry saw OIRA 4 fire his pistol. He can be seen in **E14 004** and **E14 005**. OIRA 4 has made a statement to the Inquiry in which he admits to being the gunman seen by a number of witnesses although inevitably the descriptions provided by the witnesses have some variation.[32]

17.10.5.4 The witness **Patrick Doherty** described hearing someone shout about an Official IRA member carrying a handgun. He accepted in evidence that the incident might have happened after Jackie Duddy and Michael Bridge had been shot. **Day 085/23/4 to Day 085/23/15**. This witness is likely to have been reporting a conversation concerning the activity of OIRA 4 if his evidence can be considered in any way reliable.

---

[32] John Barry **M3.5 paragraph 20**; Robert Brady **AB71.1 paragraph**; James Donal Deeney **AD26.5 paragraph 19**; Francis Dunne **AD173.27 paragraph 22** ; Maureen Gerke **AG27.4 paragraph 16**; John McCrudden **AM152 paragraph 16**; Brian Magee **AM220.6 paragraph 27**; Denis Mullan **AM449.2 paragraph 13**; Joseph Nicholas **AM17.4 paragraph 16**; Susan North **M35**; Patrick Walsh **AW5.16 paragraph**; James Norris **AN20.4 paragraph 17**; Thomas Wilson **D84/85/4 to D84/87/7**appers to have described Father Daly's gunman .It would appear Charles McLaughlin also described Father Daly's gunman at **AM322.2 paragraphs 16 to 17**.

17.10.5.5 **Gerard Doherty** gave a statement to the Inquiry at **AD65.1** and a supplementary statement at **AD65.17**. He gave evidence at **Day 400/56/19 to Day 400/58/17** and confirmed that on Bloody Sunday he seen a gunman. It was clearly OIRA 4.

17.10.5.6 **William Harley** gives a description of OIRA 4's activity. In his Eversheds statement at **AH36.5 paragraph 30**, he described the incident. He clearly made errors in the description of OIRA 4 and the number of shots fired. He was also wrong about the timing of this incident. In his evidence to the Inquiry at **Day 077/29/17 to Day 077/29/23**, the witness corrected the error he had made as to timing. He now accepted that the gunman fired around the corner while Jackie Duddy's body was lying on the ground.

17.10.5.7 **Peter McLaughlin** gave a clearly recognizable account of the incident in his statement to the Inquiry at **AM352.2 paragraphs 11 to 15**. He placed the gunman as firing up Chamberlain Street. However, having placed the gunman on the gable wall to the east of Chamberlain Street, after thirty years he could no longer be certain. **Day 174/12/2 to Day 174/12/6**. The witness was asked was it possible that he saw the same gunman as his father, Charles McLaughlin, who had described seeing the gunman fire several live shots towards the waste ground. He replied at **Day 174/12/1**: "It is possible." This is clearly a description of OIRA 4 and the witness has accepted it was possible he was firing in the direction of the waste ground.

17.10.5.8 **Frank Lawton** gave evidence to the Inquiry on **Day 389.** He gave an account to the Inquiry of seeing a gunman firing up Chamberlain Street. Mr. Lawton had not mentioned the gunman in his 1972 statement or in his statement to the Inquiry at **AL6.** He did give a Praxis interview the notes of which appear at **O8.1 to O8.2**. He had described an elderly man with long raincoat and flat cap running about and having fired a hand gun as far a he could see along the street where the soldiers came down. He did place this incident after the shooting of Jackie Duddy. He described seeing

four or five shots fired along the street and the man then disappeared. There are differences in the detail of the description between the age of the man and that of OIRA 4 as well as OIRA 4's evidence that he was not wearing a flat cap. In addition he described the man as firing up Chamberlain Street significantly though there is a further Praxis Note **O8.13** which reads as follows; "... Duddy carried away, gunman ran along wall pulled out pistol... fired at troops stopped by three people thrown against wall and "admonished". Could have been a point 22 or even a starting pistol". This description attributed to the witness is clearly a description of the actions of OIRA 4. If this is the case the overwhelming evidence is that OIRA 4 fired towards the mouth of the car park and not up Chamberlain Street. The witness agreed with Counsel for the soldiers that the man he saw fired up Chamberlain Street yet at **Day 389/142/21 to Day 389/144/11** the witness agreed with the proposition advanced by Counsel for OIRA 4 that it could be right that the movements and actions of the man he saw accorded with the movements and actions of OIRA 4.

17.10.5.9 However he changed his position again to Counsel to the Inquiry that the man fired up Chamberlain Street. At the very least the witness could only be described as wholly unsure which direction he saw the gunman point his weapon or fire.

17.10.5.10 The Lawton document refers to a socialist worker pamphlet by Eamonn McCann at T9 which included information that a member of the Official IRA fired a point 38 revolver into Chamberlain Street after seeing Jackie Duddy shot. It is clear in the context of the Evershed's statement at **AM77.6 paragraph 34** of Eamonn McCann and his evidence at Day **87/40/1 to Day 87/44/25** that the author was referring to the man known as Father Daly's gunman . At **L236** is an article in the Sunday Tribune the individual concerned is quoted as follows: " I drew the gun and edged along the wall and fired either two or three shots towards the Paras in the Rossville Street vicinity." This version clearly accords with the bulk of the civilian evidence and the evidence of Father Daly himself as to where the

gunman fired. OIRA 4 has confirmed he fired in the direction of the waste ground.

17.10.5.11 Given the fact that Chamberlain Street at that stage had army personnel and at least one vehicle in it there is no report from the soldiers of an engagement or a sighting of a man with a pistol at that location. It appears overwhelmingly likely that the reports of a man firing a pistol up Chamberlain Street are simply versions of sightings of OIRA 4 and his activities.[33]

17.10.5.12 **Bernard Gilmore** at **AG38.4 paragraph 24** described a man with a gun firing a few shots along Chamberlain Street whilst the soldiers were coming down in that direction. At **Day 88/14/18 to Day 88/14/23** he was asked which hand the man had the gun in when he was firing some shots along Chamberlain Street. He answered that if the man was firing up Chamberlain Street it was his left but if he was firing at the waste ground it was his right. He could not remember which he was firing at. At **Day 88/15/21 to Day 88/15/23** the witness said that there was only one man there at that wall at that time so he assumed that he must have been firing at the waste ground.

17.11 **Missing casualties**

17.11.1 There were no unaccounted for missing casualties in Sector 2. All persons killed and wounded in Sector 2 were accounted for. The people who were shot were not gunmen or bombers, but the innocent civilians who have been accounted for.

[33] The enhanced photographs **E14 004,E14005** show clearly the location and direction of OIRA 4's activity which he described at **AOIRA4.18** as shooting in a westerly direction towards the Scaracen and the Paras near the Scaracen.

17.11.2 As is the case in other sectors the issue of so-called missing casualties is a distortion of the reality of events on the ground and a diversion from the reality that the casualties on Bloody Sunday have long been accounted for. The document submitted by the legal representatives of the soldiers at **OS7.36**, places a "missing casualty" in the Rossville Flats car park based on the evidence of John McIntyre. At **AM286.3 paragraph 16** he had described a young man sprawled on tarmac with no one attending him. The witness gave evidence on **Day 92/150/3 to Day 92/150/23** and his unchallenged evidence was that he believed this person to be Jackie Duddy.

17.12 **Conclusions**

17.12.1 Shortly after 4.15pm on the 30th January 1972, a convoy of soldiers from Support Company entered the Bogside. Soldiers P, U and 017 of Mortar Platoon debussed to the western side of Rossville Street. The rest of Mortar Platoon in Sergeant O's Pig and Lieutenant N's Pig debussed on the eastern side of Rossville Street. Lieutenant N's Pig ended up on the waste ground and Sergeant O's Pig at the mouth of the Rossville Flats car park.

17.12.2 Alana Burke was knocked down by Sergeant O's Pig as they entered the Rossville Flats car park. Lieutenant N debussed from his Pig and fired shots above the heads of civilians at Eden Place.

17.12.3 The soldiers of Mortar Platoon, on debussing, engaged in a series of unlawful and unprovoked physical assaults on civilians. Soldiers of Mortar Platoon also engaged in the reckless and wholly unwarranted misuse of rubber bullet guns on the waste ground and in the courtyard of Rossville Flats.

17.12.4 Soldiers of Mortar Platoon wounded Peggy Derry and then murdered Jackie Duddy in the car park of Rossville Flats. They then wounded Michael Bridge and Michael Bradley. Patsy McDaid was then injured by a doctored rubber bullet.

17.12.5 Soldiers of Mortar Platoon engaged in unlawful and reckless shooting into the car park of Rossville Flats and at the flats themselves. They did not come under attack from gunmen, petrol bombers or nail bombers. They were not attacked by acid bombs. There was no action by any person towards the soldiers, which could have been perceived as posing a threat such as to justify the use of lethal force.

17.12.6 The deceased and wounded were unarmed when shot and no action taken by any of the deceased or wounded justified the use of live rounds or the use of lethal force.

17.12.7 **Role and responsibility of soldiers of Mortar Platoon in Sector 2**

17.12.7.1 **Lt. N**

It is alleged as follows:

i) At the time of Bloody Sunday, Lt. N was mentally unstable and was unfit to be serving as an Army officer on active duty in Northern Ireland.

ii) Whether or not he was mentally stable, he was an inadequate officer with insufficient experience to be entrusted with the responsibility of leading the entire body of Support Company into the Bogside to carry out an arrest operation in the midst of a dispersing crowd.

iii) He failed to take any or adequate steps to acquire sufficient understanding of the conditions in Derry and the Bogside in particular.

iv) He failed to take any or adequate steps to obtain clear guidance and instructions about the purpose of the operation to be undertaken by his battalion; his own role and that of his platoon; any restrictions and constraints imposed on the operation, concerning in particular the geographical limits of their deployment, the use of their firearms

and their contingency plans in the event of gunfire of any kind; and the likelihood of coming under fire.

v) He failed to give any or adequate briefing to the members of his platoon concerning these matters and, if anything, permitted or encouraged them to believe that they were likely to come under sniper fire, that they ought to adopt aggressive tactics, that they ought to cock their rifles before debussing and that they were free to respond to any real or perceived threat by firing at civilians rather than disengaging in an orderly fashion.

vi) Instead of stopping at the junction of William Street and Rossville Street when he realised that the rioters has dispersed into the Bogside, he led the entire convoy into a situation in which soldiers were bound to and did debus and deploy in the middle of dispersing crowds.

vii) The upshot of the circumstances described was that the mostly young, relatively inexperienced, over-aggressive members of his platoon deployed in an unfamiliar, unfriendly environment in a heightened state of tension under a misapprehension about the nature of the threat facing them while straining at the leash to teach the Bogsiders a lesson with their rifles cocked and ready to use lethal force on the slightest pretext.

viii) When his platoon debussed, he exercised no supervision or control of any kind over his men at any stage during the material events even when it was obvious that they were shooting at innocent civilians.

ix) Virtually his first act on debussing was to fire, in breach of the Yellow Card, at or above the heads of civilians, thereby encouraging his own men and other soldiers in the vicinity to open fire on civilians.

x) The shots he fired at Eden Place were the first shots he heard after the paratroopers entered the Bogside. Whether his shots were construed by others soldiers as hostile fire or Army fire, they were apparently interpreted by some as a "green light" to open fire.

xi) Lt N was asked whether he had fired in panic or as an overreaction but the more obvious explanation is that, since he had fired "warning

shots" before without any "fuss" being made about it, he simply believed that he could shoot at or above the heads of civilians with impunity, an attitude he is likely to have shared with or even encouraged among the men under his command.

xii) By the time he turned his attention to the Rossville Flats courtyard, it is likely that Peggy Deery and Jackie Duddy had already been shot. However, far from calling a ceasefire or seeking to restrain his subordinates, he himself shot Michael Bridge when he clearly posed no threat and was doing nothing more than protesting about the shooting of Jackie Duddy. Insofar as Lt. N was leading by example, he thereby further encouraged soldiers from his platoon to continue firing without justification at unarmed civilians, intending to kill such civilians and reckless as to the possibility of killing or wounding others in the process.

xiii) He then personally supervised the removal from the rubble barricade of the bodies of Michael McDaid, John Young and Willie Nash in a manner that was callously disrespectful and insensitive.

xiv) Following the shootings, he covered up his and his men's criminal behaviour by inventing accounts of nail bombers and gunmen while pretending not to have noticed any shooting by his own men.

xv) As leader of the platoon whose members shot dead Jackie Duddy and wounded Peggy Deery, Patrick McDaid, Michael Bridge, and Michael Bradley, Lt N bears a personal responsibility for murdering Jackie Duddy and causing grievous bodily harm to Peggy Deery, Patrick McDaid, Michael Bridge and Michael Bradley.

17.12.7.2 **Sergeant O**

Sergeant O was a religiously sectarian, anti-Irish racist who, as the senior NCO in the platoon, was largely responsible for permitting and fostering within Mortar Platoon a culture of racist hostility towards Irish Catholic civilians superimposed on a tolerance of an over-aggressive, trigger-happy attitude among paratroopers when dealing with public disorder.

i) He regarded his involvement in Derry as an opportunity to "sort out" Catholic civilians. He saw no distinction between rioters and marchers.

ii) In breach of the Yellow Card, Sergeant O cocked his rifle in the Pig even before going through Barrier 12 and he thereby encouraged all the men in his Pig to do likewise.

iii) As commander of his Pig, he either caused or permitted the driver to knock down Alana Burke as they entered the Rossville Flats courtyard.

iv) Even though Lt N's Pig turned back towards Eden Place, Sergeant O took his Pig right into the courtyard of Rossville Flats.

v) Leading his men by example, he debussed and immediately started clubbing innocent civilians with his rifle.

vi) Shortly after debussing, he began to start firing without justification at civilians.

vii) He exercised no supervision or control over his men and did not even see it as part of his responsibility to monitor the firing by other soldiers.

viii) His accounts of his own firing and that of his men are false.

ix) Bearing in mind his prominent location beside his Pig, he must have been aware of the involvement of his men in shooting Jackie Duddy, Peggy Deery, Patsy McDaid, Michael Bridge and Michel Bradley.

x) Since his account of his own extensive shooting is demonstrably false, he may personally have shot one or more of those who were killed or wounded in the Rossville Flats courtyard.

xi) Whether he personally shot any of the victims, his role both as senior NCO in the platoon and in the way he conducted himself on the ground, renders him at least jointly responsible for the murder of Jackie Duddy and the wounding of Peggy Deery, Michel Bradley, Michael Bridge and Patsy McDaid.

xii) He covered up his own and his men's criminal conduct by fabricating accounts of civilian gunfire and petrol bombing and falsely denying that he witnessed any improper shooting by any of his men.

17.12.7.3 **Corporal 162**

i) It is apparent from the interviews that this soldier clearly gave to Neil Davies of Praxis that he and other soldiers had "almost a free hand" and could "get away with murder" in Northern Ireland.

ii) It is also apparent from the Praxis transcripts that, contrary to his denials, he did see other members of his Platoon firing and saw some of them firing from the hip.

iii) Even though there is no evidence that he fired himself, he failed to exercise any supervision or control over any of his subordinates.

iv) It was probably Corporal 162 who struck William Doherty in the face with the butt of his rifle following his arrest.

v) He also covered up the criminal conduct of members of his Platoon by inventing accounts of automatic fire and denying that he had seen other soldiers' fire.

17.12.7.4 **Lance Corporal V**

i) Lance Corporal V probably shot Jackie Duddy. He did so without any justification.

ii) He failed to exercise any supervision or control over his subordinates even though he was in a position to witness the shooting by other soldiers.

iii) He was one of the two soldiers who assaulted Charles McMonagle.

iv) In order to cover up his own murder of Jackie Duddy and the unlawful shooting by other members of his Platoon, he fabricated accounts of hostile civilian activity and falsely denied seeing other members of his Platoon shooting at civilians.

v) He altered his own false account of the shooting in order to conceal that he had, by his own admission, murdered a civilian.

17.12.7.5 **Private S**

i) Soldier S fired at least 12 shots. He claimed not to recall the shots but deferred to his 1972 statements which, by his own admission, were false.

ii) It is therefore impossible to know whether he was responsible for any of the casualties in the Rossville Flats courtyard but since he fired at least 12 shots and a number of these were probably fired from the hip, he may very well have been personally responsible for shooting one or more of the civilians hit in that area or indeed Patrick Campbell in Sector 5 through the gap between Blocks 1 and 2.

iii) He also lied in an attempt to justify the shooting and cover up the criminal conduct of other members of his Platoon. In particular, he invented an account of seeing a civilian gunman, in support of Sergeant O's account of firing at such a gunman.

17.12.7.6 **Private Q**

i) After Lance Corporal V, Private Q is the soldier most likely to have shot Jackie Duddy. He fired without any justification.

ii) He invented accounts of hearing low velocity fire and of a nail bomber in the courtyard.

17.12.7.7 **Private INQ 1918**

i) Private INQ 1918 claimed to have fired no shots.

ii) Despite the clear evidence that he was in close proximity to Lt N, he claimed to have been unaware of Lt N's firing and falsely claimed to have no memory of anything to do with Bloody Sunday.

iii) He is identified by Jeffery Morris as having been one of the two paratroopers who forced him against a wall, put a rifle across his neck and kicked him on the thigh. He was also seen by Mr Morris to hit Duncan Clarke on the head with his rifle butt.

17.12.7.8 **Private 019**

i) Private 019 does not appear to have fired any shots.

ii) However, he made up false accounts of hearing civilian gunfire in order to justify the shootings by others.

iii) Although he denied it, he was obviously the source of the Praxis interviews in which he discussed the paratroopers' involvement in dirty tactics, "set- up situations", murdering civilians and fabricating evidence as well as giving an account of Lt N firing first and suggesting that he had "lost it".

iv) He may have been the soldier who fired his baton gun at point blank range at both William Doherty and Duncan Clarke.

17.12.7.9 **Private 112**

i) Private 112 was armed with a baton gun and claims not to have fired any live rounds.

ii) He invented accounts of hearing Thompson submachine gunfire and low velocity fire.

iii) He denied seeing any soldiers opening fire.

iv) By his own admission, he fired his baton gun indiscriminately at the crowd on the waste ground after he debussed.

v) He made a false statement claiming that he had arrest Eamonn McAteer after having seen him throwing stones in Rossville Street.

17.12.7.10 **Private R**

i) Private R is a possible candidate for shooting either Jackie Duddy or one of those who were wounded in the courtyard.

ii) In order to conceal his own and his Platoon's criminal conduct, he invented accounts of hearing high and low velocity incoming fire including Thompson submachine gun fire and seeing a nailbomber whom he claimed to shoot.

iii) In particular, he made a false statement purporting to support Sergeant O.

17.12.7.11 **Private INQ 1579**

i) As the driver of Sergeant O's Pig, Private INQ 1579 was responsible for knocking down Thomas Harkin and Alana Burke. He claimed to fire no shots himself.

ii) He falsely claimed to have heard incoming fire and to have smelt petrol and acid.

17.12.7.12 **Soldier 006**

i) Soldier 006 was the only member of Mortar Platoon prepared to say that he neither saw nor heard any civilians engaged in any attack on soldiers in the form of shooting or bombing of any kind. The only gunfire he heard was that of Army SLR's.

ii) He was involved in arresting William Dillon and was one of the soldiers who picked up the bodies on the Rubble Barricade. His role as well as that of the other arresting Soldiers and allegations in respect of those arrests have been examined at section 17.9.

17.12.7.13 **Private INQ 768**

i) Private INQ 768 claims not to have fired any shots.

ii) However he also was involved in covering up misconduct of other members of his Platoon claiming to have heard a short burst of incoming automatic fire and claiming not to have seen any soldier firing, even though he was within yards of S, T, R and Q.

17.12.7.14 **Private 013**

i) Private 013 was a baton gunner and claimed not to have fired any live rounds.

ii) He probably fired the baton round which struck Patsy McDaid. As such, it was probably he who modified the baton round in order to cause maximum injury.

iii) He fired his baton gun indiscriminately, including a number of rounds at windows in Rossville Flats.

iv) He also invented an account of hearing incoming fire.

v) This witnesses attended at Central Hall Westminster to give evidence but refused to do so, apparently citing medical reasons which had not previously been suggested.

17.12.7.15 **Private T**

i) Private T claimed to have shot at an acid bomber on a balcony in Block 1. Nobody in that location was shot. He too claimed to have heard civilian shooting.

17.12.8 **Conclusion**

17.12.8.1 With the exception of Soldier 006, the soldiers of 1 Para, identified in these submissions perverted the course of justice, individually and collectively, by concealing the criminal behaviour of their colleagues in Support Company and ensuring they would evade prosecution for their crimes. Those who gave dishonest evidence on oath also committed perjury.

Appendices : 1-7

Appendix 1 – Table 1 Deployment of Mortar Platoon

Appendix 2 - Table 2 Shooting by Soldiers (1&2)

Appendix 3 – Table 3 When shots first heard

Appendix 4 – Table 4 Possible order of shots fired

Appendix 5 – Table 5 Civilian gunmen and bombers

Appendix 6 - Table 6 Order in which RMP statements taken

Appendix 7 – Table 7 Evidence of C Company civilian gunmen and bombers

Appendix 1

FS 1-1392

APPENDIX 1 – SECTOR 2 - SOLDIERS' EVIDENCE
TABLE 1 - DEPLOYMENT OF MORTAR PLATOON

PIG 1

SOLDIER	ROLE	PLACE IN PIG	MOVEMENT AFTER DEBUSSING	ARRESTS
Lt.N	C.O.	Front passenger seat	Eden Place, then along back of Chamberlain St. towards carpark	None
Corp 162		Back	Eden Place, then along back of Chamberlain St, took prisoner from O	None
O19	Baton gun	Rear door	Eden Place	None
INQ1918	Radio Operator	Directly behind Lt.N	Eden Place	D Clarke
L/ Corp V		Back	Along back wall towards 36 Chamberlain St.	None
S	Driver	Driver's seat	Along back wall towards 36 Chamberlain St	None
Private Q		Back	Across waste ground to NE corner Block1	None
112	Baton gun	Rear door	NE corner of Block 1, then NW corner.	E. McAteer

PIG 2

SOLDIER	ROLE	PLACE IN PIG	MOVEMENT AFTER DEBUSSING	ARRESTS
Sergeant O	C.O.	Front passenger seat	Left (east) side of Pig and behind Pig	W Doherty
Private T (Dec'd)		Back	Right (west) side of Pig	None
Private U		Back	Debussed in Rossville St., ended up at NW corner of Block 1.	C Canning
Corporal P		Back	Debussed in Rossville St, moved to Kells Walk.	None
Private R	Vehicle guard		Debussed in Rossville St., then to Pig 2 via NE corner of Block 1.	None
O17	Baton gun	Left rear door	Debussed in Rossville St, moved to Kells Walk.	None
O13	Baton gun	Right rear door	Into stairway at northern end of Block 1.	None
OO6		Back	Debussed in Rossville St, en stairwell of Block 1.	None
INQ1579	Driver	Driver's seat	Behind Pig (but also recollects seeing the rubble barricade)	None
INQ768		Back	Behind Pig	None

S 1. 1393

Appendix 2

FS 1.1394

APPENDIX 2- SECTOR 2 - SOLDIERS' EVIDENCE
TABLE 2 - SHOOTING BY SOLDIER

Pig 1

Soldier	Location	Target	Description	Shots	Seen by	Hit	Possible Victim
N	Eden Place	1. Rioters in Eden Place (warning shots)		3	019	None	None
	Rear of Chamberlain St	2. Nail bomber in car park		1	None	Yes (right thigh)	Michael Bridge Peggy Deery
S	Rear of Chamberlain St.	Man with rifle between Blocks 1&2 (4 times)		3	V & O	Not sure	Peggy Deery Jackie Duddy, Michael Bradley.
				3		Yes	
				3		Believed not	
				3		Yes	
Q	North end of Block 1	Nail bomber at alley between Blocks 2 &3	Black windcheater, medium height, brown hair	1		Yes (aimed at chest)	Jackie Duddy
V	South of wire fence, midway along	Petrol bomber in car park	Dark suit, white shirt, long dark hair. Attended by men, including priest	1	None	Yes (stomach)	Jackie Duddy

FS1.1395

Pig 2

Soldier	Location	Target	Description	Shots	Seen by	Strike	Possible Victim
O	East (left) side of Pig	1. Man with pistol behind Cortina towards south end of Block 3		3	R, S? T?	Yes (chest)	No match
		2. Man with M1carbine on balcony at South end of Block 3		3	S &T?	Yes (probably head)	No match
		3. Alley between Blocks 2 & 3		2		Believed Not	No match
R	NE corner of Block 1 OR back of pig OR somewhere in between the above 2 locations	1. Nailbomber in car park close to Block 1	Male, 20's, slim, 5'10", dark hair, slacks (dark in one statement light in another)	1		Yes (Right shoulder)	Jackie Duddy
		2. Man with pistol at junction of Blocks 2&3		3	005	Not sure	No match
T	Right side of Pig	Acid bomber on balcony at Block 1		2		Not known	No match

PS1-1396

Appendix 3

FS1.1397

APPENDIX 3 - SECTOR 2 - SOLDIERS' EVIDENCE

TABLE 3 - WHEN SHOTS FIRST HEARD

Pig 1

Soldier	Before debussed	As debussed	After debussed	Type
Lt N	No	No	Yes (after collecting bodies from Barricade)	HV
V	No	Yes		
Q	No	No	Yes (when arrived at NE corner of Block 1)	LV
S	No	Yes		
019	No	No	Yes (at Eden Place)	HV Rifle
[illegible]2	No	Yes		Automatic
112	No	No	Yes (after arrest)	HV
INQ1918	No	No	Yes	

Pig 2

Soldier	Before Debussed	As Debussed	After Debussed	Type
O	No	No	Yes (after arrest made)	All types
T(dec'd)	No	No	Yes (30 - 45 secs after debussed)	Rapid LV fire perhaps semi- automatic.
U	Yes			Automatic
P	No	No	Yes (when reached Kells Walk)	
[illegible]	No	No	Yes (after had run 50 yds.)	HV, LV and Thompson SMG
006	No	No	Yes (after arresting Dillon)	**SLR only (NB)**
INQ1579	No	Yes		
013	No	No	Yes (bangs all around)	Can't say
017	No	No	Yes (after took up position in Rossville St)	
INQ768	No	No	Yes (soon after debussed)	Automatic

Appendix 4

FS 1. 1399

APPENDIX 4 - SECTOR 2 SOLDIERS' EVIDENCE
TABLE 4 - POSSIBLE ORDER OF SHOTS FIRED[1]

Soldier	Towards	Shots	Remarks
Lt N	Eden Place	3	N heard no shots before his own. He fired soon after debussing from Pig 1. Pig 2 had been delayed by stopping on Rossville Street and soldiers from that pig appear to have debussed in the car park after those in Pig 1.
S	Junction of Blocks 1 & 2	12	S said he fired after O had fired. But if (a) Peggy Deery was shot by a soldier from Pig 1, (b) N's one shot into the ca rpark hit Michael Bridge and (c) V's one shot into the car park hit Jackie Duddy, this would leave S as the only other shooter from Pig 1. If he hit Peggy Deery with 1 of his 12 shots, he was the first to fire a shot that caused an injury.
V	Car park	1	Trajectory matches Jackie Duddy, who was probably the second person hit.
R	Car park near Block 1	1	R said that he fired before O, which would mean he was the first in Pig 2 to fire.
[illegible]	Car park	1	N claimed to have hit his victim in the thigh, which sounds like Michael Bridge and we know that he was shot shortly after Jackie Duddy.
Q	Alleyway between Blocks 2 & 3	1	Q says that, although they were thinning out, there were still groups of people in the car park when he fired.
O	Behind Cortina at Block 3	3	These were O's first shots and came after R's first shot.
	Block 3 balcony	3	These were fired shortly after O's first burst of shots
R	Pistol man at Blocks 2/3	3	R said he fired at this target after O had gone to the back of the Pig, which O did after his first 2 bursts of fire
T	Block 1 balcony	2	O said that after his first 2 bursts of fire but before his third he had told T to shoot the acid bomber if he appeared again, then he heard shots.
O [illegible]	Alleyway of Blocks 2 &3	2	These were O's last shots and were after some of the others mentioned above.

FS 1. 1400

[1] The above order is based primarily on the soldiers' accounts, all of which are highly unreliable. The firing overlapped and it will probably never be possible to determine any reliable sequence.

Appendix 5

FS 1.1401

APPENDIX 5 - SECTOR 2 - SOLDIERS' EVIDENCE
TABLE 5 - CIVILIAN GUNMEN AND BOMBERS

Pig 1

Soldier	Saw civilian with firearm	Saw civilian with nail bomb	Heard explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
N	No	No longer sure	No	No	No	No	No	No
V	No	No	Yes Distant	Possibly distant	No	Yes Target	No	No
Q	No	Yes	Yes	Yes	Yes	No	No	No
S	Yes (targets)	No	distant bangs	?	No	No	No	No
019	No	No	No	No	No	No	No	No
162	No	No	No	No	No	No	No	No
112	No	No	Yes	Possibly	No	No	No	No
1NQ1918	No	No	No	No	No	No	No	No

Pig 2

Soldier	Saw civilian with weapon	Saw civilian with nail bomb	Heard explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
O	Yes	No	No	No	No	No	No	Yes
P	No(did in S.3)	No (did in S3)	No	No	No	No	No	No
R	Yes	Yes	Yes	Yes	No	No	No	Yes (hit)
T	No	No	No	No	No	No	No	Yes (hit)
U	No(did in S.3)	No	No	No	No	No	No	No
6	No	No	No	No	No	No	No	No
INQ1579	No	No	No	No	No	No	No (smelt petrol)	No (smelt acid)
013	No	No	No	No	No	No	No	No
017	No (did in S3)	No (did in S3)	No	No	No	No	No	No
768	No	No	No	No	No	No	No	No

FS 1.1402

Appendix 6

FS1.1403

APPENDIX 6 - SECTOR 2 - SOLDIERS' EVIDENCE

TABLE 6 - ORDER IN WHICH RMP STATEMENTS TAKEN

DATE	TIME	SOLDIER
30th January	21.30	O
30th January	22.30	S
30th January	22.30	P
31st January	00.25	V
31st January	00.30	Q
31st January	00.40	U
31st January	00.45	N
31st January	01.00	N (2nd) - Picked up bodies
31st January	01.30	017
31st January	02.00	T
31st January	06.30	R
1st February	14.00	N (3rd) -missing round
1st February	14.30	O (2nd) - added round no. 8, extra shot at man on balcony.
1st February	14.50	P (2nd) - changed no. of rounds fired over heads of crowd
4th February	NK	U (2nd) - Saw Willie & Alex Nash shot
4th February	20.30	017
4th February	21.00	Corporal 162
4th February	21.30	S (2nd) - saw nail bombs & acid bombs.
4th February	21.30	R (2nd) - positioned between Block 1 & Pig, saw O's target behind the Cortina & saw O fire, also hit by acid bombs.
4th February	21.50	O19
4th February	22.20	6
4th February	22.30	037
5th February	15.10	O (3rd) - added order to T to shot acid bomber.
14th February	11.05	N (4th) - more details re bodies on barricade.

FS1. 1404

Appendix 7

FS 1.1405

APPENDIX 7[1]
EVIDENCE OF C COMPANY RE: CIVILIAN GUNMEN AND BOMBERS

Name	Saw civilian with:			Heard nail bombs
	Gun	Petrol bomb	Nail bomb	
Major 221a	No	No	No	No
CSM 204	No	No	No	No
Lt. 110	Yes (rifle at R. Flats)	No	No	No
INQ488	No	No	No	No
INQ444	Yes (rifle at R. Flats)	No	No	Yes (but not certain)
INQ1799	Yes (pistol - Chamberlain St, MI carbine- R. Flats carpark)	No	No	No
INQ736	No	No	No	Yes (2)
INQ939	No	No	No	No (but maybe petrol bombs)
INQ003	No	No	No	No
INQ131				
INQ5	No	No	No	No
INQ815	No	No	No	No
Lt. 026	No	No	No	No
INQ2000	No	No	No	No
INQ007	No	No	No	No
INQ579	No	No	No	No
INQ457	No	No	No	No
INQ12	Yes (Rifle- roof of R. Flats)	Yes (at Barrier 14)	No	No
INQ876	No	Yes (at Barrier 14)	No	Yes
INQ471	No	No	No	No
INQ429	No	No	No	No
INQ437	No	No	No	No
INQ559	No	No	No	No
INQ2121	Yes (Rifle- roof of R. Flats)	No	No	No
INQ2045	No	No	No	No
INQ956	No	No	No	No
INQ1010	No	No	No	No
INQ1093	No	No	No	No
INQ1334	No	No	No	No
INQ1574	No	No	No	No
INQ1916	No	No	No	No
INQ2057	No	No	No	No
INQ587				

FS 1.1406

[1] "No" means *either* that the soldier has said so expressly *or* that he has never suggested hearing or seeing these things.

18. SECTOR 3

18.1. Introduction & Summary of Submissions

18.1.1 A convoy of soldiers from Support Company entered the Bogside on Bloody Sunday having driven through Barrier 12, across William Street and down Rossville Street. The convoy was led by the 2 Pigs occupied by soldiers from Mortar Platoon and these Pigs were followed in turn by: Major Loden's command vehicle; the Ferret car; the 2 empty Pigs of Machine-Gun Platoon; the soft-skinned lorries occupied by Composite Platoon and bringing up the rear the 2 Pigs of Anti-Tank Platoon.

18.1.2 While the majority of Mortar Platoon debussed when their Pigs came to a halt in the waste ground: after they entered the Bogside and before the Pigs came to a complete halt, Sergeant O's Pig stopped momentarily on Rossville Street at the end of Pilot Row and 5 members of Mortar Platoon de-bussed. These were Corporal P, Private 017, Private U, Private R and Private 006. Of these, Private R followed his Pig into the Rossville Flats car park and his involvement in the events of the day relates exclusively to Sector 2. Corporal P, Private 017, Private U and Private 006 were involved in Sector 3 and between them Corporal P and Private U fired 10 live rounds in Sector 3.

18.1.3 After the vehicles in Mortar Platoon stopped in the waste ground, Major Loden's command vehicle stopped in the middle of Rossville Street in an exposed position and the remainder of the convoy stopped behind him. Despite the fact that they brought up the rear soldiers from Anti-Tank Platoon were among the first to de-bus after Mortar Platoon. They de-bussed at a location just beyond the Rossville Street, William Street junction and **P1116** shows Anti-Tank Platoon soldiers taking

shelter in the lee of derelict buildings at the top of Rossville Street, prior to moving up the west side of Rossville Street.

18.1.4 The Composite Platoon consisted of 36 men and travelled in two Bedford 4 tonne soft skinned lorries. Each lorry comprised one half platoon. The first lorry comprised the half platoon known as Call Sign 71, commanded by Captain 200 who was in overall command of the unit and also two Colour Sergeants, Colour Sergeant INQ 147 and Colour Sergeant INQ 1318. Call Sign 71 debussed in the lee of the buildings at the north end of Rossville Street on the eastern side of the road. The second lorry contained the other half platoon known as Call Sign 71 Alpha, commanded by Colour Sergeant 002. Call Sign 71 Alpha debussed immediately behind the first lorry at the corner of Rossville Street and William Street. The ABC footage at **V48/12.43 to 12.53** shows Composite Platoon's position when they debussed.

18.1.5 Upon debussing Captain 200 sought advice from Major Loden in respect of how his platoon should be deployed. He was instructed to "Go and assist the Mortar Platoon" **B2002E**. Whilst Captain 200 was receiving his orders, Composite Platoon remained positioned at the lorries and buildings at that location and were "leapfrogged" by Anti-Tank platoon who advanced south to Kells Walk. 200 then deployed his troops away from the buildings. Call Sign 71 remained under his direct command. They deployed east to assist the Mortar Platoon in Sector 2 and then advanced across Eden Place, along the rear of the houses of Chamberlain Street and finally ended up near Block1.

18.1.6 A section of Call Sign 71 Alpha, including Sergeant K, Private L and Private M advanced south under the command of Colour Sergeant 002 and took up a position at the low wall at Kells Walk which had previously been occupied by the members of Anti-Tank platoon. A photograph of these soldiers can be found at **EP2.8** at a stage where they were joined by Colonel Wilford.

18.1.7 A further section of Composite Platoon remained at the north end of Rossville Street and dealt with civilians who had been arrested

18.1.8 After speaking to Major Loden for a second time whilst at the north end of Block1, Captain 200 deployed Call Sign 71 back across to the west side of Rossville Street at Kells Walk and into the Columbcille Court area **B1981**, **B1987**, **B2007** and **B2022.008 paragraph 47**. Some members of Composite Platoon, including Private C, Lance Corporal D and Private 024 took up position on the veranda at Kells Walk at a very late stage in the events.

18.1.9 As Support Company entered the Bogside, advancing beyond the junction of William Street, Rossville Street, civilians had run for cover. Some moved into the Rossville Street car-park, where they sought shelter in the Flats. Many others had run down Rossville Street where on the east-side of Rossville Street they either sought shelter in entrance to Block 1 of the Rossville Flats or behind Block 2. On the west side of Rossville Street they moved into the area of Columbcille Court or sought cover behind the Rubble Barricade.

18.1.10 Upon reaching the Rubble Barricade, many civilians stopped believing that the Barricade represented a position of relative safety, a secure vantage point from which people could observe the soldiers. By the time the Support Company vehicles had come to a halt, approximately 40-50 civilians were taking shelter behind the Rubble Barricade and in a scene represented by **EP27.6** there was a large gap between the majority of civilians standing at the Rubble Barricade and the soldiers who had debussed with little or nothing happening.

18.1.11 However that sense of security was shattered within seconds as Corporal P, Private U and soldiers from Anti-Tank Platoon fired over the Rubble Barricade. Michael Kelly was the first person shot and killed He was killed by Soldier F, his death followed swiftly by the deaths of Michael McDaid, John Young and William Nash. All 4 were

shot while behind the Rubble Barricade on the Glenfada Park side of the Barricade. Hugh Gilmore was shot and killed while running away from soldiers down the east side of Rossville Street. Kevin McElhinney was killed some time later while crawling away, in all probability shot by a member of Composite Platoon, at a point in time after Anti-Tank Platoon had advanced down Rossville Street from the low wall at Kells Walk and when at least some members of Anti-Tank Platoon were in Glenfada Park North.[1]

18.1.12 The order in which Michael McDaid, John Young and William Nash were killed has not been definitively established, nor has it been possible to establish the precise location at which they were killed. It will be submitted that the objective evidence demonstrates that they were killed while on the Glenfada Park side of the Rubble Barricade, at the edge of the footpath, very close to the spot where Michael Kelly was killed.[2]

18.1.13 The civilian evidence on this topic has been confused because civilians testify to a sustained volley of fire over the Rubble Barricade which caused them to run for their lives from the Rubble Barricade into Glenfada Park and towards the Rossville Flats. It was only upon reaching the relative safety of those locations that people realised that there were three young men dead on the Barricade. Civilians also testify to their inability to go to the bodies, to offer help or comfort because soldiers continued firing over the Barricade meaning that to offer assistance or succour to these three young men was to face certain death.

18.1.14 6 young men died at the Rubble Barricade, with Alex Nash injured at a later stage. However, in sharp contrast to the testimony of civilians

[1] See Video 48

[2] This will be dealt with in more detail below, however in summary we make this submission on the basis of the following evidence. The video evidence which shows Alex Nash, the photographic evidence which shows the location of the Pig which eventually removed the bodies and the testimony

who described sustained shooting over the Rubble Barricade, soldiers claim to have fired only 12 shots over the Rubble Barricade which could have claimed the lives of these men.[3] Moreover of those 12 shots, 4 were claimed by Composite Platoon, one of whom undoubtedly killed Kevin McElhinney, at a point in time after Anti-Tank Platoon had left Rossville Street. It will be our contention that the evidence supports the conclusion that Sergeant K murdered Kevin McElhinney. By this time the Barricade had been cleared, with Michael Kelly's body having been removed to Glenfada Park North, Hugh Gilmore's body lying behind Block 2 of the Rossville Flats and Michael McDaid, John Young and William Nash lying dead on the Barricade.

18.1.15 However even these 12 shots do not explain the killings. Corporal P fired two shots at a nail-bomber, on Rossville Street in the direction of the Rubble Barricade, he claims that one of those shots the nail bomber who was on Rossville Street near an alleyway and not behind the Rubble Barricade.[4] He fired 4 shots at a man he claims was firing a pistol from behind the Rubble Barricade, but he claims to have hit the barricade once and the man 3 times. This could account for the death of one of John Young, Michael McDaid or William Nash except for the fact that none of these men was hit 3 times. Private U fired 1 shot from the north of Block 1 of the Rossville Flats at a man who he claimed had fired 2 pistol shots from the east pavement of Rossville Street, south of Block 1. This shooting could account for the death of Hugh Gilmore, although there is a possibility that Hugh Gilmore was hit twice. L/Corporal F eventually admitted to having fired a shot from behind the low wall at Kells Walk at a man behind the Rubble Barricade, who

---

of civilians and the soldiers who removed the bodies to the effect that all three men fell at the same location and at the same time.

[3] While a total of 30 shots were fired in Sector 3 the majority of those shots, if the soldiers account is to be believed, cannot account for the deceased and wounded in Sector 3, either they were fired down alleyways, at windows in the Rossville Flats or over the heads of the crowd.

[4] This account is based on his statement to the Treasury Solicitor and his trajectory photograph. In his account to the RMP, with the attached map, the nail-bomber was at a different location.

he claims was attempting to throw what he believed to be a nail bomb. We know that L/Corporal F is responsible for the killing of Michael Kelly because his bullet was removed from Michael Kelly's body. Corporal E fired 1 shot from the low wall at Kells Walk at an alleged sniper in Block 1 of the Rossville Flats, again it is possible that Hugh Gilmore was the victim of that shooting. L/Corporal J fired 1 shot from the low wall at Kells Walk at someone he claimed to have believed to be throwing a nail bomb, however he claims to have missed his target, thus accounting for none of the deaths. Sergeant K, Private L and Private M all claim to have seen 2 men 'leopard crawling' towards the doors of Block 1 of the Rossville Flats and carrying weapons. There are significant discrepancies between their accounts of this event which will be dealt with in more detail below. They claim to have fired 4 shots between them from Kells Walk at one or other of these men. One of these shots certainly claimed the life of Kevin McElhinney.

18.1.16 There were further shots fired in Sector 3. Soldier P claims to have fired shots over the heads of a crowd on Rossville Street, however on his account these could not have claimed the lives of those killed behind the Barricade. Lance Corporal F and Private G claim to have fired shots in Rossville Street in the direction of the Flats after they had left Glenfada Park North but this was at a point when all of those behind the Barricade had been killed. To similar effect Private C and Lance Corporal D claim to have fired shots down Rossville Street, from their evidence this shooting occurred at a time when all of the victims were dead and injured.

18.1.17 Therefore on the soldiers' accounts Soldier F, eventually, accounted for the death of Michael Kelly, whom he undoubtedly killed. Private U or Private G could account for the death of Hugh Gilmore. Only Corporal P and Lance Corporal J fired the shots which could have resulted in the deaths of Michael McDaid, John Young and William Nash. However, their accounts cannot be accepted in their entirety because Soldier P

claims to have hit 1 person 3 times while Soldier J claims to have missed his target. One of Sergeant K, Private L or Private M is undoubtedly responsible for the death of Kevin McElhinney.

18.1.18 Therefore, not only is the soldiers' account of 12 shots at the material time and location, entirely inconsistent with civilian testimony, it fails to account for the known deaths at the Rubble Barricade. If the soldiers' account was to be accepted, it would mean that at least two of the young men, John Young, Michael McDaid and William Nash were not in fact killed. Even disregarding the body of civilian evidence, the soldiers' accounts cannot be believed. Their accounts fail entirely to explain the deaths behind the Rubble Barricade.

18.1.19 Soldiers have sought to justify their use of lethal force by claiming that they came under attack by gunmen and bombers located behind the Rubble Barricade. These accounts are completely undermined by the lack of a single shred of objective supporting evidence. No soldier in Sector 3 sustained any injury as a result of the alleged gunfire or bombings. If the soldiers' account was to be accepted Sector 3 was awash with unexploded nail bombs. Nor, despite the large number of photographers positioned on Rossville Street and behind the Rubble Barricade, can soldiers point to a single photograph, a single video clip, or a single piece of objective evidence which lends support to their case that persons behind the Rubble Barricade were involved in the use of weapons of any kind.

18.1.20 However, that is to deal with the account of each individual soldier taken in isolation. The soldiers' account collapses entirely when their accounts are read as a body of evidence. When one examines the testimony of soldiers, standing shoulder to shoulder, as on their account they came under hostile fire from the direction of the Rubble Barricade, their case is riddled with inconsistencies. The accounts given by the soldiers who admit firing over the Rubble Barricade are not corroborated in material respects by other soldiers. Where one soldier

sees a nail-bomber, another sees a man with a rifle and a third sees a man with a pistol. Whereas for those soldiers who did not fire live rounds and were standing beside the shooters - the nail bombers, petrol bombers and gunmen shot by their colleagues were invisible and silent - for the large part unseen and unheard by those who did not have to justify the firing of live rounds. The soldiers' accounts are inconsistent with each other in virtually all material respects and do not provide support or justification for even the limited firing which is admitted at the location at which 6 young men died.

18.1.21 This may be the reason why soldiers who fired over the Rubble Barricade, and particularly the soldiers of Anti-Tank Platoon, have been struck by collective amnesia. What is clear is that soldiers from Mortar Platoon and Anti-Tank Platoon in particular, fired more shots over the Rubble Barricade than they have accounted for, and that the shooting over the Rubble Barricade which left 6 young men dead was unjustified and unlawful. Moreover as this Inquiry concludes not a single soldier who fired live rounds, or who witnessed the firing of live rounds in Rossville Street has given a truthful account about the circumstances in which Michael Kelly, Michael McDaid, John Young, William Nash, Hugh Gilmore and Kevin McElhinney were murdered on Bloody Sunday.

18.1.22 In our submission, the material events that occurred in Sector 3 can be summarised as follows:

(i) Sergeant O's Pig stopped momentarily in the waste ground and 5 soldiers dismounted, 4 of those remained on Rossville Street and were involved in the events of Sector 3.

(ii) Corporal P and Private 017 crossed Rossville Street to the west side and positioned themselves in front of the low wall at Kells Walk and advanced towards the Rubble Barricade. They had no cover from the Rubble barricade or the Rossville Flats.

(iii) Soldiers from Anti-Tank Platoon de-bussed and moved down the west side of Rossville Street, initially moving in front of the low wall and then positioned themselves behind the Kells Walk wall.

(iv) Some civilians at the Rubble Barricade shouted abuse at soldiers and threw stones, albeit that because of the distance of the Rubble Barricade from the soldiers there was no prospect of their hitting any soldier. No action by the crowd at the Rubble Barricade posed a threat to soldiers, nor could it have been perceived by them as posing a threat. The majority of civilians stood around talking and watching the soldiers until the first shots were fired. Soldiers were not attacked with gunfire, nail bombs or petrol bombs from the Rubble Barricade.

(v) Corporal P and Soldiers from Anti-Tank Platoon, including, but not confined to Lance Corporal F and Lance Corporal J, opened fire over the Rubble Barricade.

(vi) The evidence suggests that the first two shots fired over the Rubble Barricade were fired by Soldier P shooting from the hip. These shots did not cause any casualties.

(vii) Michael Kelly was the first person to be shot and killed behind the Rubble Barricade. He was killed by Soldier F, he was unarmed when killed and no one around him was doing anything which could have led Lance Corporal F to believe his life was threatened by anyone positioned behind the Rubble Barricade.

(viii) Michael Kelly's body was removed from the Rubble Barricade and taken into Glenfada Park North.

(ix) As Michael Kelly was being attended to, Michael McDaid, John Young and William Nash had been shot and killed. They were shot and killed by either Corporal P or Corporal E, Lance Corporal F,Private G, Private H or Lance Corporal J from Anti-Tank Platoon. They were unarmed when killed and no one around them was doing anything which could have led the soldiers who murdered them to believe their life was threatened by the actions of any person positioned behind the Rubble Barricade. There followed sustained shooting over the Rubble Barricade as a result of which civilians at the

southern gable end of the eastern block of Glenfada Park North were unable to reach the Deceased.

(x) Hugh Gilmore was shot in the back as he ran down the east side of Rossville Street by Private U or a soldier from Anti-Tank Platoon. He was unarmed and running away when killed. Neither Hugh Gilmore himself nor anyone around him was engaged in activity which could have led the soldier/s who shot and killed him to believe that their life was in danger.

(xi) Anti-Tank Platoon moved forward from the low wall at Kells Walk into the alleyway leading to Glenfada Park North. They all left Rossville Street and some or all of them went into Glenfada Park North. In making their way to Glenfada Park North, they were completely exposed to the Rubble Barricade and the Rossville Flats from where they had claimed to be under fire.

(xii) Soldiers from Composite Platoon made their way to the low wall at Kells Walk, some positioning themselves behind the low wall and some positioning themselves on the pram way.

(xiii) One of Sergeant K, Private L or Private M shot and killed Kevin McElhinney as he crawled towards the entrance to Block 1 of the Rossville Flats seeking shelter. Kevin McElhinney was shot from behind, he was unarmed when killed and even on their own account the soldiers were under no threat from any person when Kevin McElhinney was murdered.

(xiv) Alex Nash went to the body of William Nash and sought help from the soldiers, he was shot by a solider as he held his dying son.

(xv) Anti-Tank Platoon returned from Glenfada Park North and while positioned in their vehicle Lance Corporal F and Lance Corporal G fired shots at a window in the Rossville Flats from which Fulvio Grimaldi was taking photographs.

(xvi) One of the Mortar Platoon Pigs was sent up Rossville Street and the bodies of John Young, Michael McDaid and William Nash were thrown into the back of the Pig. The soldiers handling the bodies showed no respect for the deceased and the bodies were loaded into the Pig one on top of the other. Priests and first aid personnel were

subsequently denied access to the bodies when the Pig left the Rubble Barricade and was parked in the waste ground.

(xvii) Private C and Lance Corporal D fired shots down Rossville Street at the ambulances removing the deceased and injured.

18.1.23 In our submission the evidence supports the following conclusions:

(i) The deceased and injured in Sector 3, including Alex Nash, were shot by members of 1 Para Support Company from Mortar Platoon, Anti-Tank Platoon and Composite Platoon.

(ii) All of the Deceased and Injured on Sector 3 were unarmed when shot.

(iii) They were shot deliberately – not accidentally – and without justification.

(iv) None of the deceased or injured had handled a gun or a bomb at any time on Bloody Sunday. None of the deceased or injured had acted in support of any person handling or using a gun or bomb on Bloody Sunday.

(v) None of the deceased or injured was doing anything, at the time they were shot, which would have led the soldiers responsible for the shooting to believe that they posed a threat of any kind to their lives or the lives of their colleagues.

(vi) None of the deceased and injured was in the vicinity of civilian gunmen or bombers when shot. Nothing was taking place in the vicinity of the deceased or injured at the time when they were shot which would have led the soldiers to believe that their lives or those of their colleagues were at risk.

(vii) There were no weapons behind the Rubble Barricade.

(viii) None of the deceased or injured was shot in crossfire or in the course of a 'gun battle' with civilian gunmen.

(ix) When the vehicles and soldiers of Support Company appeared on Rossville Street they did not come under fire. Soldiers opened fire without justification and not as a result of having been fired on first.

(x) There was no 'gun battle' nor any 'exchange of fire' as has been alleged by soldiers.

(xi) There were no 'missing casualties' behind the Rubble Barricade. Rather there are extra casualties killed by soldiers whom soldiers have failed to account for.

(xii) Soldiers fired more rounds over the Rubble Barricade than they have accounted for.

(xiii) Soldiers manhandled the bodies of John Young, Michael McDaid and William Nash. They were thrown into the back of the Pig, no attempt was made to have them medically examined. Moreover when priests and the Knights of Malta sought to medically examine the three young me and provide them with spiritual care they were obstructed by soldiers.

18.2 Overview of Civilian Evidence

18.2.1 The Civilian evidence (including that from the clergy and journalists) in relation to the interests that we represent is dealt with below in detail on a case-by-case basis. However when taking this evidence as a whole, it supports the following propositions:

i) There was nothing other than stones thrown from the Rubble Barricade at the soldiers positioned at Kells Walk and the northern end of Block 1. There was no armed activity anywhere in this area. No shots were fired at the Paras. No bombs were thrown. Nothing exploded. There was no real or perceived threat to them.

ii) There was a crowd of approximately 30 civilians of all ages at the western side of the Rubble Barricade.

iii) Michael Kelly was standing on the footpath to the south of the Rubble Barricade on the west side of Rossville Street, looking towards the Paratroopers as they deployed near Kells Walk, when he was shot within a minute or so of the Paratroopers

arrival at Rossville Street. He had nothing in his hands and did nothing to warrant being shot. No one else around him was engaged in any activity which merited the use of lethal force.

iv) Michael Kelly fell where he had been standing and was carried to the southern gable end of Glenfada Park North by a number of civilians and given the Last Rites by Father Bradley.

v) On the eastern side of Rossville Street, near the Rubble Barricade, Hugh Gilmore had thrown one or possibly more than one stone at the soldiers further north of his position. The soldiers were hopelessly out of range. Hugh Gilmore was then shot when he had nothing in his hands. It is not exactly clear according to the civilian evidence on which side of the Barricade he was standing or which direction he faced when he was shot. Hugh Gilmore ran to just south of the entrance to Block1 where he collapsed with a serious abdominal gunshot wound. He was dragged around the corner to the southern end of Block 1 where he died.

vi) On the western side of Rossville Street, John Young and Michael McDaid along with William Nash were shot. All of them were unarmed. Neither were they in close proximity to someone handling a weapon when they were shot and killed.

vii) John Young and Michael McDaid were shot and killed, probably within seconds of each other. They fell in close physical proximity to each other as Fathers Bradley and O'Keefe were attending to Michael Kelly at the southern gable end of the eastern Block of Glenfada Park North.

viii) They were probably located at the edge of the broad footpath on the western side of the Rubble Barricade when shot and

killed, not far from the location where Michael Kelly was shot and killed.

ix) Alex Nash, William's middle-aged father made his way from the gable end and held his son. Such was the level of fire that he was effectively pinned down on the Barricade. He was shot in the arm.

x) Civilians at the gable end tried but could not go to their aid because the gunfire over the Rubble Barricade was so sustained. Absolution was given from the gable wall.

xi) The civilians at this location watched helplessly as Kevin McElhinney either alone or with one other person crawled southwards along the eastern side of Rossville Street towards the entrance of Block 1. They spoke of bullets literally bouncing around the youth as he crawled for the doorway but was eventually shot just before he gained refuge. He had nothing in his hands and was unarmed.

xii) Paratroopers who were involved in shooting further civilians in Glenfada Park North then arrested the civilians who present at the gable wall.

xiii) Paratroopers then arrived at this position in an APC and removed the bodies of John Young, Michael McDaid and William Nash from the Rubble Barricade. The manner in which they were removed was shocking, disrespectful and contemptuous.

18.3 Michael Kelly

18.3.1 Personal Details

18.3.1.1 Michael Kelly was 17 years old on Bloody Sunday. He attended college in Belfast during the week and on a Saturday worked at a shirt factory as a sewing machine engineer. As a hobby he kept and flew pigeons. Michael came from a close knit family who were not involved in politics. It was his first march and he attended because his friends were going. His girlfriend at the time, Bernadette Ball, described Michael as a generous and kind person, she remembered how one day he'd actually helped a small British soldier carry a rucksack because he felt sorry for him. Michael was known as a very light-hearted person, always joking and smiling and the whole family were known as decent and good natured. Any involvement with guns and nailbombs would have been totally alien to Michael's nature. He had no criminal record. The grief of the Kelly family like all the families of the deceased was insurmountable. His mother felt the blow particularly and her own health was particularly affected. She dealt with her grief as best she could in her own particular way. She was known to have brought blankets to the graveyard to put over his grave in an attempt to keep him warm.

18.3.2 Civilian Evidence

18.3.2.1 Michael Kelly was standing on the footpath to the south of the Rubble Barricade on the west side of Rossville Street, looking towards the Paratroopers as they deployed near Kells Walk, when he was shot by Soldier F within a minute or so of the Paratroopers arrival at Rossville Street. A single bullet entered the lower left side of his abdomen and remained in his body. Neither he nor those around him were doing anything to warrant shooting by the soldiers. He was carried to the southern gable end of Glenfada Park North by Charles McLaughlin amongst others and was given the Last Rites by Father Bradley. From there he was carried by a number of people including Pearse McCaul, Joseph Donnelly, Patrick Doherty and George Downey and across

Glenfada Park North and into 8 Abbey Park. Accompanied by his brother John amongst others he was taken by ambulance Altnagelvin Hospital, where he was pronounced dead on arrival.

18.3.2.2 **Relevant Photographs**

The series of photographs at **EP27** were taken by **Ciaran Donnelly** of the Irish Times. **EP27.6**, **EP27.7**, **EP27.8** and **EP27.9** show events at the Rubble Barricade and **EP27.10** and **EP27.11** show the body of Michael Kelly being carried across Glenfada Park North. **EP27.6** and **EP27.7** shows the crowd on the west side of Rossville Street at the Barricade and what appear to be soldiers who are either getting out of or around the back of the command vehicle. **EP27.7** shows a number of people behind the Rubble Barricade, some clearly crouching or ducking down. **EP27.8** and **EP27.9** show a number of people looking at the soldiers further to the north. A number of troops have de-bussed on to the west side of Rossville Street.

EP32.1 and **EP32.2** were taken by **Robert White.** Both these photographs showing the body of Michael Kelly were taken from the Glenfada Park South pram ramp marked by the witness on the map attached to **AW11.1**.

The series of photographs **EP23.4**, **EP23.5**, **EP23.6**, **EP23.7**, **EP23.8**, **EP23.9**, **EP23.10**, **EP23.11** and **EP24.12** were taken by **Liam Mailey.** His photographs cover the Rubble Barricade, the deployment of troops on Rossville Street, movement of troops at the low wall at Kells walk and a group tending to Michael Kelly in Glenfada Park North.

18.3.2.3 The spot where Michael Kelly appears to have fallen is almost precisely the spot identified in Soldier F's trajectory photograph. **P7** shows that the spot indicated is just to the west of the gap in the barricade on the western pavement of Rossville Street just to the south of the barricade. As appears in the photograph taken by Mr White at **EP32.1** this is the location where Michael Kelly was shot.

Timing of Events

18.3.2.4 **Robert White** took a series of photographs attached to his statement at **AW11.23** which run from **P27** to **P29**. These photographs show the passage of the first two Saracens up Rossville Street. Mr White confirmed that these photographs were taken in fairly quick succession. He believed they would have been taken within a few seconds of each other. **Day 137/86/25 to Day 137/87/23**. He confirmed that he then ran into Glenfada Park North up to the pram ramp and took his photographs there which are **EP32.1**, **EP32.2** and **EP32.3**. He recalled it did not take him very long to get to the pram ramp, because he was afraid of missing something. He did not think the distance was as far as sixty yards. He thought he was standing at the pram ramp for a matter of seconds, but less than a minute, before he took the photograph we know as **EP32.1**. This is the photograph that shows Michael Kelly lying on the ground at the Rubble Barricade. He did not see anyone at the Rubble Barricade with a rifle or a pistol. **Day 137/90/16 to Day 137/91/8**. Mr. White was asked about the time lapse between taking **EP32.2** and **P32**, which is his photograph of Hugh Gilmore running along Block 1 of Rossville Flats. He thought it would have been a very short time, even less than a minute, but he did not honestly know. **Day 137/81/16 to Day 137/82/1**.

18.3.2.5 **Ciaran Donnelly** took photographs from the north-eastern corner of the pram ramp north east corner of Glenfada Park South, marked on **M22.24**. At this point there were fifty to sixty people at the Rubble Barricade. **Day 071/21/18 to Day 071/21/22**. He witnessed an incident of an arrest of a youth. He thought **EP2.5** taken by Jeffrey Morris and showing the arrest of William John Dillon looked extremely like it. He took **EP27.6** and **EP27.7** from this position. He heard two shots and about two to three minutes later he saw a youth fall on the left side of the barricade. He thought it was "definitely no longer than a minute to two minutes, maybe less than a minute even", when he saw another

man fall on the Rossville Street side of the barricade. **Day 071/28/7 to Day 071/29/2**.

18.3.2.6 **Professor Terence O'Keefe** thought that by the time **EP23.12** was taken, which was shortly after Michael Kelly had been brought to the gable end of Glenfada Park North, he had seen the other bodies at the barricade. **Day 127/108/22 to Day 127/108/24**.

Before arrival at the Rubble Barricade

18.3.2.7 **George Downey**, Michael Kelly's brother-in-law, met Michael Kelly near a house in Kells Walk and was there when Michael Kelly's mother shouted out to her son from the first floor verandah of Kells Walk. He thinks she was in her sister's house at the southern end of Kells Walk. **AD134.2 paragraph 12**. He and Michael were talking when someone told George that two fellows had been shot and pointed out to George the direction of a house to which the two in question had been taken. **Day 123/8/21 to 123/9/5**. That was the last time he saw Michael until he was at the south side of the barricade in Rossville Street. Michael Kelly's mother, **Kathleen Kelly** saw him at the rear of no.2 Kells Walk in the area of the four garages seen in **P200**. She shouted to him but he did not hear her above the noise of the crowd. He ran south towards Glenfada Park along with the crowd although he seemed to be on his own. **AK14.2 paragraph 15**.

At the Rubble Barricade and the shooting

18.3.2.8 Michael Kelly was the first person to be shot at the Rubble Barricade. He was shot within a very short time of the deployment of the Anti-Tank Platoon soldiers at the Kells Walk wall. He was shot across the Rubble Barricade and fell to the left of the barricade and was then taken into Glenfada Park North, whilst shooting continued. It is submitted that the reliable civilian evidence demonstrates beyond doubt that Michael Kelly was unarmed at the time he was shot and presented no threat whatsoever to the soldier who shot him, or indeed

any soldier. It is further submitted that there was no activity at the Rubble Barricade which justified the shooting by soldiers. The killing of Michael Kelly was wholly unjustified and he was murdered by Soldier F.

18.3.2.9 The evidence of **Hugh O'Boyle** is at **AO1** and **Day 131 to Day 132**. His evidence, contained in **AO1**, is that he saw about ten or twelve men and boys gathered at the barricade. When he saw it first, some soldiers just to the south of the south end of Kells Walk and a few boys shouting and throwing stones at the soldiers, who were too far away to be hit. The witness said at **Day 132/3/19 to Day 132/3/25** "When I say throwing stones they were probably shouting at them. I cannot remember if they were throwing stones, maybe one or two might have been, I just cannot recall." He heard a young lad shout out "I have been shot" and he fell to the ground immediately behind the barricade near to the west end. The young lad who fell had been standing in front of the witness, slightly to his left. The witness had not been throwing stones himself and at that time and place he could not remember other people around him throwing stones. **Day 132/6/10 to Day 132/6/12**. The witness confirmed the position of the young man by reference to **P418** at **Day 132/8/13 to Day 132/8/24**. The witness accepted that he would have been positioned just off the right of photograph **P637**, which would have been two to three feet to the right of where Michael Kelly lay. **Day 132/52/5 to Day 132/52/9**. The young man, who was clearly Michael Kelly, was shot by soldiers possibly positioned near Kells Walk in Rossville Street. **Day 132/6/22 to Day 132/7/21**. Michael Kelly was not doing anything or saying anything when shot. **Day 132/52/10 to Day 132/52/12**. The relevant evidence of Soldier F was put to the witness. There were no explosions or nail bombs in front of i.e. to the north of the barricade. The witness saw no-one with a fizzing object or bomb at the barricade. The witness agreed that if somebody very close to him had had a fizzing object he would have seen this and he would not have been standing beside him either. **Day 132/54/6 to Day 132/54/9**. The young man had a very small red hole

in his stomach. He was carried or dragged away from the barricade. He was then carried into the southeast corner of Glenfada Park North. Some people tried to go out and help casualties on the barricade and others said it was too dangerous to go out there. His statement to Eversheds is consistent with the statement that he gave to NICRA at the time. The NICRA statement is at **AO1.1**.

18.3.2.10 **Jack Nash**, whose evidence appears at **AN27.1** and **Day 137**, was at the Rubble Barricade. He saw a number of soldiers at the north end of Rossville Street and others at the small flats at Kells Walk. He also may have seen some soldiers on or beside a pram ramp who were firing rubber bullets. **AN27.2 paragraph 7** and **Day 137/6/16 to Day 137/8/3**. These rubber bullets came up against the side of the Glenfada Park North houses facing onto Rossville Street. **Day 137/8/1 to Day 137/8/16**. The witness confirmed there was stone throwing, including by himself, although it was not even close to a riot but more of a stand-off. **AN27.2 paragraph 8**. It was suggested that given the distance, there was no reasonable prospect of stones thrown from behind the barricade at the soldiers hitting anyone and that they must have been going further up Rossville Street to have a chance of hitting anyone. The witness stated that he was behind the barricade and threw to vent his frustration. **Day 137/43/14 to Day 137/43/16**.

18.3.2.11 Mr. Nash saw a youth fall behind the Barricade on the Free Derry Corner side slightly in front and to the north of him. Both the youth and the witness had been looking north. The youth had been doing nothing to attract his attention and the witness did not have a specific recollection of the youth throwing stones. The witness identified the youth in **EP32.2** as the youth who fell. This was Michael Kelly. The witness thought the youth had been hit by a rubber bullet or had fallen down and did not believe at the time they were live shots, although he heard them. The witness went forward to the barricade and helped lift Michael Kelly to the gable end wall. He opened his coat and saw a small hole but no blood. **Day 137/15/14 to Day 137/15/18**. During his

time at the barricade and at the Glenfada Park North gable, the witness saw no-one with a weapon or nail bomb. As far as he was aware, no-one fired a rifle, pistol or bomb from the barricade towards the soldiers. **Day 137/15/25 to Day 137/16/7**.

18.3.2.12 **Charles Lamberton**, whose evidence appears at **AL3.1** and **Day 183**, was at the Rubble Barricade and saw soldiers on Rossville Street out of their Saracens and out from behind their riot shields. There was some chanting at the Barricade and the mood was quite confrontational. However the witness did not see the crowd moving north of the barricade to rescue a boy. He did not see stones being thrown from the Barricade and although someone might have thrown a stone they could not have reached the soldiers. **AL3.5 paragraph 32** and **Day 183/111/15 to Day 183/111/21**. The witness recalled a volley of shots, possibly five or six, and everyone dived to the ground. He saw Michael Kelly fall. Michael Kelly was lying on his left side with his head pointing towards Free Derry Corner and his feet closer to the barricade, curled round slightly, bringing his knees in towards his stomach. **Day 183/112/12 to Day 183/115/7**. The witness confirmed that **EP32.1** and **EP32.2** showed the position as he remembered it. **Day 183/113/8 to Day 183/115/14**. The witness confirmed that he had seen Michael Kelly immediately before he fell and he was just standing where he was actually lying on the photographs, looking down towards the Army. The witness thought that Michael Kelly was helped by a group of people who had been on the south side of the barricade but who might also have come out from the gable end of Glenfada Park North. Michael Kelly was dragged to the shelter of the gable end of the eastern block and the witness joined them. He could see a small bullet wound in his stomach. **AL3.6 paragraph 36**. There was a fusillade of shots, apparently from the north. The witness recalled there then was a lull and Michael Kelly was taken to the gable end of Glenfada Park North. **Day 183/115/15 to Day 183/115/23**.

18.3.2.13 **Ronald Wood**, a witness who had spent twelve years in the Royal Navy, saw the soldiers arriving in Rossville Street. **EP27.6** shows a picture fairly close to the account which Mr. Wood gave in his Widgery evidence at day 2. His Eversheds statement is at **AW24.1** and **Day 127**. He had crossed over the barricade in a southerly direction and was standing at the entrance to Glenfada Park car park. He saw some of the Pigs go into the Rossville Street car park and others stay on Rossville Street itself. He saw the soldiers get out and take up cover around the Pigs and some go behind the wall at the south of Kells Walk. This was marked by the witness on **AW24.25** and **AW24.26**.

18.3.2.14 He said that some of the people threw stones and that rubber bullets were fired in reply. Then live bullets started flying. He said that he did not see who fired the first two of them, but one of them -- and these were his exact words -- "downed a man next but one to me facing the soldiers in Rossville Street". The witness did not see anything at the barricade which would have justified the firing of live rounds and he was never told of any justification. **Day 127/26/2 to Day 127/26/7.** That man, he said, was hit in the front whilst standing at the barricade and hit in the lower left abdomen. The witness was certain that the boy he saw shot was shot in left hand side of his torso. **Day 127/26/8 to Day 127/26/10.** He described the man as wearing a sports jacket, slacks and a white T-shirt. The witness was shown **F5.4** and **F5.9**, which were photographs of the clothes that Michael Kelly was wearing on the day. The witness stated that the t-shirt was very similar and the jacket was also very similar to the ones worn by Michael Kelly. **Day 127/26/18 to Day 127/27/17**.

18.3.2.15 The witness was reminded of his description to the Widgery Tribunal of the boy being shot as next but one to him and he accepted that, looking at **P635**, the witness could have been positioned just off to the right of the photographs (i.e. **EP27.6** and **EP27.7**). The witness confirmed that the photographs suggested that his impression of the

boy with a group of people standing together talking before he was shot was correct. **Day 127/29/10 to Day 127/29/17**.

18.3.2.16 He said that the man had not fired any shot or thrown any bomb and if he had thrown a stone earlier, Mr Wood had not seen him do so. He was not throwing stones when he was shot. The witness saw him at the moment he fell and there did not appear to be any action from him of throwing anything. The man was close enough to him that he would have seen or been aware of any action like that. **Day 127/15/5 to Day 127/15/23**. The witness heard no firing from Rossville Flats. **Day 127/29/18 to Day 127/29/24**. He heard no nail bombs that day at all. He did not see anyone attempting to throw a fizzing object that day. Nor did he see Michael Kelly with a fizzing object in his hand. **Day 127/30/9 to Day 127/30/17**.

18.3.2.17 The man shot was, as far as the witness was aware, was facing the army when he fell. **Day 127/16/2 to Day 127/16/6**. He fell a yard or two behind the barricade in a general area very nearly at the western extremity of the Barricade. **Day 127/17/1 to Day 127/17/12**. When shown **P637** the witness indicated that the scene with a boy lying on the ground with his face up was a scene he could recall from what he observed on the day. The position of the person in the photograph corresponded with the position of the boy he saw fall with his head facing south in the direction of Free Derry corner. **Day 127/18/11 to Day 127/19/2**.

18.3.2.18 He and others went out to the body and four people picked him up and took him into the Glenfada Park North car park and put him on the ground. **Day 127/19/3 to Day 127/20/4**. **P638** and **P639** corresponded to scenes he recollected.

18.3.2.19 He said that he did not see any use of any weapon by a civilian nor hear any nail bombs, nor any automatic fire and saw no reason for the soldiers having fired. **WT2** and **AM24.3 paragraph 20**.

18.3.2.20 **Professor Terence Michael O'Keefe**, who on Bloody Sunday was **Father O'Keefe**, gave evidence to the Widgery Tribunal. His Eversheds statement is at **H21.44** and he gave evidence on **Day 127**. The witness had reached the southern gable end of Glenfada Park North on its east side, and at this time there were something like 25 or 30 people around the gable end, some people still in the centre of Rossville Street and some five or six young people on the barricade on the opposite side from the Army vehicles. The witness was able to identify himself in **EP27.6** and **EP27.7** and marked his location in **H21.139** and **H21.140**. The witness believed the sequence of these photographs suggested to him that the soldiers who had debussed from the military vehicles in the background had opened fire. **Day 127/89/21 to Day 127/90/14**. The witness recognised himself in **EP27.6** and marked himself on **H21.129**. The witness then confirmed **EP27.8** as very much his recollection of the number of young men looking down Rossville Street towards the army somewhat challengingly. **Day 127/90/15 to Day 127/91/4**. It is to be emphasised that neither this witness nor any other witness identified Michael Kelly in this group. The photograph would seem to show, broadly speaking, the picture described by him in his oral testimony to Lord Widgery. **EP27.9** again accorded with his recollection of the scene at the time he was located close to or at the gable end of Glenfada Park North. **Day 127/91/5 to Day 127/91/11**.

18.3.2.21 He saw men debus from the vehicles and about 10 run to their right, that is to say, to the west which would appear to be the scene in **EP27.8**. At **H21.45 paragraph 10** the witness described soldiers jumping out of Saracens up Rossville Street and taking up positions left and right. Some soldiers took up firing positions pointing their rifles down Rossville Street with some standing and some kneeling. At Widgery he had said he heard some shots which he assumed were rubber bullets. His impression was that when the vehicles halted stones were thrown at the troops by people standing at the barricade, none of

whom, he said, had firearms. He got the impression of youths picking up a few stones and firing them off rather aimlessly. At **H21.46 paragraphs 11 to 13** the witness said he saw a small group of youths clearly intending to confront the soldiers. He had a vague recollection of them waving their arms and yelling at the soldiers. He had the impression stones were being thrown. **Day 127/99/9 to Day 127/99/18**. The witness accepted that **EP27.7** and **EP27.8** suggested to him that it was more likely that Michael Kelly was part of the main group of people, of whom he was one, standing around the entrance to Glenfada Park and not part of the group of youths challenging the army. **Day 127/145/16 to Day 127/145/20**.

18.3.2.22 At **WT5.6** Professor O' Keefe had been asked: "You have taken your narrative to this point, that soldiers have dismounted from the Saracens and adopted an aiming weapon with their weapons. Q: "How long after adopting that position do you suggest they opened fire?" Answer: "I got the impression it was all in one gesture. They adopted firing positions and opened fire and I heard the reports." The witness said that the soldiers got into position and started shooting "very swiftly indeed. **Day 127/100/20 to Day 127/101/1**. At no stage was the witness conscious of any firing from the barricade or any noise which he could have thought of as firing. **Day 127/101/2 to Day 127/101/6**. The witness had a vague memory or vision of stones being thrown but not conscious of anything else. **Day 127/101/7 to Day 127/101/12**. The witness did not see anyone behind the barricade with anything that was fizzing or hear anyone mention anything that was fizzing at the barricade. **Day 127/146/4 to Day 127/146/9**. The witness confirmed his testimony to Widgery and said he did not see any person take or ferry guns or weapons away from the Barricade and thought it would have been impossible for anyone to have got across to ferry weapons away. Nor did he hear any blast bombs. **Day 127/151/5 to Day 127/151/12**. When asked about the totality of the soldiers allegations about weapons at the barricade the witness stated: "I saw none of that and I think it would have been impossible for that to have happened

without me having noticed." **Day 127/150/11 to Day 127/150/20**. At no stage did he see anyone in his vicinity or did in see anyone pass carrying a rifle right into Glenfada Park. **Day 127/152/24 to Day 128/153/2**. There was in his visual memory a fairly empty space between the Barricade and the soldiers. **Day 127/101/13 to Day 127/101/21**.

18.3.2.23 At **WT5.6 D** the witness had been asked: What was the first casualty you observed? Answer: One young man who dropped holding his stomach and four young people detached themselves from this crowd which was still on that gable end corner and ran over very fast indeed. They crouched and grabbed him by the arms and legs and ran back behind the gable end of the wall. At that stage the crowd more or less got in behind the wall to see what was wrong with the young man." Question: "Can you say whereabouts on that barricade that first casualty was?" Answer: "More towards my side of the barrier on the gable end ... nearer to the gable end of the maisonettes ... in Glenfada Park." The witness confirmed on **Day 127/102/5 to Day 127/102/16** by reference to **EP27.7** that the person he saw fall fell in approximately the position occupied by Michael Kelly in the photograph but he could not confirm that he was able to recognise the man in the photograph. He had the impression that the first casualty would have fallen three or four paces in from the gable end of Glenfada Park North. **Day 127/102/25 to Day 127/103/2**. He saw the young man fall in a cluster of three or four shots. **Day 127/106/22 to Day 127/107/2**. At Widgery he had said that the young fellow had been standing facing down Rossville Street towards the soldiers. This was confirmed at **Day 127/101/22 to Day 127/102/4**. He had seen him hold his stomach and double up and begin to fall, at which these four young people took him and carried him. It was very swiftly done. **Day 127/106/4 to Day 127/106/15**. The witness confirmed that the scenes in **EP32.1** and **EP32.2** brought back a memory though he could not say if the first casualty on doubling up fell forwards or backwards. **Day 127/103/11 to Day 127/103/20**.

18.3.2.24 At **WT5.6 G** he had been asked: "Was that the young man attended by Father Bradley?" Answer: Yes. At first I thought he had been hit in the stomach by a rubber bullet. I still thought it was rubber batons being fired but when they put him on the ground I saw a bullet wound in his lower abdomen and his eyes seemed to be glazed. I was not sure whether he was dead or not, but Father Bradley and I got down and Father Bradley attended to him." The witness was able to identify himself and Father Bradley in **EP23.12**. He was asked at **WT5.7 A**: "As a result of that firing was anybody else hit?" Answer: "I saw one man being hit and my attention was on him being carried away. When I left after Father Bradley to attend to him, I saw these three bodies behind the rubble barricade lying very still." The witness thought he had some memory of shots hitting the gable end wall where they were huddled after he had looked across and seen three more casualties at the Barricade. **Day 127/105/23 to Day 127/106/3**. At **WT5.8 C** he was asked to give an estimate of the sort of time between the first shot that he heard and when he peered round and saw this soldier apparently aiming a rifle in that direction. He replied: "I said in my statement a minute to a minute and a half, but it is a terribly subjective moment of time. I am trying to deduce that from the four people carrying him there to the time it would take to attend him, and then a discussion. It would perhaps be longer, three minutes or four minutes, but it certainly was not a long time." The witness recalled the scene at **EP23.12** showing himself trying to persuade some young people not to run. He believed that he had seen the bodies on the barricade by the time this photograph had been taken. **Day 127/108/2 to Day 127/108/24**.

18.3.2.25 **Charles McDaid** gave a statement to Eversheds, which appears at **AM161.1**, and his evidence is at **Day 060**. He confirmed that the scene in **EP27.6** was in accordance with his recollection of the scene as he approached the barricade. At **WT5.46 C** he said he turned round and saw that a soldier had a man on the ground just at the corner of the flats, and he was just holding the man by the arm. Then a second

soldier came out from the side of the flats and kicked the man on the ground. At **AM161.5 paragraph 28** he stated: "I had just managed to pass on to the southern side of the rubble barricade when I heard a voice of a young lad coming from my left and slightly behind me, crying 'Mister, I am shot. Help me'. I do not think he called out to me in particular but as far as I could tell I was one of the nearest people to him. I looked over my left shoulder and saw the young lad, maybe 15 or 16 years old, on the ground. The approximate point ... is marked K." At **AM161.10**, the point marked K can be seen as almost the spot where Michael Kelly died. The witness saw nothing, which would justify the shooting of the young lad who fell. **Day 060/170/15 to Day 060/170/19**. He did not see anything to justify the shootings of the other three persons he saw lying behind the barricade. He saw no-one take or ferry guns or weapons away and he did not hear any blast bombs explode. **Day 60/170/24 to Day 060/171/3**. He saw no-one with weapons of any kind at the Barricade. **Day 060/170/8 to Day 060/170/14**.

18.3.2.26 In **AM161.5 paragraph 29** he stated: "The lad must have just fallen when I saw him and was lying partly on his side with one arm out to support him. His head was facing towards Glenfada Park and his feet towards the Rubble Barricade and his face was looking up in my direction." That is broadly consistent with the photograph **EP32.2**.[1] At **AM161.5 paragraph 30** he stated that, "there was no weapon in the lad's hands" and he saw none removed from him. He stated that he was one of the four or five persons who carried the lad from where he lay to an area behind the south gable end of Glenfada Park North. He referred to the appearance of Father Bradley. The witness confirmed he could identify himself in **EP23.11** and **EP23.12**. They carried him into the alley at Glenfada Park and Father Bradley administered the Last Rites

[1] The evidence of **William Vincent Hegarty** at **WT7.23** that the boy he learned was Michael Kelly fell face down cannot be correct in the light of the weight of the medical and civilian evidence. His evidence of the boy crossing over the barricade and that of **Noel McCartney** at Day 157 cannot be accurate given the weight of the civilian, medical and photographic evidence. See **Day 157/105/1 to Day 157/105/25** and also **Day 157/136/1 to Day 157/136/25**: "I just have this memory perhaps wrong of someone being shot as they came across the barricade".

of the church to the boy. There was shooting seemingly still going on at that time, but helping the boy in he could not see where the shooting was or whether anybody else had been shot at that particular time.

18.3.2.27 Mr McDaid said that he was about four or five yards away from the boy, who had, he said, no weapon in his hand or near him. Nor did he see anybody removing anything from the boy. He did not see anyone at the barricade throwing stones. The witness saw nobody with any form of weapon at the barricade or saw or heard any firing from behind the barricade towards the north end of Rossville Street. **Day 060/159/5 to Day 060/159/11**.

18.3.2.28 **Gavan Duffy**, whose statement appears at **AD155.1** and who gave evidence at **Day 126**, was a friend of the witness Paul McGeady whose evidence is considered below. He accompanied him on the day. He identified himself in the middle of **EP35.3** on the south side of the Rubble Barricade. The witness then described the movement of people towards the barricade and in front of the barricade and seeing a soldier hit a boy with a rifle butt. Some of the people threw missiles at the soldiers, more of whom had appeared. The boy to his left who had been either on the barricade or slightly to the south of it was blown backwards by a shot fired from around the bottom end of the Kells Walk/Glenfada Park side. There were about five or six soldiers in the area. **Day 126/145/18 to Day 126/146/6**. That was the first live shot the witness recalled hearing that day. The boy fell backwards and he had nothing in his hands. **Day 126/146/12 to Day 126/146/19**.

18.3.2.29 It was put to the witness that Mr. McGeady had said he believed the boy had been moving forward to rescue the youth on the waste ground. The witness replied that everybody was sort of moving forward "maybe" to give assistance to the person that was being arrested. **Day 126/146/24 to Day 126/147/4**. However, he did not notice any people approach the soldier in an effort to rescue the boy who had been struck by the rifle butt. **Day 126/145/15 to Day 126/145/17**. The witness was

shown **P635** and Michael Kelly was pointed out to him on the photograph. The witness said he would have been maybe a matter of yards from him. The witness confirmed that the majority of people behind the barricade were not throwing stones and he agreed with the suggestion that **P635A** and **EP27.7** suggested that Michael Kelly was one of the majority of people who were not throwing stones or doing anything at the barricade. **Day 126/161/18 to Day 126/162/8**.

18.3.2.30 Some relevant parts of the evidence of Soldier F were put to the witness. He stated that he heard no firing from the Rossville Flats at any time that day. He did not see or hear any nail bombs being thrown or exploding in front of the barricade. **Day 126/164/5 to Day 126/164/8**. He saw no-one with a fizzing object in his hand before Michael Kelly was shot. He did not see Michael Kelly throw a nail bomb as described by Soldier F. The witness was clear from his position he would have seen it if it had occurred. **Day 126/164/21 to Day 126/165/8**.

18.3.2.31 **Paul McGeady** was, according to his evidence at **AM219.3** and **Day 137**, standing in Rossville Street to the south of the Rubble Barricade with Gavin Duffy whose own evidence was considered above. Mr. McGeady stated that they stood in Rossville Street at a point that has been marked E on the map attached to his statement. From this position, he looked north up Rossville Street to see what was going on. He saw about six soldiers standing behind the low wall at the south end of Kells Walk and recognised these soldiers as Paratroopers. He also saw about six more soldiers who were also Paratroopers behind the wall at the southernmost end of the pram ramp leading on to the first floor of Kells Walk.

18.3.2.32 At **AM219.1 paragraph 17** he stated that: "Some of the lads who were standing to the south of the rubble barricade were throwing stones at both groups of Paras. The Paras responded with rubber bullets." He then described an incident where a young lad has been caught and

assaulted by a soldier and a group of lads from behind the barricade intending to go out to his assistance. One of the young lads in the rescue group moved forward and was climbing over the barricade to go to the lad on the ground. He recalled that this boy was casually dressed and had dark shoulder length hair. He could not recall whether or not he had a stone in one of his hands. He was certainly not carrying a gun, a nail bomb or a petrol bomb. The witness did not see anyone at the barricade carrying a gun, nail bomb or petrol bomb. He did not see or hear any exploding. **Day 137/129/14 to Day 137/130/4**.

18.3.2.33 He was standing directly behind the boy and was looking at his back. The witness was directed to a photograph of Michael Kelly at **P413**. The witness thought the fellow he saw was more to the right but the person in the photograph did look similar. **Day 137/130/14 to Day 137/131/2**. As the boy climbed on to the top of the Rubble Barricade he was suddenly thrown violently backwards. The witness marked the point on a plan attached to his statement and it is right in the middle of the barricade in the middle of Rossville Street. The boy was thrown backwards both his arms went up in the air as he fell. He was not moving. The witness knew immediately that he had been shot, even though he had not heard a shot being fired. Nothing else could account for the violent way he was thrown backwards. There was a crowd of people around the lad who was lying just in front of him and so he did not actually see the lad on the ground or the position in which he was lying.

18.3.2.34 It seems clear the witness saw the shooting of Michael Kelly but his recollection of the location is mistaken. This witness ended his evidence by placing an arrow on **AM219.9**, marking the spot where he saw the person fall. As can be seen this is considerably further towards Rossville Flats than the known position where Michael Kelly fell as depicted in **EP32.2** and as described by a number of witnesses. He confirmed the general location to the right towards Rossville Flats at **Day 137/137/1 to Day 137/137/3** even though in his original statement

he marked the spot on the plan on **AM219.7** as the middle of the barricade. The evidence is clear that Michael Kelly was shot not far from the position he can be seen at in **EP27.7** and not on top of or on the northern side of the barricade.

18.3.2.35 Soldier F, for what his evidence was worth, did not suggest that the person he shot was anywhere other than behind the barricade.

18.3.2.36 It is clear that the witness is attempting to describe the shooting of Michael Kelly but as with his location he is mistaken about his activity when shot. His evidence on this issue should be read in the context of the weight of civilian evidence above which suggests that Michael Kelly was not engaged in any hostile activity prior to being shot.

18.3.2.37 **The following summary submissions are made on the civilian evidence considered above:**

i. Michael Kelly was shot without any weapon or any other item in either of his hands.
ii. He was not engaged in rioting
iii. No other person was shot in the vicinity of Michael Kelly at or around the time he was struck.
iv. Michael Kelly was facing north towards the soldiers on Rossville Street when he was shot on the southern side of the Barricade.[2]
v. He had been standing close to the spot he fell for a period of time prior to being shot.
vi. He was shot without any justification.
vii. Michael Kelly was murdered by the soldier who shot him.
viii. There was no firing from the Rossville Flats at the soldiers.
ix. There was no-one at or around the Rubble Barricade with a nail-bomb, petrol bomb or any other weapon.[3]

[2] See also evidence of **Don Mullan** **AM488.5 paragraphs 36 to 38**

x. No weapons were taken or carried away from the Rubble Barricade.

18.3.2.38 [*This paragraph has been withdrawn at the request of Madden & Finucane on the grounds of erroneous inclusion and duplication with paragraphs 18.3.2.31 to 18.3.2.36. Paragraph number 18.3.2.38 is accordingly not used.]*

[3] See also evidence of **Eamonn McAteer** **AM 41.5 paragraph 24** and **Don Mullan** **AM448.5 paragraph 40**.

18.3.2.39 *[This paragraph has been withdrawn at the request of Madden & Finucane on the grounds of erroneous inclusion and duplication with paragraphs 18.3.2.31 to 18.3.2.36. Paragraph number 18.3.2.39 is accordingly not used.]*

[Paragraphs 18.3.2.38 and 18.3.2.39 have been withdrawn at the request of Madden & Finucane on the grounds of erroneous inclusion and duplication with paragraphs 18.3.2.31 to 18.3.2.36.]

18.3.2.40 The witness **Patrick Norris** whose statement is at **AN24.1** also gave evidence on **Day 167/92**. At **AN24.2 paragraph 8** he stated that he walked down Rossville Street and passed the Rubble Barricade, where he met a young lad that he knew, Michael Kelly. He was standing behind the southern gable end of the east block of Glenfada Park North. He was standing in a position where he could see back north up Rossville Street. He was standing only a yard or so to the east of the gable. He refers to a photograph of the gable end. At **AN24.2 paragraph 9** the witness described how he knew Michael Kelly and chatting to Michael Kelly for about ten minutes. At **AN24.2 paragraph 10** he stated: "Michael Kelly said 'Here they come'. I did not see who he was looking at and did not see anyone coming myself. I heard no noise of gunshots or engines and just heard Michael Kelly say 'Here they come'. He must have seen the Army coming down Rossville Street. He did not sound shocked or surprised by this but when he said 'Here they come', he could possibly have been giving a warning shout."

This was described at **Day 167/94/18 to Day 167/95/2** as just a "simple here they come" so people knew that the army were coming and they were going to come into the Bogside not a warning that people should get ready to take on the army. He continued: "Almost immediately after he said those words, he reached down to pick up a stone from the ground at his side. As he stood up again, he pulled his arm back and bent his body as if to throw the stone northwards up Rossville Street. It was then that he was shot. I did not hear the shot that killed him." At **AN24.2 paragraph 11** he stated:" he did not throw the stone that he had picked up and he was shot before he had even begun to throw it. It was only a matter of seconds between him shouting 'Here they come' and being shot. He fell backwards almost at my feet. From the way that he fell, I assumed that the bullet that had hit him had come north from the William Street direction. Not a sound left his body, but as soon as he hit the ground, there was no sign of life. He might have given a very small tremor or spasm just as he hit the ground. I saw no blood." The witness then described shouting for help and a group of six or seven men helping him to carry Michael Kelly to safety to the gable end wall. At **AN24.5 paragraph 14** he stated: "He was eventually carried away into a house by others. I am unsure now where he was taken. I was still extremely shocked at this time. I do remember that a couple of men who were part of the group that carried Michael from where he had been shot were people I knew. One of them was John Kelly, who I knew quite well, and another was his brother-in-law".

18.3.2.41 The following submissions are made on the evidence of this witness:

i. The witness when shown **EP27.6** did not remember seeing Michael Kelly as far out on the pavement or the number of people around immediately before he was shot as depicted the photograph. In fact his recollection was that there was no-one around Michael Kelly or no-one else with the two of them at the gable end wall. **Day 167/96/6 to Day 167/97/11**.

ii. A further point in relation to this photograph is that the person who is Michael Kelly is some considerable distance to the right from the gable end wall where the witness claimed to have been talking to Michael Kelly for some ten minutes before Michael Kelly was shot. The witness claimed Michael Kelly was shot half a metre to a metre from the gable wall **Day 167/99/8 to Day 167/99/10** and **AN24.16** or an arms length from the witness **Day 167/147/25 to Day 167/148/5**. According to the witness Michael Kelly fell at his feet **Day 167/148/12 to Day 167/148/14** yet the witness had to accept that he himself did not appear anywhere in **EP27.6** and **P635**.

iii. Again with **EP27.7** and **P635A** the witness accepted he did not appear in the photograph. **Day 167/151/10 to Day 167/151/12**.

iv. In **EP32.2** and **P637** the witness accepted that the photograph fitted with where Michael Kelly was shot. **Day 167/103/7 to Day 167/103/22**. However he also had to accept that the kerb in the photograph **P635** was nowhere near the point that he suggested Michael Kelly fell. **Day 167/154/23 to Day 167/154/25**.

v. The witness gave a description and demonstration in evidence of Michael Kelly being shot as he bent his body or back slightly backwards as if to throw a stone. **Day 167/158/6 to Day 167/159/18**. This is clearly inconsistent with the forensic evidence, which is more consistent with Michael Kelly bending forward and facing the direction of the bullet.

vi. The witness had to accept contrary to what he stated at **AN24.3 paragraph 14** that in the light of the evidence of John Kelly, Michael Kelly's brother, that he was not involved in carrying his brother from the scene of the shooting of the Rubble

Barricade. Also that he did not come across his brother until he saw him being carried out of a house in Abbey Park.

vii. The evidence from the witness of the position and movements of John Young and Michael McDaid, having been shot whilst running south from the gable end wall of Glenfada Park North and their shooting after Kevin McIlhenny, is not consistent with any other civilian evidence notwithstanding his position proximate to Glenfada Park North. **AN26.1** and **Day 167/126/5 to Day 167/126/15**. In oral evidence he stated he was no longer sure if it was Young and McDaid .

viii. It is submitted in the light of the above and the evidence of other witnesses such as Jack Nash, Ronald Wood and Hugh O' Boyle that the witness is mistaken about Michael Kelly picking up a stone at the Rubble Barricade.

18.3.2.42 **Danny Craig** gave a statement at **AC111.2** and evidence to the Inquiry at **Day 135**. At **AC111.2 paragraph 10** he described moving back to the safety of the Rubble Barricade. He got talking to a young lad who introduced himself as Michael Kelly. He said he knew his brother John because he worked with him. The lad told him he was 17 and this was his first march. Because the witness was twenty-five at the time he started playing 'big daddy' (corrected by witness to more like brother **Day 135/51/20 to Day 135/51/25**). "I told him to run when I ran, to throw stones when I threw stones and to do everything I did and he would be all right. This is what he then did. I asked him where his brother John was and he said he was around somewhere. He also told me that his mammy had not wanted him to come on the march because she thought there might be trouble. I said as long as he stuck by me he would be fine and the worst that could happen was that he would get a rubber bullet." He was wearing a suit in a darkish colour, maybe grey with stripes on it. The witness had his black bomber jacket on (corrected by witness to navy blue **Day 135/52/1 to Day 135/52/5**). At

AC111.2 paragraph 13. the witness stated the following:" I said to Michael Kelly 'get down' and I bent down to pick up a stone and he did the same because he was doing everything that I did, but as he stood up he fell back and said 'Danny, I am shot'. I will never forget him falling back and saying my name like that. I looked at him and he seemed to have nothing but a pinhole (corrected by witness to mean small hole **Day 135/52/15 to Day 135/52/19**) in his gut." The witness then described leaving Michael Kelly and running. He got into an area he thought was Glenfada Park North. Then he described two men running out and pulling Michael Kelly on to the footpath in the shelter of the southern gable end wall of the eastern block of Glenfada Park South." When they turned Michael over "his back was blown out and his guts had come out."

18.3.2.43 The following submissions are made on the evidence of this witness:

i. At **AC111.1 paragraph 8** of his statement of evidence and at **Day 135/54/22 to Day 135/55/2** he claims that the army came out from behind Barrier 14 pushing the rioters back up William Street and down Rossville street and then returning behind the barrier. There is no other civilian or army evidence to support this recollection.

ii. The witness recollected the "bigger soldiers" i.e. the Paras, taking over from the "little guys" i.e. non- paras in Rossville Street. On the weight of the evidence the witness cannot be right about the deployment of non-parachute regiment soldiers on Rossville Street. **Day 135/97/8 to Day 135/100/11**. The witness also indicated that at one point he had reached the Rubble Barricade and left it to go back up Rossville Street and engage in stone throwing but changed his evidence to state

that it had occurred before he had moved back to the safety of the Rubble Barricade. **Day 135/98/2 to Day 135/98/18**.

iii. The witness stated at **AC111.2 paragraph 12** that one of the "big guys" i.e. the paras got down on one knee in Rossville Street and fired at them. When it was put to him that in his 1972 statement at **AC111.12** that he did not say he saw the paras take aim and fire the witness replied that he could remember nothing about that statement and could not answer on it.

iv. His evidence that two others were shot before Michael Kelly is clearly at odds with any other civilian evidence available and is inherently unreliable.

v. There are fundamental differences between the accounts given by the witness of the alleged shooting of another person or persons around the time of Michael Kelly's shooting in his NICRA statement at **AC111.7**, his Eversheds statement and his oral evidence to the Inquiry. The obvious inconsistency is the timing of the shooting of the man in the leg as in the NICRA statement which occurred after assisting Michael Kelly and the Eversheds statement before Michael Kelly was shot. The descriptions of the man's actions and location at the time are therefore also obviously contradictory. In addition the second person who appears in the Eversheds statement as falling and who was surmised to have been shot does not appear in the NICRA statement. At **Day 135/59/23 to Day 135/60/3** the witness said when asked by Counsel to the Inquiry about this episode: "I can remember just what it says there. I can remember the second lad, the other lad was hit somewhere, where-things were happening so quick, just, you know. One of them definitely seemed to have been shot in the leg, that would have been on what it says there." (The witness

is here referring to para 12 of his Eversheds statement dated 1 June 1999). The witness then stated that he did not know or learn later that the first lad was shot although it was his "guess" as time was going past and that he saw the second one clutch his leg. **Day 135/60/4 to Day 135/60/11**.

vi. It is clear from the NICRA statement and the words "I now know the first lad to be Kelly" that the witness could not have had the meeting and the introduction to Michael Kelly he claims in his Eversheds statement. The obvious inference of these words is that the witness only learned later that the man shot at the barricade was called Kelly. **Day 135/88/22 to Day 135/89/16**.

vii. A further point on the issue of his alleged meeting with Michael Kelly is that the witness appears to have told Paul Mahon at **X447.16** that Michael Kelly told him who he was and: "it didn't dawn on me that I was working with his brother John then, but I know see that he has been talking to the Bloody Sunday Inquiry, saying that his brother was shot". This interview was recorded on 20th June 1998. In his statement to Evershed's at **AC111.2 paragraph 10**, made on 1st June 1999, the witness claimed that he knew his brother John because he worked with him and that he asked Michael Kelly where his brother John was, and Michael Kelly said he was around somewhere.

vii. In his NICRA statement in 1972 the witness stated that Michael Kelly shouted to him "I am shot, help me". This can be contrasted with the words as they appear in the Eversheds statement: "Danny I am shot". It is a clear inference that the name did not appear in the NICRA statement in 1972 because at that stage Michael Kelly did not know Mr. Craig and could not have used his name. It is submitted the use of the name

"Danny" is not credible and did not occur. **AC111.2 paragraph 13**.

viii. The witness does not appear in photographs **EP27.6** or **EP27.7**. This is significant given the witness's claim to extremely close proximity to Michael Kelly when he was shot, at a time which must have been very shortly after **EP27.7** was taken. **Day 135/91/9 to Day 135/92/10**.

ix. It should also be noted that the witness himself was "surprised" he did not appear in the photographs and gave the following response when questioned:

Q. Because if your evidence were true in that regard, (i.e. that the witness was with Michael Kelly at the time Michael Kelly appears in **EP27.6** and **EP27.7**) you would be in that photograph?

A. Yes. **Day 135/92/1 to Day 135/92/10**.

x It may also be noted the witness Gavan Duffy who was able to recognise Danny Craig in **P636** did not recall seeing him anywhere near Michael Kelly at the time Michael Kelly was shot. **Day 126/165/21 to Day 126/166/14**.

xi On a number of occasions the witness attempted to distance himself from his 1972 statement saying he did not remember it but also saying "If denial means I do not remember, I do not remember making it....I deny that I have made that statement.

Q. Did you or did you not make the statement in 1972?

A If I did my honest answer is I do not remember." **Day 135/89/17 to Day 135/90/1**.

He also claimed to have no memory of the second 1972 statement bearing his name at **AC111.11**. **Day 135/124/17 to Day 135/125/22**.

xii The witness appeared to suggest at **AC111.3 paragraph 14** that he had run to a fence somewhere in Glenfada Park before Michael Kelly was brought to the gable end of Glenfada Park North, when the soldiers were coming into Glenfada Park North. At one stage in his evidence he suggested his location was Abbey Park where of course he could not have seen Michael Kelly at the gable end or indeed the other two people he claimed to have seen dragged to the gable end before Michael Kelly. **Day 135/65/8 to Day 135/70/25**.

There is also an internal contradiction in the witness statement at **AC111.3 paragraph 14** where he says he doesn't know where the two others were dragged to and at **AC111.4 paragraph 25**, where he states that he thought they and Michael Kelly had been dragged to the same place i.e. the gable end of Glenfada Park North.

xiii As was pointed out to the witness at **Day 135/108/10 to Day 135/108/19** there is no support for his proposition that the two males and Michael Kelly were taken to the gable wall by **P638**.

xiv The witness description of Michael Kelly's injury is not consistent with the close view and proximity that he claimed. **Day 135/109/11 to Day 135/110/20**. In addition his correction of his initial description of the wound from a pinhole to a small hole is still not credible on the nature of the wound given that he said in evidence it was about the breadth of a

cigarette end maybe larger. **Day 135/103/3 to Day 135/103/19**.

xv His account of a tray of petrol or nail bombs is wholly unsubstantiated or corroborated at that time and location and is not credible. When questioned on whether they were nail bombs or petrol bombs he said that they were nail bombs even though he told Eversheds they were petrol bombs or nail bombs. He claimed he should not have said that to Eversheds. **Day 135/110/21 to Day 135/115/15**.

xvi The description by the witness of his exit and route from Glenfada Park through William Street etc. was the opposite direction from the account contained in his 1972 statement. **Day 135/119/23 to Day 135/120/16.**

xvii The witness indicated at **AC111.4 paragraph 26** that he was "long gone" by the time of the scene depicted in photograph **AC111.21** which had been taken before the soldiers had entered the square in Glenfada Park North. Earlier at **AC111.3 paragraph 14** he appeared to indicate he had been there by indicating that he heard lads shout "the bastards are coming through."

xviii The witness was further challenged regarding **AC111.4 paragraphs 27 to 29** and his account of a shooting incident on the night of Bloody Sunday in Beechwood Avenue. This is clearly a relevant matter for the Inquiry in assessing the general credibility of this witness. **Day 135/129/20 to Day 135/137/23** and **Day 135/153/12 Day 135/155/6**.

18.3.2.44 The above submissions must cast considerable doubt on the reliability of the evidence of this witness and the Inquiry ought not to place reliance on his evidence, either in respect of seeing Michael Kelly

bending down to pick up a stone, or engage in throwing stones with Mr. Craig and the alleged sighting of nail bombs in the location or locations suggested by the witness.

18.3.2.45 The witness **Sean Eugene O'Neill**, at **AO65.8** claims to have been present at some stage in the afternoon at a number of important locations including the Rubble Barricade and was described by Counsel to the Inquiry in his opening statement at **Day 24** as "a fleet-footed" witness. His testimony on Michael Kelly as a "regular rioter" is it is submitted utterly mistaken or false. The civilian evidence on the background and character of Michael Kelly is relied upon to oppose this suggestion. We also note his use of exactly the same description of some of the other deceased. In addition the weight of the civilian evidence clearly refutes such a suggestion. His failure to give evidence deprives the families of the opportunity to refute his suggestions directly and it is submitted that the Inquiry should attach no weight to his evidence.

18.3.2.46 The evidence of **Ciaran Donnelly**, the Irish Times Staff Photographer, appears at **M22.21** and **Day 71**. At **M22.21 paragraph 6** he stated: "I took up a position behind the barricade to take some photographs. This was on a pram ramp at the North Eastern corner of Glenfada Park South. The witness confirmed he would have taken **EP27.6** and **EP27.7** from this location. **Day 071/30/16 to Day 071/32/6**. He saw a lad in his late teens come out from behind block 1 of the Rossville flats and run towards the Pigs taunting the soldiers. At this point two soldiers came from behind one of the Pigs and chased him. He then saw two other soldiers, who had also come from the area of block 1, catch him and then drag him away. It was at this point that he heard what he thought to be two live rounds. People on the barricade ducked and he heard someone shout "don't run away - they are only firing blanks." The witness thought that it was the two shots he heard or baton rounds being fired which might have caused the figures to duck in the photograph. **Day 071/32/7 to Day 071/32/18**. There were about

eight to ten youths standing on the top of the barricade and one of them, standing on the left of the barricade as he looked at it (the Glenfada Park North side) had his arms in the air and was taunting the Army. Whilst he did see some youths at the barricade throwing stones at the Army, at no stage did he ever see any weapons fired at the Army or any petrol or nail bombs thrown. Nor did he see any weapons at all at the barricade. **Day 071/27/13 to Day 071/27/16**.

18.3.2.47 At **M22.21 paragraph 8** about two to three minutes after he heard the first two live rounds he saw the youth on the left of the barricade who was taunting the soldiers fall to the ground. The witness was at the barricade taking either **EP27.8** or **EP27.9** at the time. The witness stated: "This man was standing on the barricade, maybe just in front of it. I think he fell to the William Street side of the barricade. I am not sure though, it is a long time ago." **Day 071/29/12 to Day 071/30/1**. The youth had just been standing when he fell. **WT2.82F**. People immediately ran to help him. His reaction was that he could not believe the Army were firing live rounds. He then saw another guy fall on the other side of the barricade i.e. the Rossville Flats Block 1 side, and thought, "I am getting out of here". The interval between the shooting was maybe one to two minutes, maybe less than a minute. **Day 071/28/15 to Day 071/29/2**. He said that when the man fell on the west side, he, Mr Donnelly, took cover behind Glenfada Park North. Then, as the crowd rushed to the aid of the man who had been shot, he said that there was another two or four shots and a man fell on the opposite side of Rossville Street, that is to say on the east side. The witness confirmed he did not actually see the man fall. **Day 071/36/17 to Day 071/37/3.** Somebody shouted "they have got another man" and a crowd gathered around that man too. Mr Donnelly told Lord Widgery that he did not actually see the second man fall and he presumed that he was dragged into the Rossville Street flats. Then a crowd of youths ran around the corner of Glenfada Park, that must be the gable end, shouting that the Army was coming again and Mr Donnelly ran round the corner too. He then said that he saw the body of the man whom he

had seen fall being carried out, over from the barricade to Glenfada Park and then across the car park of Glenfada Park North towards the west. He took a picture of that which appears at **EP27.10**.

18.3.2.48 At **WT2.84 E** the witness, in response to a suggestion from Counsel that shots were fired from the area where the man fell, answered: "I was there, and if I was 15 yards at the most from these people I would know if someone was shooting near me, and the first thing I would do would be to run away, because I would not want to be caught in it." At **WT3.7** he put the first shot towards the barricade some four or five minutes after the Paras came in and after the troops had gone into the Rossville flat courtyard on the eastern side.

18.3.2.49 The following submissions are made on the evidence of this witness:

i As the Inquiry will note Michael Kelly is not identified by any witness in either photograph **EP27.8** or **EP27.9**. It is submitted that certainly close to the time he was shot he was not on or close to the barricade as part of this group facing the army.

ii With regard to the witnesses suggestion that the young man he saw shot on the west of the barricade had his arms in the air taunting the army it is noted the witness described it as "just the standard sort of what you see at football matches". **Day 071/26/23**. It is clear that the witness's suggestion of "taunting" whatever that amounted to did not appear in his Widgery evidence. At **WT2.84 F** the witness describes the man he saw as "not doing anything at all. He was not even throwing stones at that time".

18.3.2.50 Removal of Michael Kelly from Rubble Barricade

Michael Kelly was removed from the Rubble Barricade in circumstances where firing continued from the Army down Rossville Street. Whilst Michael Kelly was being carried through Glenfada Park, shooting resumed from soldiers who had entered the park from the north east entrance. These soldiers were the members of Anti-Tank Platoon, who had been at the Rubble Barricade.

18.3.2.51 Michael Kelly was lifted from where he fell by a number of people. **Charles McLaughlin** was one of the people who carried Michael Kelly from the Rubble Barricade into Glenfada Park North. At **AM321.3 paragraph 8** of his statement he described his position at the gable wall (that is of Glenfada Park North) where he could see the rubble barricade going across Rossville Street from near where he was standing to block 1 of the Rossville Flats. He saw a young boy lying on his back on the concrete on the Free Derry Corner side of the rubble barricade, near to Glenfada Park North. The position as marked at **AM321.6** with an X is close to where other witnesses have placed Michael Kelly. He thought there were other people near the rubble barricade but no one was near the boy. He thought that the boy had fallen with his head towards the barricade and his feet towards himself. He ran out and tried to lift him. The boy had long curly hair and was wearing a white shirt. He did not notice what else he was wearing. He could have been wearing a jacket over the shirt. He found him to be so heavy that he could not lift him on his own. He was crouched down and shots were being fired all around him at this point. He assumed it was the soldiers at the back of the APC's parked in Rossville Street. **Day 177/79/14 to Day 177/79/18**. The six or seven people huddled against the gable wall were watching him. He shouted at them "Christ, will you fucking come out and help me?" A man he now knows to be Father Bradley came out to help. At **AM321.3 paragraph 9** the witness described trying to lift the boy. "Bullets were whizzing down Rossville Street from a northerly direction and we were crouching low

to avoid being hit." As he lifted the boy he saw blood start to stain red through the front of his shirt. The blood spread out in a large circle over his chest. He did not realise that the boy had been shot until they lifted him and he saw the blood. Until then he had thought that the soldiers had just been firing over people's heads. He was shocked when he realized that the boy had been shot. The boy was drifting in and out of consciousness when they picked him up. He never spoke.

18.3.2.52 At **AM321.3 paragraph 10** the witness described the movement of soldiers and civilians at this time: "As we were lifting the boy, I saw Paras walking alongside the Saracens which were advancing south down Rossville Street towards the rubble barricade. Shooting was coming from all directions by this point. People were completely panicked. Some people were desperately trying to get into the entrance to block 1 of the Rossville flats. From the gable wall I had seen people lined up in the shelter of the shops at the rear (Free Derry Corner side) of block 2 of the Rossville flats. I had also seen hundreds of people hiding in gardens behind wooden fences in Glenfada Park North. All the people that I saw around the rubble barricade had their backs to the advancing soldiers. I did not see any civilian gunmen in the area. The people were clearly panicked and were running away from the Rubble Barricade towards Free Derry Corner." Although this witness refers to being assisted by Father Bradley, Father Bradley himself referred to being restrained from going out to the boy, rather than carrying him. The witness recalls carrying the young boy with Father Bradley over the concrete flags towards the gable wall. As they were carrying the boy, one of the men sheltering there came out. The witness then recalls George Downey coming towards them and saying "Jesus that is my brother-in-law". The three of them carried the boy to the shelter of the gable wall.

18.3.2.53 At **AM321.4 paragraph 12** he stated that after he had carried Michael Kelly to the gable wall he became aware of more firing into the courtyard of Glenfada Park North. He was still wearing his

handkerchief and knew that he could be identified as a rioter. As the young boy was now in safe hands - with his brother-in-law and Father Bradley - he decided to escape from the area as fast as he could. As he left the gable wall, he heard Father Bradley begin to give the boy the last rites. He ran through Glenfada Park North to the southwestern corner running in a zig-zag pattern to avoid being hit by flying bullets. As he ran he saw two Paratroopers enter the Glenfada Park North car park through the northeast corner. **Day 177/86/16 to Day 177/87/2**. The witness said one was firing sporadically from the hip and the other from a standing position. The witness was aware of bullets from both soldiers coming past the witness, splitting the wooden fences while he was running behind him to the left and to the side of him. **Day 177/87/18 to Day 177/89/7**.

18.3.2.54 **Father Denis Bradley**, as he then was, gave evidence to Lord Widgery and his statement to this Inquiry is at **H1.1 to 79**. He gave evidence on **Day 140**. He told Lord Widgery that he reached Glenfada Park having come there from Columbcille Court to the north. Whilst he was there a number of people came rushing in off Rossville Street. When he asked what the matter was they said that the Army had come. Within seconds of his question he heard gunfire and saw a man, who turned out to be Michael Kelly, lying on the ground at the entrance to the car park of Glenfada Park, almost immediately opposite the entrance to the high flats, about ten yards away from him. He rushed over to Michael Kelly and administered the last rites. He saw no sign of a weapon. During the incident there was shooting going on which the witness had the impression was from the William Street end of Rossville Street. He then asked people to take Michael Kelly to some place to get attention and it was after that that he was lifted and taken to the far end of the Glenfada Park car park. A number lifted him up on their shoulders and began to carry him away down another small alleyway which exited out of Glenfada Park North to Abbey Park at the south western corner. **H1.9 paragraph 23**.

18.3.2.55 **Joseph Donnelly** was born and raised in Liverpool and after serving in the Royal Navy for nine years, moved to Derry in 1964. At **AD124.3 paragraph 10** he described entering Glenfada Park North by the entrance at the north east corner, at grid reference I13 on the plan attached to his statement. He was facing south looking towards the wooden fence which ran west to east along the south side of the Glenfada Park North courtyard. There were very few people in Glenfada Park North at the time but he could see a group of people standing by the gable wall at the southern end of the east block of Glenfada Park North. Paddy Doherty (not the man shot on Bloody Sunday) and himself went over to see what was going on. He began to assist a man called Mr Liddy who was in difficulties. He was standing just south of the gable wall. He was hunched over in some pain and was being assisted by two men. He [Mr Liddy] told him he had been hit in the chest by a rubber bullet. There was a group of people standing at the Rubble Barricade but he did not pay much attention to them as he was helping Mr Liddy. He was also turned slightly away from Rossville Street in order to give Mr Liddy his full attention.

18.3.2.56 There was gunfire at this time but he thought it was just rubber bullets that were being fired. He was not aware of anyone throwing stones or other missiles from the area around the Rubble Barricade. He did not hear any nail bombs or other bombs going off. In fact, throughout the day, he did not recall seeing a single person carrying or throwing a nail bomb, acid bomb or petrol bomb. **AD124.3 paragraph 12**. He then heard the crack of three shots being fired, one after another, and he could tell these to be live bullets from the sound they made. He was not sure from where these bullets were fired. Mr Liddy looked over his shoulder towards the Rubble Barricade and said "That man needs you more than I do". He turned and saw a young man lying on his back, face up, next to the barricade. He had been shot in the stomach. He was told that this man was called Michael Kelly. He assumed that one of the shots that he had just heard had hit him. A group of men standing around Michael Kelly were going to pick him up to carry him to safety.

He told them instinctively not to do so as they could increase the severity of his injury. He heard at least ten live shots being fired, which were directed at the people behind the Rubble Barricade. The witness confirmed these shots came down Rossville Street from the direction of William Street. **Day 128/95/7 to Day 128/95/14**.

18.3.2.57 There were no nail bombs or guns lying around Michael Kelly. He could see no reason why Michael Kelly should have been shot. **AD124.4 paragraph 14**. According to the witness about six men picked up Michael Kelly and ran with him from the Rubble Barricade west into Glenfada Park North despite his warning. They were going to carry him to the safety of Glenfada Park North. He did not recall seeing them put Michael Kelly down on the way but accepts that he was put down. **Day 128/96/18 to Day 128/96/22**. He followed them, taking off his tie as he went. He was going to use his tie to try to stem the bleeding from Michael's stomach. The witness confirmed this scene as it appeared in **EP23.11** and identified himself in the photograph. There was then a large number of people in Glenfada Park North. He thought that most of these people had previously been standing by the Rubble Barricade and then sought shelter in Glenfada Park North. The witness also appears in **EP27.11**. He identified himself in this photograph as the man with quite a bushy sideburn, just to the left of the window. He also identified James Wray. This group appears to be carrying the body of Michael Kelly as Michael Kelly's body does not appear to the south of the gable end wall at this stage. **EP27.10** shows Michael Kelly's body being carried across Glenfada Park North, with the witness, Joseph Donnelly, identifying himself on the right-hand side of the group as turning towards Michael Kelly. He is the figure with the sideburns and the tie to which he referred.

18.3.2.58 At **AD124.4 paragraph 17** the witness described making his way west across Glenfada Park North, when three Paratroopers entered Glenfada Park North from the northeast entrance. The crowd carrying Michael Kelly almost dropped him in panic at the sight of the soldiers and he

slipped down in between their arms. The witness took him in his arms and carried him on his own. He did not seem heavy. At **AD124.4 paragraph 18** the witness described Michael Kelly as being still alive at this stage. As he got hold of him he noticed that one of the soldiers was taking up a firing position. He was kneeling on the ground with his rifle at his shoulder and was aiming towards them. The two other soldiers had their rifles at waist height. All three soldiers fired shots at the crowd. He thought that the soldiers who had weapons at waist height had, roughly, only a 20% chance of hitting him, but he was afraid of the third soldier who knelt down. The witness confirmed he thought the three of them were firing at them since the sound came from the three of them. **Day 128/99/20 to Day 128/99/25**. At **AD124 paragraph 19** the witness described the scene thus: "I ran across Glenfada Park North towards the entrance to Abbey Park carrying Michael. Paddy was running beside me to my right and Michael's brother-in-law, George Downey, ran in front of us. I am sure that had there not been so many people in Glenfada Park North the soldiers would have had a clear shot at me and I am in no doubt that I would have been fired at. As it was bullets were flying past me and hitting the wooden fence, which was splintering. The soldiers seemed absolutely determined to hit someone. I was in no doubt that I was running for my life". The witness confirmed that there was no threat to the soldiers or anyone apart from a soldier with a firearm. **Day 128/100/8 to Day 128/100/10**.

18.3.2.59 **Paddy Doherty**, the man referred to in the evidence of Joseph Donnelly, gave evidence at **Day 157** of the Inquiry and his statement appears at **AD97.2**. At the Rubble Barricade the witness saw a man struck by a rubber bullet in the chest. The witness identified himself in the photograph **EP27.6** and marked himself on **AD97.12**. Also in **P638**, **P641** and **P642** and at **AD97.14**. The witness confirmed his presence with Mr. Donnelly in Glenfada Park North assisting with carrying Michael Kelly. After the shooting began people scattered, leaving about three of them, who continued to take Michael Kelly to a

house in Abbey Park. He heard the shooting but did not see the soldiers himself. He was running for his life. **AD97.3 paragraphs 7 to 11** and **Day 157/159/7 to Day 157/160/5**.

18.3.2.60 **Pearse McCall** was one of those who carried Michael Kelly across Glenfada Park North. His statement appears at **AM93.1**. He accepted in his oral evidence on **Day 164** that he could be mistaken on a number of issues in his Eversheds statement, **AM93.1**. These included the number of soldiers in a snatch squad and whether he had seen soldiers coming down as far as free Derry Corner on Bloody Sunday, or on another date. He did maintain that he saw soldiers lined across Rossville Street north of the Barricade on the day. No stones were thrown from the Rubble Barricade, although there was some shouting at the soldiers which was not unusual. At **AM93.3 paragraph 11** he described an intense burst of rubber bullet fire which lasted for a few minutes. Bullets were bouncing off the Rubble Barricade. After no more than three to four minutes Seamus Friel and the witness were about to leave the barricade, when live shots were fired. No more rubber bullets were fired. It was sustained live fire and worse than the intense rubber bullet fire.

18.3.2.61 At **AM93.3 paragraph 12** he described running to the southern gable end of the eastern block of Glenfada Park North as soon as the live shots were fired. There were about fifteen to sixteen people sheltering there. From his position he could see people sheltering behind fences of houses in Glenfada Park North. He then described the scene as follows: "I saw three to four bodies lying in Rossville Street to the south of the rubble barricade. One man was lying at the edge of the footpath near the gable end of Glenfada Park North. He had fallen forward with his head pointing north and his feet pointing south, although I am not certain about this. I cannot remember what he was wearing. Another man was lying about one to two feet further east along the rubble barricade, but I do not remember much about him. I did not realise that the two men had been shot because I could not see

any blood on their bodies. I cannot remember anything about the other bodies on the Rubble Barricade". At **AM93.3 paragraph 13** he went on to describe fetching one of the bodies lying near the Rubble Barricade with the help of one or two other people. He was not sure which body it was. They could not drag the man by his feet so they turned him over and dragged him away by holding him under his arms. He did not see his injuries and he did not remember seeing anything in the man's hands, not even a stone. He was not sure whether they dropped him and could not remember where they left him. He then went on to describe picking up another body, which he recently found out was the body of Michael Kelly. They each took hold of one of his legs and possibly his shoulder and carried him from the Rubble Barricade west toward and through the Glenfada Park North car park. He saw the bullet entry wound in his abdomen and he recalled the clothing on his back felt very wet. The witness identified himself in the photograph which shows him helping to carry Michael Kelly west through the Glenfada Park car park **EP27.10**. He identified himself as the man without a beard, whose face is facing the cameraman, carrying Michael Kelly.

18.3.2.62 At **Day 164/87/9 to Day 164/88/11**, the witness accepted that it could be the case that it was only one person that he helped to take from the barricade and across Glenfada Park, and that it could have been the situation that that he took in Michael Kelly and then picked him up again. As regards seeing a number of bodies at the Rubble Barricade the witness accepted that the persons he saw were just people who had simply fallen or dropped to the ground when the gunfire started. **Day 164/106/16 to Day 164/106/22**. He also accepted it could well be that rather than carrying two people from the Rubble Barricade it was likely that he helped carry Michael Kelly on the two occasions rather than two separate bodies on two occasions. **Day 164/110/9 to Day 164/110/18**.

18.3.2.63 At **AM93.3 paragraph 15** he described being at a point just before the southwest entrance to the alleyway leading into Abbey Park. He looked up and saw two soldiers sauntering into the car park from the direction of Rossville Street through the alleyway at the northeast corner of Glenfada Park North. They were both tall soldiers, approximately the same height. The witness believes that they may have been wearing face paint but he may be wrong about this. He was unsure if they had facial hair or what they were wearing on their heads, although they may have been wearing helmets with the visors raised. The soldier on the left was holding his rifle at his chest in a very casual fashion "like John Wayne". The soldier on his right was holding his rifle higher up. The witness did not see them shoot, but had no doubt in his mind that they were about to start shooting. As soon as he saw the soldier, he must have either dropped Michael Kelly on the ground or put him down somewhere in the car park. Seamus Friel and the witness started to run towards the northwest corner of Glenfada Park North. He was unsure where the other person who had helped him to carry Michael Kelly was. The gunfire started almost immediately and the witness recognised different types of gunfire and the distinct crack of Army rifle fire[4].

18.3.2.64 The following submissions are made on the above evidence:

i. There was no-one at the Rubble Barricade with a fire-arm.

ii. There was nothing being thrown apart from some stones.

iii. No-one at or around the barricade was carrying a nail-bomb or a petrol bomb.

iv. Shooting continued towards the barricade as Michael Kelly was being carried into Glenfada Park North.

[4] **George Downey**, who was Michael Kelly's brother in law, was at the gable end of Glenfada Park North and saw a body at the barricade, which turned out to be Michael Kelly. He also assisted in carrying Michael Kelly from the south gable of Glenfada Park North. He identified himself in **EP27.10** with his face obstructed. He described extensive firing, he assumed, from a soldier who had emerged from the alley into the north eastern corner of Glenfada Park North. **AD13.4 paragraph 22**. At **Day123/47/1 to Day 123/47/17** he described tripping and Michael Kelly being picked up by Joseph Donnelly.

v. There was no nail bombs or weapons near Michael Kelly lying at the barricade.

vi. As Michael Kelly was being carried through Glenfada Park North, civilians and those assisting him were fired on by a soldier or soldiers, who had emerged from the alleyway at the northeast corner of Glenfada Park.

18.3.2.65 The removal of Michael Kelly to 8 Abbey Park.

At **AD134.5 paragraph 25**, **George Downey** described Michael Kelly being taken into 8 Abbey Park and described seeing two people, a man and a woman, looking out of the window of the first house in the row, which lay immediately to the west of Glenfada Park South. Although he did not know them at the time, the couple in the window was Mr and Mrs Carr. He motioned to Mr and Mrs Carr to open their front door. **AD134.5 paragraph 26**. He headed for the door and almost flattened Mrs Carr as he burst in with Michael and the Englishman. Michael was carried into the living room and laid down very gently. He still did not know where he was hit. He knelt down beside him and asked Mrs Carr to draw the blinds. He could still hear shots from outside and he did not want them to be seen by the soldiers.

18.3.2.66 As Michael lay with his head facing the living room window, he examined him and noticed a spot of blood on his shirt and pulled it out of his trousers where he had it tucked in. He saw a bullet entry wound which was no bigger than the tip of a little finger on the left-hand side to his waist line. He slipped his hand round his back to check for the exit wound. There was none. He then asked Mrs Carr for something to clean and bind the wound. She gave him a white baby-grow which he wrapped around Michael's waist and then knotted. He seemed to me to be in shock and his lower arms were extremely cold, he was drained white. **AD134.5 paragraph 27**. After between five and ten minutes a Knight of Malta girl came into the Carr's living room. He did not know the name of the Knight of Malta girl but he recollected that she had a

bad leg and limped. She knelt down and examined Michael and his wound. They redressed the wound using bandages and cotton wool. He asked her how Michael was. She replied that he was not too good and was in shock. She told him that he had better start praying. He knelt forward and said an act of contrition in Michael's ear. **AD134.6 paragraph 30**.

18.3.2.67 At **AD124 paragraph 20** Joseph Donnelly described running through the alleyway to the south-west corner of Glenfada Park North which leads into Abbey Park. George (Downey) ran to number 8 Abbey Park which was directly opposite the alleyway. George was shouting to the occupant to let them in. He described being let into the house and the lady of the house fetching a sheet which was torn into strips to use as bandages. At **AD124 paragraph 23** he described Michael Kelly as wearing a shirt with a T-shirt underneath which he pulled up so that he could find out where he had been shot and put pressure on the wound to try the stop the bleeding. He could see the entrance wound of the bullet in the stomach. The skin around the entry wound was blue. Michael was still alive at this time.

18.3.2.68 Conclusion.

The weight of the relevant civilian evidence confirms overwhelmingly that

Michael Kelly was the first person killed at the Rubble Barricade, in circumstances which provided no justification whatsoever for his shooting by Soldier F. He was unarmed and neither he nor any person around him was engaged in any activity which could have led Soldier F to conclude that his own life or anyone else's was in danger.

18.3.2.69 John Kelly, the brother of Michael Kelly, in his evidence at **AK13.3 paragraph 9** and **Day 167** described having been in the vicinity of the body of Gerard McKinney facing 8 Abbey Park. His brother-in-law

George Downey shouted to him. George Downey was coming out of no.8 and was carrying a body. Mr Downey said it was Michael and he had been shot. Together with Mr. Downey and George Cooley, his other brother-in-law, he helped carry Michael through the alleyways between Glenfada Park North and Glenfada Park South to an ambulance. John travelled in the ambulance to Altnagelvin hospital and Michael was pronounced dead at Casualty.

18.3.3 Injuries sustained

18.3.3.1 The post mortem examination was carried out by Doctor Marshall at 19.00hrs hrs.(**E2.68**) The report of Doctor Shepherd and Mr O'Callaghan appears at **E2.40, E2.41** with the accompanying diagram at **E2.76.** The morgue photographs are in **Bundle P2 Tab2** (**P41 to P54**) inclusive.

18.3.3.2 Michael Kelly was struck by a single bullet which entered the left side of his abdomen "side on", most probably with the nose of the bullet pointing upwards and to the right and the base downwards, indicating that the bullet was unstable. Internal injuries were caused to the bowel, main artery and vein supplying the left leg, lumbar vertebrae and the sacrum. The bullet lodged in the sacrum so there was no exit wound. Cause of death was internal haemorrhage. A 7.62 mm calibre bullet was recovered and later traced to Soldier F's rifle.

18.3.3.3 No description of the angle of the wound track was given in Dr Marshall's notes or in the main report but, as appears from the Opinion, the direction of travel of the bullet appears to have been from front to back, left to right at 20° and downwards at 30°. This is consistent with him facing the shooter and stooping slightly, not unlike the way he was seen stooping in photograph **P635**.

18.3.3.4 According to Mr O'Callaghan, the fact that the bullet was unstable when it struck Michael Kelly was consistent with it having struck someone or something before it struck him (**Day 230/18/18 to Day**

230/18/21). However, Dr. Martin found no evidence of damage to the bullet (**D0040**). According to Mr O'Callaghan, no conclusions can safely be drawn from the X-ray of the bullet. (**Day 230/19/6 to Day 230/19/10**).

18.3.3.5 Counsel to the Inquiry explored the possibility of the bullet having struck stone, wood, metal or human bone without sustaining visible damage. In each case, Mr O'Callaghan said that he would have expected damage but it all depended on the severity of the impact (**Day 230/19/17 to Day 230/22/1**). Dr Shepherd said that the most likely reason for the instability of the bullet was some prior contact but did not think it was possible to say whether this was because of a ricochet or because it had travelled through some object. (**Day 229/7/7 to Day 229/7/11**). However, he thought that the relatively pristine state of the bullet suggested that it was a very shallow contact or no contact at all. (**Day 229/78/24 to Day 229/79/1**).

18.3.4 Removal to hospital

18.3.4.1 George Downey described how, together with John Kelly and George Cooley, he subsequently carried Michael Kelly to an ambulance in Glenfada Park North and accompanied him to Altnagelvin Hospital. Gerard McKinney and possibly Joe Mahon were also taken in this ambulance along with a number of relatives and first aid personnel. The ambulance had been called at 4.30pm and arrived at Glenfada Park at 4.37 pm. The ambulance reached hospital at 5.00pm. The journey took about 10 to 15 minutes maybe shorter. Michael Kelly was examined by a Consultant in the casualty Department. His words were "I'm sorry." **AD134.7 paragraph 39**.

18.3.5 Forensic Evidence

18.3.5.1 As appears from the table in Dr Lloyd's report at **E1.30** setting out details of Dr Martin's tests, the tests for lead were positive in that one particle was found on swabs from the left hand, 29 on the jacket

surface and 11 on the trouser surface. None was found on the right hand.

18.3.5.2 During his testimony at the Widgery Tribunal, Dr. Martin said the results were consistent with exposure to a firearm discharge and was prepared to accept the suggestion that these results could have been due to the use of a gun in a gloved right hand. (**WT9/14B** and **WT9/31D**) Dr Lloyd regarded that explanation as "of doubtful credibility" (**E1.44 paragraph 8.7.2a**). He thought it improbable that the distribution of particles could have been produced by Michael Kelly's proximity to a person who was discharging a gun. (**E1.44 paragraph 8.7.2b**) More generally, Dr Lloyd concluded that the absence of controlled testing nullified any evidential significance that Dr Martin's results might have had (**E1.25 paragraph 8.1.g**). Bearing in mind the likelihood of spurious contamination, he considered that **Dr Martin's results were "worthless"** (**E1.52 paragraph g**) In his oral testimony, Dr Martin agreed. (**Day 226/2/6 to Day 226/2/22**)

18.4 Hugh Gilmore

18.4.1 Personal Details and Background

18.4.1.1 Hugh Gilmore was 17 when he was murdered on Bloody Sunday. He was from Block2 of the Rossville Flats at 21 Garvan Place. He was the youngest in a family of eight children, four sisters and four brothers. His ambition was to be a mechanic and he had been working for the Northern Tyre company for approximately 18 months before he was shot. Neither he nor his family had any political affiliations.

18.4.1.2 The photograph of Hugh Gilmore running fatally wounded with nothing in his hands towards the doorway of Block1 on Rossville Street is one of the most famous images of Bloody Sunday. **EP23.9A**

18.4.1.3 Relevant Photographs

The following are photographs of Hugh Gilmore taken on Bloody Sunday:

Photo Ref. #	Description of Photograph	Relevant Witnesses Depicted in Photograph
P 661	Photograph of HG on the march	?
P 662/ EP23.9	HG running towards entrance to Block 1	Frank Mellon, Seán MacDermott, Don Carlin, James Greene, PIRA 26, Colm Keenan
P 663 / EP23.9A	Wider photograph of HG running towards Block 1	As above
P 664	Crowd round HG's body at gable end	Hugh Kelly, Bernard Gallagher, Brian McCool, Danny McGowan, Frank Mellon
P 665	HG's body at gable end	N/A
P 666	HG being tended to by Knight of Malta	?
P 667	HG and Barney McGuigan's bodies by gable end	?
P 668	HG's body covered by banner	Hugh Kelly and John Friel
P 669	HG's body covered with blanket (shoes removed)	?
P 672	HG's body on stretcher	?

18.4.2 Civilian Evidence in relation to Shootings

Summary

18.4.2.1 The civilian evidence in respect of Hugh Gilmore's actions and movements on Bloody Sunday is often confused in relation to location and whether or not he was involved in stone throwing. Two possible explanations can be advanced for these apparent inconsistencies.

Firstly, rioters were generally young fleet footed individuals who rarely, if ever occupied a static role. Traditional and acknowledged territorial positions permitted a fluidity of constant movement from one location to another. This was particularly so in a situation where soldiers had advanced to a position and in a manner which up until the events of Bloody Sunday was unprecedented.

Secondly, unlike the military witnesses, the civilian witnesses were exposed to sudden and unexpected incidents of horrendous violence. For virtually all, the experience was both traumatic and shocking. Most people who were present were gripped in fear as they watched unarmed teenagers being randomly shot with high velocity weapons.

18.4.2.2 The civilian evidence in respect of the exact location and position of Hugh Gilmore when he was shot appears at times to be confusing and irreconcilable. Twelve witnesses actually claim to have seen him shot. Of these, three placed him in a different position in their Eversheds statement than had appeared in their 1972 evidence (**Sean MacDermott**, **Eamon Melaugh** and **Geraldine Richmond**).

Other factors which add to the confusion concern the following:

i) The preferred conclusion reached by the Inquiry's experts was that Hugh Gilmore was shot twice.

ii) Hugh Gilmore continued running after being shot and at least one witness, **Margaret Patterson** appeared to have mistaken his falling over with his actually being shot.

iii) Hugh Gilmore appears to have shouted "I am hit" on at least two separate occasions, a factor which may have led to confusion over the timing and location of the shooting.

18.4.2.3 Four witnesses, namely **Sean MacDermott, Eamon Melaugh, PIRA 14** and **PIRA 26** place Hugh Gilmore just north of the Rubble Barricade when he was shot. **Geraldine Richmond**, when providing her first account of this incident also shared this belief but now accepts that she may have been wrong about this.

Three witnesses, namely **James Donal Deeney, James Green** and **Frank Mellon** gave evidence that he was shot at the Rubble Barricade.

Four witnesses claim that Hugh Gilmore was running south down Rossville Street at the time when he was hit by a bullet and that he was close to the entrance of Block1. **Geraldine Richmond** and **Michael McCusker** indicate that he was slightly north of the entrance.

Margaret Patterson believed that he was south of the Barricade and level with the southwest corner of Block1. It will be recalled that **Eamon Melaugh** thought he was running south but that Hugh Gilmore was on the north side of the Barricade at the point of impact.

18.4.2.4 **Kathleen Brown** is the only witness to suggest that Hugh Gilmore was shot south of Block1 of the Rossville Flats. Her evidence in this regard it is submitted is incompatible with all of the other witnesses who saw him shot and with those who heard him shout "I am hit" as he cleared the entrance to Block1. Furthermore, she made no reference to having seen him shot in her 1972 statement and claimed that there was no-body else sheltering at the gable end at the time of the shooting, which again contradicts the evidence of those who were in this location when the soldiers opened fire in Rossville Street.

18.4.2.5 Finally, **Alexander McFadden** uniquely asserts that Hugh Gilmore was shot in the Rossville Flats car park as he attempted to make his way between Blocks 1 and 2. He gave oral evidence on **Day 401** and remained adamant that it was Hugh Gilmore that he saw hit though he assumed at the time that it was a rubber bullet and not a live round. **Day 401/161/10 to Day 401/161/17**

Most of the witnesses who claimed to have seen Hugh Gilmore shot (nine) testified that he had been facing away from the soldiers on Rossville Street when the bullet hit him.

18.4.2.6 **Kathleen Brown**, **James Green**, **PIRA 14** and **PIRA 26** are the only witnesses to suggest that Hugh Gilmore was facing north towards the soldiers. It will be recalled that **James Donal Deeney** who had been listed in Christopher Clarke QC's "Summary of the Evidence in Relation to the Death of Hugh Gimore and Kevin McElhinney" is represented as suggesting that the deceased was facing north, in fact during his evidence the witness was unable to recall in which direction he was facing.

Six of the witnesses are clear that he was facing away from the soldiers at the time of the shooting. They include **Geraldine Richmond**, **Frankie Mellon**, **Eamon Melaugh**, **Michael McCusker**, **Alexander McFadden** and **Margaret Patterson**.

Sean MacDermott no longer claims to have actually seen him shot. In 1972 he claimed that Hugh Gilmore was at the Barricade when hit but did not specify the direction in which he was facing.

18.4.2.7 In summary, the evidence of those witnesses in respect of Hugh Gilmore who in our respectful submission are most important is illustrated in the table below:

Witness [1]	Location of HG when shot			Direction in which HG was facing		Reason for believing saw impact of bullet
	At / near rubble barricade	Running south	Other	North / towards soldiers	South / away from soldiers	
Kathleen Brown	-	-	✓	✓	-	Claimed to have actually seen a soldier shoot him
Donal Deeney	✓	-	-	? [2]	?	Heard HG say 'I'm shot' at barricade
James Greene	✓	-	-	✓	-	Heard HG say 'I'm shot' at barricade
Seán MacDermott	✓	-	-	? [3]	?	Heard HG say 'I'm shot' at barricade (1972 account)
Geraldine McBride	-	✓	-	-	✓	Heard bullet whiz past her; HG gasped and said he was hit
Michael McCusker	-	✓	-	-	✓	HG put his hand to his back and staggered
Alexander McFadden	-	-	✓	-	✓	HG called out 'I'm hit'
Eamon Melaugh	✓	✓	-	✓	✓	HG suddenly bent over and clutched his elbow (1972 account)
Frank Mellon	✓	-	-	-	✓	HG jerked and said 'I've been hit'
Margaret Patterson	-	✓	-	-	✓	HG span round and fell
PIRA 14	✓	-	-	✓	-	Heard possibly 2 shots. Saw HG clutch stomach in a spasm. Saw him run and shout something like "I'm hit"
PIRA 26	✓	-	-	✓	-	Saw HG throw a stone. Saw soldier shooting. About same moment heard HG call out "I'm hit, I'm hit"

[1] Bold ticks represent witness' 1972 evidence
[2] Unsure of direction in which HG was facing when shot; however, was facing south when shouted 'I'm hit'
[3] Did not give clear evidence on this point

18.4.2.8 It seems reasonable to assume that Hugh Gilmore was shot when he was at or near the Barricade close to the west side of Block1 Rossville Flats. The fact that a number of witnesses claim to have seen him shot whilst running south down Rossville Street is consistent with the position adopted by Messrs O'Callaghan and Shepherd, *viz*, that Hugh Gilmore was shot twice:

i) First, whilst on the north side of the Barricade; and
ii) Secondly, whilst either at or near it as he ran for safety.

18.4.2.9 Evidence shows that Hugh Gilmore commenced his "death run" from just north of the Barricade to just south of the entrance to Block1 where he collapsed with a serious abdominal gunshot wound. It may well be that Hugh Gilmore was shot first in the arm on or perhaps slightly north of the Barricade and then subsequently in the stomach, as he was running down the eastern side of Rossville Street. The first shot hitting the arm theory could be supported by **Eamon Melaugh**'s evidence in that he claims to have seen Hugh Gilmore suddenly bend over and clutch his arm just north of the Rubble Barricade. Although he is the only witness to expressly suggest this, none of the other witnesses who actually saw him shot, (with the exception of **PIRA 14** and **PIRA 26)** give any indication to the Inquiry where on his body they thought he had been hit. It will be recalled that in 1972 **Sean MacDermott** thought that Hugh Gilmore clutched his stomach but no longer has any recollection of this.

18.4.2.10 There was no evidence to suggest that Hugh Gilmore could not have run the distance between the northern end of the Barricade and the southern corner of Block1. If indeed it was suggested that the deceased could not have run this distance then it would give weight to the theory that he was shot at or near the entrance to Block1. There is a two-fold problem with this theory however:

i) Firstly, **James Greene** who claims to have seen Hugh Gilmore shot on the Barricade and who sees him running south down Rossville Street, had no recollection of seeing him shot a second time. **Day 149/21/4**

ii) Secondly, **PIRA 14** confidently asserted that he saw a soldier fire two shots and as he did so a young man standing in front of him, slightly to his right clutched his stomach in a spasm. **APIRA14.4 paragraph 21**

18.4.2.11 A second possible conclusion could be that Hugh Gilmore was hit by two bullets either fired simultaneously or in quick succession. A number of witnesses, namely **Geraldine Richmond, Eamon Melaugh, James Greene** and **PIRA 14** claimed to have heard two bullets fired at the time that Hugh Gilmore was hit. These descriptions however do not explain the discrepancies that exist between the statements. An explanation has been partially averred to at the outset.

18.4.2.12 The sudden and dramatic nature of this particular event occurred in an extremely short period of time within a relatively crowded street over a distance of approximately 50 yards. It would be more surprising that in these shocking and traumatic circumstances all the witnesses supplied consistent and stereotyped accounts of this particular event.

18.4.2.13 Timing of Events

Virtually all of the civilian evidence indicates that Hugh Gilmore was shot before William Nash, Michael McDaid and John Young, but in light of the sequence of photographs taken by Robert White it is likely that he was shot very soon after Michael Kelly, although the witnesses do not recall any bodies being on the Barricade at this stage.

18.4.2.14 The majority of witnesses suggest that Hugh Gilmore was shot before Kevin McElhinney although **Don Carlin** claims that McElhinney was

already on the stair well of Block1 as Hugh Gilmore ran past **Day 134/54/7**. It is virtually certain that Mr Carlin was confused about the sequence of these events.

It is also tolerably clear that Hugh Gilmore was shot some time after the shootings of Jackie Duddy, Michael Bridge and Michael Bradley as a number of the witnesses who saw him running down Rossville Street had come from the Rossville Flats car park in an attempt to seek shelter from the shooting e.g. **Mitchel McLaughlin**, **Donal Deeney** and **Patrick Kelly**.

18.4.2.15 **Position of the Soldier who Shot Hugh Gilmore**

A number of witnesses claim to have actually seen the soldier who fired the shot or shots which struck Hugh Gilmore.

i) **Kathleen Brown** locates the soldier at the gable end wall of Glenfada Park North and describes him as quite a small soldier wearing a beret **AB94.12 paragraph 11**. Her evidence in respect of this matter is less that convincing and at best highly improbable given that it was unlikely that any soldier had made his way to that location at such an early stage in the events.

ii) **Geraldine Richmond** however **AM45.4 paragraph 18** and **Eamon Melaugh Day 143/84/3 to Day 143/84/7** shared the belief that the deceased was shot that the deceased was shot from the east side of the east block of Glenfada Park North or from the west side of Rossville Street.

iii) It will also be recalled that **Michael McCusker AM160.5 paragraph 11**, **Donal Deeney** and **Robert White** all thought that Hugh Gilmore had been shot by a soldier, positioned on Rossville Street north of the Rubble Barricade. **Donal Deeney** thought that the soldier was on the west side of the road **AD26.12 paragraph 13** while **Robert White** suggested that the soldier was standing at the north gable end of Block1 **Day 137/111/4 to Day 137/112/14**, having seen a

soldier in this location immediately after catching sight of the deceased.

iv) The most confident description of the soldier who fired the fatal shots into Hugh Gilmore came from **PIRA 14** and **PIRA 26**. This evidence described Hugh Gilmore as being shot north of the Barricade **APIRA 14.4 paragraphs 21 to 24** and **APIRA26.4 paragraphs 25 to 27**.

18.4.2.16 Movements After Being Shot

Witnesses concur that Hugh Gilmore died within minutes of being brought to the gable end, lying on the ground with his head resting in **Geraldine Richmond's** lap. A number of people attempted unsuccessfully to assist him by stemming the flow of blood from his stomach wound and administering mouth-to-mouth resuscitation.

The civilian evidence relating to where the deceased actually fell is much clearer than the evidence relating to the location that he was shot. All the evidence suggests that the deceased collapsed at or about a southerly position of the entrance to Block1 and he was then carried from there to the gable end of Block1 by a number of people. Eight witnesses support this conclusion. (See Table below)

Four witnesses however, suggest that Hugh Gilmore made it to the gable end on his own and a further two suggest that he collapsed in Rossville Street level with the south gable end Block1 and that he was dragged round the corner by those already sheltering at the gable end. Only one witness, **James Quinn**, suggests that Hugh Gilmore was carried from the Rubble Barricade to the south gable end.

Movements of HG as and after he collapsed	HuBarbour	Kathleen Brown	Brendan Gallagher [2]	**James Greene**	**Sean MacDermott**	**Geraldine McBride**	Brian McCool [3]	Michael McCusker	Danny McGowan [4]	**Mitchel McLaughlin**	Eamon Melaugh	**Frank Mellon**	**Margaret Patterson** [5]	**James Quinn**	James Toye [6]	PIRA 14	PIRA 26
Collapsed at / near entrance to Block 1 & carried round gable end	-	-	✓	✓	✓	✓	-	✓	-	✓	-	-	✓	-	✓	-	-
Collapsed in Rossville Street at gable end & dragged round	✓	-	-	-	-	-	✓	-	-	-	-	✓	-	-	-	✓	-
Made it to gable end on own	-	✓	-	-	-	-	-	-	✓	-	✓	-	-	-	-	-	✓
Carried from rubble barricade to gable end of Block 1	-	-	-	-	-	-	-	-	-	-	-	-	-	✓	-	-	-

[1] Witnesses in **bold** claim to have carried HG to gable end

[2] Saw HG collapse but did not see him carried

[3] Saw HG's body in Rossville Street; subsequently saw him carried round by those in Rossville Street rather than dragged round by those at the gable end

[4] Claimed in BSI statement to have seen him collapse at gable end, but in 1972 said that he merely saw him on the ground in this location

[5] Ibid

[6] Very confused; not sure whether he actually saw this happen or whether HG was already at the gable end when he arrived

18.4.2.17 Weapons

None of those who saw the deceased at any stage on Bloody Sunday before or after he was shot were asked by Counsel for the Soldiers whether or not Hugh Gilmore was carrying a weapon on the day. Counsel for the Inquiry asked this of this of only three witnesses, *viz*, **Brendan Gallagher** Day 147/208/16 to Day 147/208/22, **Frank**

Mellon Day 151/144/25 to Day 151/145/16, **PIRA 14** Day 421/48/17 to Day 421/49/1.

James Quinn and **PIRA 26** were asked whether anyone at the barricade was armed but not whether the deceased was carrying a weapon. Both witnesses were clear that no-one was armed in this location. Day 179/57/9 to Day 179/57/19; Day 425/62/14 to Day 425/62/19.
This highlights a tacit understanding shared by everyone representing the interests of all parties that the deceased was unarmed.

18.4.2.18 Out of the twenty three witnesses who saw Hugh Gilmore alive, nineteen indicated that immediately before or after he was shot, he was unarmed. Twelve of these expressed these explicitly: **Kathleen Brown** AB94.14 paragraph 24, **Don Carlin** AC141.3 paragraph 15, **Bernard Gallagher** Day 147/208/22, **James Greene** AG54.4 paragraph 20, **Liam Mailey** M50.37, **Geraldine Richmond** AM45.8 paragraph 39, **Eamon Melaugh** Day 143/36/4 to Day 143/36/22, **Frank Mellon** AM399.13 paragraph 31 **and** Day 151/145/1 to Day 151/145/3, **James Toye** AT13.3 paragraph 12, **Robert White** AW399.6 paragraph 31, **PIRA 14** Day 421/48/24 **and PIRA26** Day 425/65/19 to Day 425/66/3.

18.4.2.19 It is also worth noting that two of these witnesses, **James Greene** and **Bernard Gallagher** also stated that there was no possible way that anyone could have mistakenly believed that Hugh Gilmore was armed with a gun or a bomb. A further nine of the twenty-three witnesses made a blanket statement that they had seen no civilian armed with guns or nail bombs on the day. None of the remaining witnesses claimed to have seen Hugh Gilmore armed, but merely made no mention of civilian weapons in their statements and were not questioned on this point by Counsel.

Cross-examination re weapons on or near HG: witnesses who saw HG alive, as or immediately before or after he was shot [1]	Hugh Barbour	**Kathleen Brown**	**Don Carlin**	Donal Deeney	**Bernard Gallagher** [2]	**James Greene**	Willie Healey	Patrick Kelly	Seán MacDermott	**Geraldine McBride**	Brian McCool [3]	Michael McCusker	Alexander McFadden [4]	Paul McLaughlin	Mitchel McLaughlin	**Eamon Melaugh**	**Frank Mellon**	**Liam Mailey** [5]	Daniel Morrison	Margaret Patterson	James Quinn	**James Toye**	**Robert White**	**PIRA 14**	**PIRA 26**
Positively assert no weapons	×	✓	✓	×	✓	✓	×	✓	×	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Questioned by Inquiry?	×	×	×	×	✓	×	×	×	×	×	N / A	×	N / A	×	×	×	✓	×	×	×	✓	×	×	×	✓	✓

[1] Witnesses in **bold** expressly stated that HG was unarmed; this is often in addition to making a blanket statement that they saw no IRA activity or civilians armed in any way on Bloody Sunday; non-bolded ticks indicate that witnesses did not discuss weapons specifically in relation to HG, but made a blanket statement that they had seen no civilians with weapons on the day; those with crosses did not say they saw weapons, but merely made no reference to weapons in their statements or oral evidence.

[2] Was asked whether HG was carrying anything that 'looked like or could have looked like a weapon'

[3] Has not given oral evidence

[4] Ibid

[5] Widgery evidence

As a final point, not a single one of the twenty witnesses who saw Hugh Gilmore's body at the gable end was questioned by the soldiers' representatives or by the Inquiry as to whether there were any weapons on his person.

18.4.2.20 Key Witnesses

Sean MacDermott **AM4** gave evidence on **Day 144**. This witness recalled that along with his friend Frankie Mellon, that he left the vicinity of Free Derry Corner and walked in a northerly direction to Rossville Flats. When they reached the flats they became aware of a riot in progress in or about the junction of William Street and Rossville Street. By the standards of the day this was not an unusual event and both he and Mr Mellon stood at the southern side of the Barricade and observed the riot from a safe distance. At or about this time, Hugh Gilmore approached their position from the doorway of Block1. They exchanged greetings and the deceased made his way in the direction of the riot. Mr MacDermott was unable to observe any soldiers within the vicinity at this point in time. However events were clearly moving quickly and within a short period someone shouted "They are shooting live rounds" **AM4.3 paragraph 15**.

18.4.2.21 The witness immediately crouched down, but was still unable to see any soldiers in or about his line of vision. Approximately thirty seconds later the witness provides the following description of events:

> "He was running unaided in a semi-crouched position along the east side of Rossville Street when I first caught sight of him, he was almost level with us on our side (the south side) of the Barricade. His approximate position when I first saw him is marked "A" on the map (**AM4.8**) (grid reference K15). He shouted "I'm hit, I'm hit". On hearing this, those gathered at the barricade turned to run towards Free Derry

corner... but at that stage I assumed that Hugh Gilmore had been hit by a rubber bullet." **AM4.3 paragraph 17**

18.4.2.22 The witness then relates how he and Mr Mellon ran after the deceased. They caught up with Mr Gilmore at the south west corner of Block1 just as his knees seemed to give way from under him. Both he and Mr Mellon each took an arm and carried him to a position near the south west corner of the south facing gable end wall of the same Block. He further recalls seeing Geraldine Richmond standing at or about Hugh Gilmore's head and at some point Hugh's head resting in her lap. Geraldine Richmond was later taken away as she was crying hysterically. **AM4.4 paragraph 21**

18.4.2.23 The witness was never questioned about whether Hugh Gilmore was carrying any weapon or weapons not whether any such weapons were present on the Barricade. It is clear from this evidence that Hugh Gilmore was deliberately shot in circumstances where he presented no threat to the advancing soldiers.

18.4.2.24 **Frankie Mellon** **AM399** gave evidence on **Day 151**. He can be seen in **P441**, **P445**, **P663**, **P664**, **E14.9**. Curiously Mr Mellon has no recollection of accompanying his friend Mr MacDermott to Free Derry Corner nor indeed returning from that location northwards towards the Barricade **Day 151/136/17**; **Day 151/137/9 to Day 151/137/20**.

His first recollection involves the witness walking through a "mini riot" towards the Barricade. A number of rioters were throwing stones at soldiers who by this stage had entered Rossville Street and who had conveniently thrown their missiles to one side in order to allow him access to the Barricade. The witness could not recollect seeing any arrests being made at this point **Day 151/139/24** or of hearing or seeing any rubber bullets being fired **Day 151/140/5**.

18.4.2.25 Interestingly this witness expressed the opinion that the stone throwing was in effect "an empty protest" **AM 399.3 paragraphs 12 to 13**; **Day 151/141/5**. He recognised Hugh Gilmore as a stone thrower, observing him run a distance of 40 to 50 yards north of the Barricade and throw a stone in the direction of the Army **Day 151/141/15**. The witness was asked directly if Hugh Gilmore had a weapon:

> "***Q. Did you see Hugh Gilmore with any weapon at all in his hand other than a stone?***
> ***A. Hugh Gilmore did not have any weapon at all in his hand.***
> ***Q. What about anybody else at the barricade?***
> ***A. There was no weapons or any form of people have mentioned nail bombs or petrol bombs, there was nothing of that sort. All I saw was stones."*** (emphasis added) **Day 151/145/1 to Day 151/145/7**.

18.4.2.26 The witness went on to recall a number of Army vehicles speeding towards the Barricade. He remembered four to five soldiers jumping out of the lead pig via the back doors and beginning to fire immediately **Day 151/148/2**. When pressed on this matter he acknowledged he may have been mistaken about the timing of the arrival of the vehicles **Day 151/148/23 to Day 151/149/13**. However along with Geraldine Richmond the witness was adamant that the soldiers fired as soon as they emerged from the vehicles.

18.4.2.27 In relation to the location and timing of the bullet which struck Hugh Gilmore, the witness claimed that as he reached the Rubble Barricade that he heard two high velocity shots. He believed that he was on the southern side of the Barricade and that Hugh Gilmore was about three feet in front of him. He describes the event in the following way:

> "When I heard the two shots Hugh Gilmore was running fast, directly in front of me looking straight ahead. He was about three feet or so in front of me and had just got over the Rubble Barricade. The second shot hit him and as it did

so he jumped up with the force, grasped his right side and said "I've been hit". He kept on running: it was the momentum that kept him going." **AM 399.4 paragraph 17**

18.4.2.28 The witness further recalled examining Hugh Gilmore at the south end of Block 1 and observing a small hole on the right of his upper torso. During his attempt to provide artificial respiration the deceased exhaled a large quantity of blood into the witness' mouth. This event caused Geraldine Richmond to scream hysterically. **AM 399.4 paragraph 18**

Mr Mellon went on to describe in graphic and distressing detail the full extent of Hugh Gilmore's injuries and his attempts to treat them. **AM 399.4 paragraph 18** Surprisingly it is only at this point that the witness recalls his friend Sean MacDermott being present.

18.4.2.29 The witness was very properly questioned by Mr Clarke QC about the fundamental differences in the accounts offered by him and Sean MacDermott. The witness dealt with this line of enquiry in the following way:

"Q. The very fact Hugh Gilmore is shot beside you really predicates the whole of your recollection preceding it, does it not?

A. Not of itself. I do have a recollection, prior to Hugh Gilmore, of coming through that and over the barricade. So it is not that Hugh Gilmore places me in that context; I place myself there. But taking into account what you have just suggested and what Mr McDermott has suggested, there are possibilities and variations on the theme given the timescale, and I would not want to say or suggest that that was 100 per cent categorically sure, anything is possible. But I would equally not want, because of a lack of clarity, for it to detract from the real issue when I am speaking about Hugh Gilmore.

But I simply say, purely on the basis of logic, the fact that I was in that position meant I came across Rossville Street and ended up behind Hugh Gilmore. The other suggestion does not make sense

to me. It would not make sense to me, simply from that point of view. But I do believe I came through that way, more than that I cannot give you really." **Day 151/204/14 to Day 151/205/10**

The weight to be attached to this explanation is further enhanced by the fact that when asked whether he had discussed his evidence with Mr MacDermott, unlike the military witnesses, Mr Mellon immediately admitted that such discussions had taken place and that they had agreed to disagree. It should be noted that these two men prior to these discussions had not seen each other for ten years. **Day 151/197/25 to Day 151/198/12**

18.4.2.30 It is important to recall that Mr Mellon was an eighteen year old student nurse attempting to describe a deeply traumatic event which was sudden, brief and extremely violent. Others have described the incident as "the most terrifying experience they had ever encountered."

Mr Mellon remains as consistent today as he was in 1972 in respect of the principal issue as it relates to Hugh Gilmore, viz:

> "I did not see anyone at all with nail bombs or petrol bombs that day. Hugh Gilmore was not carrying a weapon. He had nothing in his hands or his jacket.
>
> Hugh Gilmore's death really upset me because I knew him. We were not friends but not enemies. I was glad it was me who was with him when he died as I said a lot to him. I saw people killed that day and I have never seen death like a saw in such a short time. I have not been back in Derry since 1974." **AM399.6 paragraphs 31 to 32**

18.4.2.31 These sentiments were never challenged or questioned and therefore must be allowed to stand as a guiding beacon which highlights the truth of what really happened to Hugh Gilmore.

18.4.2.32 **Geraldine Richmond** **AM45** gave oral evidence to the Tribunal on **Day 145** and **Day 146**. She can be seen in photographs **P818** and **P820**. She too was eighteen on Bloody Sunday. She recalled meeting Hugh Gilmore (who she did not know at the time) at the corner of William Street and Rossville Street. She went on to describe how along with Hugh Gilmore and another young man she ran in a southerly direction as the Army vehicles approached from Little James Street **AM45.2 paragraph 9**, **Day 145/148/18 to Day 145/149/2**.

She stated that the deceased and the other youth stopped and threw a single stone in the direction of the vehicles which were at this point stationary **Day 145/146/20 to Day 145/147/13**.

18.4.2.33 She recalled how three soldiers emerged from one of the vehicles, possibly the Ferret car. **Day 145/151/21 to Day 145/152/3**. As they fired, people began to run and shortly before they reached the Barricade Hugh Gilmore exclaimed "The bastards are killing us". People who were already on the Barricade were either throwing stones or standing idly around. **Day 145/154/15 to Day 145/155/23**.

The witness confirmed that before reaching the doors of Block1 she heard two distinct shots **Day 145/155/24 to Day 145/156/5**. She stated that as she crossed the Barricade the shooting was very fierce.

18.4.2.34 Geraldine Richmond had a clear recollection of the deceased stating "I'm hit" **Day 145/158/12 to Day 145/158/21** The witness accepted in her oral evidence to this Inquiry that Hugh Gilmore could have cried out on two separate occasions that he was hit **Day 146/6/10 to Day 146/6/16**. This would be consistent with what she told Lord Widgery **WT6.49E to WT 6.50B**. She failed to see any sign of the deceased being hit before this point **Day 145/156/6 to Day 145/156/8**.

18.4.2.35 Her testimony before Lord Widgery in relation to the location which she believed Hugh Gilmore to have been initially shot, namely north of the Rubble Barricade differed from her Eversheds statement insofar as she now believed that the deceased was shot whilst running in a southerly direction between the Barricade and the entrance to Block1. It may be recalled that Counsel to the Inquiry suggested that this confusion could have arisen from the fact that Hugh Gilmore may have been shot twice, one before reaching the barricade and once afterwards. In fact the witness accepted the possibility that the deceased could have been struck both before and after **Day 146/21/25 to Day 146/22/25**.

18.4.2.36 **Position of Soldier Who Shot Hugh Gilmore**

Geraldine Richmond told the Tribunal she thought that the two bullets may have come from a position to the right. **Day 145/158/12 to Day 145/158/20**. She went on to say in her oral evidence that she believed the shots came from the vicinity of Glenfada Park North **AM45.4 paragraph18**; **Day 145/159/4**. It is submitted that the witness is mistaken in this regard due to the fact that no soldiers would have entered the Glenfada Park area at this stage. When asked in 1972 about the likely location from where the fatal shot came from the witness in her NICRA statement was inclined to the view that it had been discharged by one of the soldiers, possibly the one in the kneeling position, in Rossville Street **AM45.23**. In her Treasury Solicitor statement and her oral evidence to Lord Widgery she appeared to express no view as to where the shot came from **AM45.24**, **WT6.61D - E**. It submitted that Geraldine Richmond was an impressive and truthful witness but whose recollection of the likely source of the shot fails to provide any real assistance to the Tribunal. However her importance in respect of the principal issues remains untouched.

18.4.2.37 In light of her evidence we submit that Geraldine Richmond was clearly a truthful witness who had been significantly traumatised by the events of the day. This has been independently demonstrated by the

descriptions of her reaction to the deaths of Hugh Gilmore and Barney McGuigan. The Tribunal will recall that the horror of this moment has been graphically recorded on the Grimaldi / North tape counter reference 37 minutes 53 seconds to 39 minutes **M35.58, E3.0059**. The hysteria of this witness as recorded requires no words or description and its effects remind the listener of the collective panic which enveloped the civilians at that location[5].

18.4.2.38 The integrity of this witness can be measured by her frank description of Hugh Gilmore throwing a stone before he reached the Barricade **Day 145/31/14 to Day 145/31/25**. It is worth noting that it was never suggested to her by anyone that the deceased was a gunman or that he was carrying anything such as a weapon.

18.4.2.39 It will be recalled that she categorically confirmed that the deceased was not carrying any weapons, that she saw nobody else with any form of weapon and that she did not hear any nail bombs explode. **AM45.8 paragraph 39**

PIRA 14, who on Bloody Sunday was "a very senior member[6]" of the PIRA attached to the command in Dublin, gave evidence to the Inquiry under subpoena on **Day 421**. His statement is found at **APIRA 14.1**.

18.4.2.40 PIRA 14 was in the area of Free Derry Corner along with his brother PIRA 26 and Colm Keenan. All three men were members of the Provisional IRA. He then approached the area of the Rossville Flats after hearing shots from the William Street end of Rossville Street. He assumed that these were rubber bullets and that something was happening in Rossville Street. Out of curiosity, Colm, his brother and PIRA 14 ran south towards the Rossville Flats to see what was going on.

---

[5] Voice authentication in oral evidence of Susan North **Day 130/71/4 to Day 130/71/16**

[6] **Day 421/17**

18.4.2.41 When he got to the barricade he was told that people had got shot although the witness did not see anyone who had been shot at that stage. He saw armoured vehicles at the William Street end of Rossville Street and soldiers moving towards Kells Walk **APIRA 14.3 paragraph 16**. He was also aware of other soldiers at the north end of Block1. APIRA 14 moved north of the Rubble Barricade whilst his brother and Colm Keenan stayed on the southern side of the Barricade **APIRA 14.3 paragraph 17**. All these men stayed on the eastern side of Rossville Street.

18.4.2.42 The witness confirmed that neither he, his brother or Colm Keenan were armed nor on active service and that he saw no other armed civilian at the Barricade or anywhere else **APIRA 14.4 paragraph 22**. Moreover there was nothing that could be mistaken for a gun **Day 421/35/7 to Day 421/35 21**. At no stage was it suggested to PIRA 14 by any of the Soldiers' Counsel that either he or any of his group was carrying or using weapons of any type.

There had been some stone throwing from the Rubble Barricade at the soldiers at the north end of Block1.

The witness said in his statement that there were about 50-60 people in the general area of the Barricade but in his oral evidence he said that he could not be sure although there were "upwards of 30" persons present **Day 421/34/22 to Day 421/ 35/3**.

18.4.2.43 Position of Soldier Who Shot Hugh Gilmore

PIRA14's brother drew his attention to one soldier in particular **Day 421/42/21to Day 421/42/22**. This soldier, who was near the ramp at Kells Walk, fired his rifle in the direction of Free Derry Corner from a position out in the open. Other soldiers were close by **APIRA 14.3**

paragraph 19. This same soldier then turned his rifle "in an arc" so that it pointed in the witness' general direction. The soldier's gun recoiled and the witness' impression was that the same soldier fired two shots in rapid succession. At this time PIRA 14 was standing on part of the Rubble on the northern side of the Barricade, close to Block 1 **Day 421/40/16 to Day 421/40/25**. Suddenly, Hugh Gilmore, who was slightly in front of the witness and to his left[7], clutched his stomach in a spasm. The witness' recollection was that Hugh Gilmore was facing towards the soldiers at the north end of Block1 when he was shot **Day 421/48/25 to Day 421/49/17**.

18.4.2.44 The witness thought that Hugh Gilmore had been shouting at the soldiers at the north end of Block1 and that he may have been throwing a stone at them although he could not be absolutely sure about this. He was standing either on the barricade itself, or just on the northern side standing on some rubble when he was hit **APIRA14.4 paragraph 23**. As soon as he was shot turned and ran southwards along the western side of Block1 **APIRA14.4 paragraph 21**. PIRA14 saw Hugh Gilmore stumble as he got to the end of Block 1 and he was then pulled around the corner.

18.4.2.45 As Hugh Gilmore ran off further bullets were fired that struck around and south of the Barricade **APIRA14.4 paragraph 21;Day 421/50/19 to Day 421/ 51/21**. PIRA14 was able to point out Colm Keenan in photographs **EP23.9** and **EP23.9A** as being the man with his back to the camera, just to the right of Hugh Gilmore.

18.4.2.46 PIRA14 next saw Hugh Gilmore near the telephone box at the southern side of Block1. The witness provided a graphic and accurate account of Gilmore's stomach wound **APIRA14.4 paragraph 24**.

[7] PIRA14's Eversheds statement recorded that Gilmore was to his right but in oral evidence he said that this was incorrect and that he was in fact positioned to his left **Day 421/45/4**

It was not suggested by any of the interested parties that PIRA14 was giving untruthful or inaccurate evidence in respect of any of the events he described near the area of the Rubble Barricade.

Arguably the most confident description of the solder who fired the fatal shots was provided by this witness and his brother who gave evidence under the cipher PIRA 26. Surprisingly, neither witness was challenged about the very dramatic and thoroughly unjustified circumstances, which their description of the event disclosed.

18.4.2.47 **PIRA 26** gave evidence on **Day 425**. He estimated that around 30 people were present in the area of the Rubble Barricade when soldiers opened fire. These civilians were generally milling about. The only person he saw throw a stone was Hugh Gilmore. He saw no-one in the vicinity of the Barricade who was armed with a weapon or anything which might be mistaken for a firearm such as a piece of wood or metal **Day 425/62/8 to Day 425/62/19**.

The witness could not recall seeing any army vehicles, however he did have a vivid recollection of seeing a soldier standing at the south end of Kells Walk by the pram ramp. This soldier appears to have already occupied this position when the witness arrived at a location just north of the Barricade **Day 425/62/20 to Day 425/63/21**.

18.4.2.48 He saw the soldier fire an estimated two to three shots **Day 425/24/24 to Day 425/24/25**. He was unable to say what this soldier was firing at. He then saw soldiers at the north end of Block1 Rossville Flats, it was at this group that he believed Hugh Gilmore "fired" a stone **Day 425/65/8 to Day 425/65/20**. This description was probed at some length by Counsel to the Soldiers however, it was difficult to identify

the justification for this approach given that the expression enjoyed popular use among a number local witnesses[8].

18.4.2.49 He was directly asked if Mr Gilmore was armed with a weapon. He was also asked if Hugh Gilmore had any sort of weapon and the witness replied that he had not **Day 425/65/25 to Day 425/66/3**.The witness claimed that he was unable to see where the stone landed. However he did recall that as Hugh Gilmore threw the stone the soldier whom he had observed at Kells Walk and who was now standing with his rifle at his shoulder swung around in an arc and began shooting at their position **Day 425/69/1 to Day 425/69/16**.

PIRA 26 gave evidence to the effect that he did not see anyone other than Hugh Gilmore being shot **Day 425/70/25 to Day 425/71/4**.

18.4.2.50 Questions put on behalf of the Soldiers tended to focus upon general matters concerning the IRA rather than events of the day. The witness was never challenged in respect of his account outlining the circumstances in which Hugh Gilmore was shot. It was never at any time suggested to him that the size of the stone, shape or otherwise could have been mistaken for a more lethal device. It was never suggested that there were people in the vicinity of the Barricade brandishing weapons or items or objects which could have been mistaken for weapons. It was never suggested that nail bombs, blast bombs or petrol bombs were thrown or handled by anyone in the vicinity of the Barricade. Finally no attempt was made to justify the circumstances which led to a soldier or soldiers who fired the fatal shots at Hugh Gilmore.

18.4.2.51 **Thomas Eamon Melaugh AM397** gave evidence on **Day 143**. This witness recalled the Army debussing in Rossville Street and in particular two rubber bullets being fired at him. He stated that he saw

[8] **Day 135/126/22** evidence of Danny Craig; **Day 135/126/22** evidence of Frankie Boyle

Hugh Gilmore walking down Rossville Street towards Free Derry Corner in a group of between two and five people. He stated that Hugh Gilmore appeared to suddenly bend over and touch his elbow at a location to the north of the Barricade on the eastern footpath running the length of Block1 **AM397.4 paragraph 39**. He recalled that Hugh Gilmore had not reached the level of the Rubble Barricade **Day 143/37/14 to Day 143/37/24**.

18.4.2.52 Although in his contemporaneous account which was a recorded interview that the witness listened to and confirmed that it was his own voice that could be heard, he placed Hugh Gilmore at the Barricade facing the Army when he was shot and that he heard two shots rang out. Hugh Gilmore then lurched forward from the waist **AM397.70**.

18.4.2.53 During the course of his evidence before this Inquiry he agreed that his 1972 account might be more accurate **Day 143/39/10 to Day 143/39/22**.

The witness confidently confirmed that as he was standing only a matter of feet from the deceased when he was shot, Hugh Gilmore at the time of impact was not involved in stone throwing, petrol bombing or shooting **Day 143/36/13 to Day 143/36/22**.

Eamon Melaugh stated that after being shot the deceased called out that he had been hit **AM397.4 paragraph 41**; **AM397.70**.

18.4.2.54 **James Greene AG45** gave evidence to the Inquiry on **Day 149**.This witness confirms that he was at the Rubble Barricade when the soldiers first entered Rossville Street. He frankly admitted throwing stones in the direction of the soldiers in Rossville Street. He alleged that although the soldiers were safely out of range from stone throwers they nevertheless opened fire with high velocity weapons upon the group from which the stones were being thrown. He believed that there was

approximately twenty to thirty people at the Rubble Barricade when Hugh Gilmore was shot **Day 149/7/14**. He stated that Hugh Gilmore was standing next to him facing north when he turned and said that he was "hit". Both of them immediately began to run southwards down Rossville Street. At some time the witness overtook Hugh Gilmore. He did not notice whether the deceased was a second time although he accepted it was possible that this may have happened when he was running ahead of him and before he looked back from the area of the entrance to Block1 **Day 149/20/25 to Day 149/21/8**.

This witness was unable to say which soldiers were firing **Day 149/4/2 to Day 149/4/18** and did not specifically see the soldier who shot the deceased **Day 149/17/1 to Day 149/17/8**.

18.4.2.55 In keeping with the other witnesses, Mr Greene did not see any civilian with guns or nail bombs. He went on the express the very positive opinion that Hugh Gilmore was unarmed:

> "I did not see any nail bombs or guns during the day, other than the guns carried by the soldiers. I do not believe that Hugh Gilmore could have been mistaken as someone who was about to throw a nail bomb at the army when he was shot." **AG54.4 paragraph 20**

18.4.2.56 **Michael McCusker AM160** gave evidence to the Tribunal on **Day 148**. He stated that he entered Rossville Street via the gap between Block1 and 2 and made his way to the Rubble Barricade where there was approximately ten to twelve people standing around. He briefly engaged John Young in conversation and was advised that a mutual friend, Michael Bradley had been shot in the Rossville Flats car park and had been moved to a house in Joseph Place. The conversation was interrupted when he heard live Army fire from the northerly direction in Rossville Street. He ran southwards along Block1 and in accordance

with his Eversheds statement he saw a youth resembling the description of Hugh Gilmore place his right hand to his back, stagger and fall forward at a point short of the south west corner of Block1. He then watched the youth being grabbed by four or five man who carried him around the corner. Medical assistance was unsuccessfully rendered and the youth appears to have died. **AM 160.2 paragraphs 9 to 11**. His description of the location and circumstances in which the youth appears to have been shot is arguably undermined by its omission or absence from the interview he apparently conducted with Kathleen Keville in 1972 **X2.35.48**.

Significantly, this witness positively stated the following:

> "I did not see anyone on the march with a gun with a gun or with a nail or petrol bomb save for those throwing stones" **AM160.3 paragraph 15**

The witness was never challenged in respect of this issue nor in respect of any other matter attaching to the circumstances in which Hugh Gilmore met his death.

18.4.2.57 **Margaret Patterson AP2** gave oral evidence on **Day 185**. Margaret Patterson provided a detailed outline of how she and her husband had attended the march and then made their way to the vicinity of the southwest corner of Glenfada Park North. From this position she observed hundreds young people running in a southerly direction ahead of what she estimated to be five Army vehicles. When the shooting started she decided to run across Rossville Street to Block1 as she believed it would be safer within that location. Her husband assisted her across the street and at some point told her that they were firing live rounds **AP2.3 paragraph 18**.

18.4.2.58 During the course of her evidence she claimed to have seen ten to twenty young men at the Barricade as she ran across Rossville Street. She did not see anybody lying down or shot **Day 185/77/5 to Day**

185/77/15, she conceded that some of the young men had previously been throwing stones **Day 185/93/14 to Day 185/94/9**.

When she arrived at the south west corner of Block1 her attention was drawn to a young man who was approaching from the direction of the Rubble Barricade, just as she thought he was about to over take her and her husband she saw him spin around and start to fall although she did not actually see him hit the ground. She described what happened next in the following way:

> "As he spun around I saw green matter coming out of him which I thought was his insides. I knew he had been shot by the way he fell, but I did not see anything actually hit him. He was wearing a denim jacket and a shirt. I cannot remember very much what he looked like but I remember he was young and not particularly tall. I felt terror then because I knew for certain that live bullets were being fired. I know I was screaming my brains out." **AP2.3 paragraph 19**

18.4.2.59 In reply to questions during the course of the Inquiry the witness confirmed that she saw nobody with weapons at the barricade. When pressed by Counsel for most of the Soldiers about whether this was a matter she was likely to provide an honest account upon the witness dealt with the suggestion in a spontaneous and highly credible manner:

"Q. No, of course not. On Bloody Sunday when you got to Rossville Street you again very candidly said that you saw about 20 young men standing on the rubble barricade or around the rubble barricade?
A. Yes.
Q. Again very candidly you said they were probably stoning?
A. Well, I think there is pictures around somewhere that proved they were stoning.
Q. I am not criticising; insofar as it is proper for me to say so, I commend your candour. But you believe they

were probably stoning because that is what you would have expected, without any criticism, because they were protecting the area?
A. (Witness nodding).
Q. Doing precisely what they did in the Creggan -- I do not say the same men.
A. No, no, no.
Q. But they were standing on a barricade at a no-go area, doing their best to protect it?
A. Probably, yes.
Q. Did you actually see what was being thrown or what they were doing or when you say to the Tribunal honestly "they were probably stoning," is that just because you imagine, perfectly sensibly, that is probably what they were doing?
A. No. I was standing at the wall at Glenfada Park.
Q. Yes?
A. With a number of other people.
Q. Yes?
A. And you think that I would have been standing -- I had a child three weeks before Bloody Sunday and do you think I would have been standing on a barricade with people throwing nail bombs or anything else?
Q. My own question was --
A. These young fellas were standing and when the Army came in they were throwing stones.
Q. When you say they were probably stoning, all I wanted to know was whether you actually saw them throwing stones or you just sensibly assumed that was --
A. No, they were throwing stones. There were some of them throwing -- there were some of them in front of the barricade and some of them at the back of it and they were throwing stones.
Q. My last question is this: if in fact you had seen any more sinister activity, if you had seen anything other than stones thrown or if you had seen weapons, you would not have spoken about that any more than you would have spoken about it in the Creggan when the defenders were defending your area, would you?
A. Do you mean if I had a seen somebody standing at the barricade shooting?
Q. Yes?
A. Well, I took an oath, I am telling you the truth, yes, I would.
Thank you very much." **Day 185/94/24 to Day 185/95/10**.

18.4.2.60 **Robert White AW11** gave oral evidence to the Tribunal on **Day 137**, to the effect that he was an amateur photographer and that he was on

the march that day. He took a series of photographs attached to his statement at **AW11.23** which run from **P27** to **P29**. These photographs show the passage of the first two Saracens up Rossville Street. Mr White confirmed that these photographs were taken in fairly quick succession. He believed they would have been taken within a few seconds of each other. **Day 137/86/25 to Day 137/87/23**. He confirmed that he then ran into Glenfada Park North up to the pram ramp and took his photographs there which are **EP32.1**, **EP32.2** and **EP32.3**. He recalled it did not take him very long to get to the pram ramp, because he was afraid of missing something. He did not think the distance was as far as sixty yards. He thought he was standing at the pram ramp for a matter of seconds, but less than a minute, before he took the photograph we know as **EP32.1**. This is the photograph that shows Michael Kelly lying on the ground at the Rubble Barricade. He did not see anyone at the Rubble Barricade with a rifle or a pistol or throwing nail bombs. **Day 137/90/16 to Day 137/91/8**. Mr. White was asked about the time lapse between taking **EP32.2** and **P32**, which is his photograph of Hugh Gilmore running holding his side along Block 1 of Rossville Flats. He thought it would have been a very short time, even less than a minute, but he did not honestly know. **Day 137/81/16 to Day 137/82/1**.

18.4.2.61 The witness did not see what happened to Hugh Gilmore after he took the picture. However after taking the picture he looked to see if he could observe the soldier who had fired what he thought was a rubber bullet at the deceased. The only soldier he saw was standing behind the north gable end of Block1 **Day 137/82/17.** He believed that this soldier was responsible for shooting the Hugh Gilmore as he was unable to see any other soldiers in the vicinity **Day 137/111/19**

An indication of the anarchic and reckless behaviour of these soldiers is illustrated by what happened next:

> "I saw him put his rifle up to his shoulder and aim in my direction. Instantly Mr McAteer and I both

dropped down below the wall so that the soldier could not see us. As soon as we had got down I heard the whine of a bullet as it passed straight above me. It was unmistakably the sound of a bullet passing close by. I have no doubt that if I had been standing up I would have been killed." **AW11.5 paragraph 24**

18.4.2.62 The conclusions to be drawn in respect of this evidence are that:

i) Photograph **P32** / **EP23.9A** confirms that Hugh Gilmore was unarmed and that if he was shot at a point between the Rubble Barricade and the entrance to Block1, it was whilst he was running for the safety of the gable end.

ii) The witness confirmed during the course of his evidence that he saw nobody throwing nail bombs or carrying weapons **Day 137/90/1 to Day 137/91/17**

iii) Hugh Gilmore is very much likely to have been shot at the Rubble Barricade after Michael Kelly as Michael Kelly is already lying on the pavement in Rossville Street in **EP32.1** before Hugh Gilmore is pictured at **P32** /**EP23.9**/ **P662** / **P663**

18.4.3 Removal to Hospital

18.4.3.1 Hugh Gilmore was carried or dragged around the southwest corner of Block1 from Rossville Street. He was there treated by a student nurse **Frank Mellon** **AM 399.4 paragraphs 17 to 21** and Knight of Malta **Paul McLaughlin** **AM350.14 paragraphs 25 to 29**. He died in Rossville Street. Some time after 4.28pm, he was taken to Altnagelvin hospital in an ambulance VRM 5986 UZ manned by **Harry Wray** (driver) and **John Gilchrist** (attendant) **AG65.1 to AG65.15**, **D500.26, D500.27**. Others present in the same ambulance were Patrick Doherty, **Michael Bradley**, **Alexander Nash**, **Patrick McDaid** and **Father O'Gara**.

18.4.4 Injuries Sustained

18.4.4.1 The post mortem examination was carried out by Dr Carson at 11pm on 31st January 1972. The report of Dr Shepherd and Mr O'Callaghan appears at **E2.005, E2.006** with the accompanying diagram at **E2.0082**. The morgue photographs are in Bundle **P2 TAB6**.

18.4.4.2 Hugh Gilmore sustained four gunshot wounds. He received an entry and an exit wound to the left arm. He also received two gunshot wounds to the chest. According to Dr Shepherd and Mr O'Callaghan it is "much more likely than not" that Hugh Gilmore was shot twice.

18.4.4.3 Gunshot wounds were present as follows on the trunk:
An elliptical 2.0 x 1.2 cm defect in the right side of the chest 14 cm below and 7 cm behind nipple. **E2.005**, **P99**, **P103**

18.4.4.4 A gaping wound on the left side of the chest 13 cm below nipple and measuring 6 x 5 cm. **E2.005**, **P98**, **P100**, **P105**

18.4.4.5 Gunshot wounds were present as follows on the left arm:
The entry wound bearing an abrasion ring lay on the ulna side (little finger) side, 12 cm from the wrist. It was 6mm in diameter. **E2.0058,E2.0059**, **D0180**, **P98**, **P100**

18.4.4.6 The exit wound lay on the front surface slightly lower than the entry wound. This injury was ragged and measured 2.0 cm x 1.1 cm. **E2.0059**. "It was surrounded by an irregular rim of abrasion 2-3mm. wide and lay within a vague zone of bruising 5 cm. x 2 ½ cm. There was a fracture of the underlying ulna." **D0180, P101, P102**

18.4.4.7 No track for the chest injury was given by Dr Carson who performed the autopsy in either the note or report. Nor were any X- rays taken which could have indicated the direction of the track in the chest and abdomen.

18.4.4.8 The cause of Hugh Gilmore's death was stated to be laceration of the diaphragm, left lung, the liver, spleen and stomach due to the gunshot wound to the trunk. "The liver injury was particularly extensive. Massive bleeding into the chest and abdominal cavities would have caused rapid death." **D0184** **D0164**

18.4.4.9 Doctor Carson was of the opinion that all the holes were consistent with the path of the same bullet. **D0184** However in his statement to this Inquiry he conceded that he cannot "entirely rule out the possibility that the wound in the right chest was an entrance wound" though he still stood by his conclusions of 1972.

18.4.4.10 In summary, this is the opinion of the Inquiry's experts:

"It is our opinion that the injury to the right side of the chest is, more likely than not, an entry wound and that the injury to the left side represents an exit wound... However the injury to the left side of the chest is not photographed clearly and in the absence of X rays that might have given information about the direction of fragmentation of the ribs this cannot be stated with certainty... it is therefore much more likely than not that Hugh Gilmore was struck by two bullets; one striking the right side of the chest and the other the left forearm... Clearly the shot to the chest, if we are correct in the orientation of this shot, has come from a point to the right of the chest at the moment of discharge." **E2.0061**

18.4.5 Forensic Evidence

18.4.5. In respect of clothing, lead particle density on the anorak was within the normal range **D0169**. Swabs were taken from Mr Gilmore's hands and tested for the presence of lead. No lead was detected **D0169**. Dr Martin concluded that "the absence of significant numbers of lead

particles on the hand swabs and clothing indicates that the deceased had not been using a firearm" **D0169**.

18.4.6 Conclusions

18.4.6.1 It is submitted on behalf of the Family of Hugh Gilmore:

i) Hugh Gilmore was shot without any weapon or any other item in either of his hands.

ii) Hugh Gilmore never presented as a perceived or real threat to the Parachute Regiment soldiers in Rossville Street or its environs,

iii) The behaviour of the Hugh Gilmore did not exceed the standards of teenage defiance normally demonstrated during military confrontations or incursions at the time.

iv) No other person was shot in the vicinity of Hugh Gilmore at or around the time he was struck.

v) There was no firing from the Rossville Flats at the soldiers.

vi) There was no-one at or around the Rubble Barricade with a firearm, nail-bomb, petrol bomb or any other weapon.

vii) No weapons were taken or carried away from the Rubble Barricade.

viii) There was nothing being thrown apart from some stones.

ix) No civilian at or around the barricade was carrying a nail-bomb or a petrol bomb.

x) Hugh Gilmore was the victim of a capricious and random act, deliberately committed by an unnamed member of the Parachute Regiment.

xi) If the Tribunal accept the unchallenged expert testimony of Messrs Shepherd and O'Callaghan, then such evidence should be viewed, as highlighting a concerted level of determination, which is more consistent with a deliberate act as opposed to a tragic accident.

xii) There is no evidence capable of justifying the circumstances in which Hugh Gilmore was murdered.

xiii) Hugh Gilmore was the victim of a military mindset, which, for the purposes of operational considerations on Bloody Sunday, failed to

make any proper distinction between politician, civil rights marcher, defiant teenager or perceived gunman.

xiv) No challenge to the unlawful circumstances surrounding the death of Hugh Gilmore was made on behalf of ***any*** of the interested parties.

xv) Those responsible for Hugh Gilmore's murder have had numerous opportunities over the last 32 years to step forward and say "I am responsible and this is why..." The Tribunal must ask itself why this opportunity has never been seized.

18.5 Michael McDaid and John Young

18.5.1 Michael McDaid Personal Details & Background

18.5.1.1 Michael McDaid was 20 years old when he was murdered on Bloody Sunday. He was killed alongside John Young and William Nash, only a matter of seconds after the shooting of Michael Kelly. The image of Michael McDaid unarmed and bewildered and moments from death, walking through the Rubble Barricade, as those nearby attended to the dying Michael Kelly, is one of the poignant images of Bloody Sunday. **EP32.2**

18.5.1.2 Michael left school in 1967 at the age of 15 and began working for John Bradley immediately. John Bradley ran a grocery shop and a bar. Michael started in the grocery shop as a messenger boy and over the years worked his way up to the position of barman. He had been in full-time employment since leaving school and up until his death on Bloody Sunday.

18.5.2 John Young Personal Details & Background

18.5.2.1 John Young was 17 years old when he was murdered on Bloody Sunday. He was killed alongside Michael McDaid and William Nash, only minutes after the shooting of Michael Kelly.

18.5.2.2 John was born in May 1954, the youngest of the 6 children of Thomas and Lilly Young. He went to Rosemount Primary School and successfully sat the Qualifying Examination for the Municipal Technical College in Derry, although he subsequently decided to attend St. Joseph's Secondary School in Derry. He was considered to be bright and intelligent, a description ascribed to him by a former English teacher of St. Joseph's, John Anthony Dunne, in his statement to this Tribunal. **AD174.3 paragraph 14**

18.5.2.3 John left school in 1969 at the age of 15 and began full-time employment at 'Tailorfit' a men's outfitters in Shipquay Street, he had been working there on a part-time basis since the age of 14. He remained in this employment until he was killed on Bloody Sunday.

18.5.2.4 However John's family did not only have to deal with the distress of John's death on Bloody Sunday. That evening his older brother Leo was still missing. Leo who had gone to the assistance of Gerard Donaghy was arrested along with Raymond Rogan when the car taking the dying Gerard Donaghy was stopped by the Army. Leo had been arrested and was taken to Ballykelly.

18.5.2.5 During his detention at Ballykelly Leo was questioned about his family and in the early hours of the morning while those who had arrested and detained him knew that his brother was lying dead made him made to brush the floor of the alleyway before releasing him. As he was leaving he was asked by a police officer how many brothers he had and answered two. The police officer in response said 'you only have one now'. When Leo arrived home he discovered John was dead.

18.5.3 Civilian Evidence re Shooting of Michael McDaid and John Young

Introduction

18.5.3.1 This section looks at the civilian testimony about the circumstances in which John Young and Michael McDaid were shot and killed.

18.5.3.2 As will be seen below, the circumstances in which John Young and Michael McDaid were killed, after the shooting of Michael Kelly and while a sustained volley of gunfire came over the Rubble Barricade has contributed to immense confusion about how these young men came to die.

18.5.3.3 The confusion has been added to by the failure of soldiers from the Parachute Regiment to account for their deaths. Not one soldier who accounts for the firing of live rounds over the Rubble Barricade on Bloody Sunday, with the possible exception of Soldier 027 has sought to give a truthful account of the circumstances in which these young men died. That issue is addressed in section 18.7 below.

18.5.3.4 However, while at the outset of this Inquiry the picture was one of complete confusion, the conclusion of the oral evidence has served to illustrate the truth about the circumstances in which these young men died.

18.5.3.5 In that respect it should be noted at this stage that it is our contention that Soldier P came close to making an admission to the killing of John Young and Michael McDaid in the course of his oral evidence. It will be alleged that Soldier P was guilty of the murder of John Young and Michael McDaid. See **Section 18.7** below.

18.5.3.6 It is our submission that the civilian testimony, when considered with: the photographic and video evidence, the forensic, medical evidence and the ballistics evidence demonstrates the following:

i) Michael McDaid and John Young were shot and killed by a member of the Parachute Regiment, shooting down Rossville Street.

ii) The circumstances in which the soldiers of the Parachute Regiment fired were unjustified.

iii) Contrary to the conclusion of the Widgery Tribunal, John Young and Michael McDaid were unarmed when shot. Neither John Young, nor Michael McDaid handled, nor were in close proximity to someone handling a weapon when they were shot and killed.

iv) At no time were there nail bombs thrown from or shots fired from the Rubble Barricade at soldiers. There were no weapons of any description at the Rubble Barricade.

v) John Young and Michael McDaid were shot and killed, probably within seconds of each other and in close physical proximity to each other.

vi) They were probably located at the edge of the broad footpath on the Glenfada Park side of the Rubble Barricade when shot and killed, not far from the location where Michael Kelly was shot and killed.

vii) They were shot and killed after Michael Kelly had been shot and in all probability while he was being attended to by Frs. Bradley and O'Keefe at the southern gable end of the eastern block of Glenfada Park North.

viii) After they were shot and killed civilians at the gable end tried but could not go to their aid because the gunfire over the Rubble Barricade was so sustained. The people at the gable end were subsequently arrested by soldiers from the Parachute Regiment who entered Glenfada Park North.

ix) The bodies of John Young, Michael McDaid and William Nash were removed from the Rubble Barricade by soldiers of Mortar Platoon. The manner in which they were removed was disrespectful and contemptuous. They were denied access to spiritual or medical aid and were eventually taken to Altnagelvin Hospital after a considerable and unexplained delay.

Shooting from the City Walls

18.5.3.7 At the outset of this Inquiry, there was an issue about whether John Young and Michael McDaid, along with William Nash, had in fact been shot by soldiers from the City Walls, as opposed to soldiers from the Parachute Regiment firing down Rossville Street.

18.5.3.8 In 1997 the Breglio Report was published by the Bloody Sunday Justice Campaign in New York City. The Report drew on the written testimony from eye-witnesses collected by NICRA and the NCCL in 1972 in which almost 30 witnesses testified to the belief that there had

been shooting at the crowd by soldiers positioned on the City Walls. **TmpD17.6**

18.5.3.9 The Breglio Report which followed was the professional opinion of one of New York City's most experienced and highly qualified ballistics experts. Mr Breglio also concluded that:

> "After examining the autopsy and medical reports of William Nash, John Young and Michael McDaid and noting the similarities and consistencies of the angle of the trajectories of the fatal wounds sustained by these three young men, I will further concluded that, in my professional opinion, the projectiles that struck William Nash, John Young and Michael McDaid originated from an area high up in the vicinity of Derry's Walls and were fired by a high powered weapon using telescopic sights."

18.5.3.10 The Inquiry's experts, Doctor Shepherd and Mr O'Callaghan were asked to consider the likelihood that John Young and Michael McDaid were shot from the City Walls because of the downward track of the injuries.

18.5.3.11 Doctor Shepherd and Mr. O'Callaghan had the benefit of assistance from the Northern Ireland Ordnance Survey in determining the distances and angles from Rossville Street to various points on the walls. It was determined that whether shot from the City Walls or from ground level on Rossville Street, the Deceased "would have had been bending forward for the shots to have caused the tracks that were found." **E2.0065 paragraph 11.1**

18.5.3.12 Their conclusion was that:

> **"nothing in the pathology of the wounds lends greater weight to this proposition then that the shots were fired [from] ground level."** **E2.0065 paragraph 11.1**

18.5.3.13 They went on to state that:

> **"it is clear from the injuries that all three men were facing in the general direction from where the shots came.** It follows that if the shots originated from the City Walls the deceased would have had their backs towards Kells Walk at the time they were shot. Conversely if the shots originated from the Kells Walk side of the barricade they would have to have been facing in that direction. **Witness testimony and not pathology or ballistics is therefore the key to resolving this matter."** **E2.0065 paragraph 11.1**

18.5.3.14 Michael McDaid and John Young were shot dead south of the Rubble Barricade. In light of the forensic medical evidence it is clear that they were bent over when shot.

18.5.3.15 This Inquiry has had the benefit of hearing extensive civilian testimony in relation to the events of the Rubble Barricade. As a body of evidence the civilian testimony demonstrates that:

i) They were shot by soldiers positioned on Rossville Street because that is where firing was coming from; and

ii) They were facing in the direction of the soldiers on Rossville Street when shot.

18.5.3.16 The witness testimony before this Tribunal establishes that John Young and Michael McDaid were shot and killed by soldiers firing down Rossville Street. They were therefore shot and killed by a member of the Parachute Regiment.

Timing and Location of Shooting

18.5.3.17 As a body of evidence the civilian evidence also suggests that the Deceased were shot within a very short time of each other, possibly a matter of seconds, and in close proximity to each other and to William

Nash. A number of civilians who witnessed this shooting speak of three young men falling together.[9]

18.5.3.18 In terms of timing, they were undoubtedly shot after Michael Kelly as evidenced by the photograph which shows Michael McDaid walking through the Rubble Barricade, as people tended to the fatally wounded Michael Kelly. **P636** & **P637**

18.5.3.19 They were probably shot as Michael Kelly's body reached the gable end of the eastern block of Glenfada Park North and was being anointed by Frs. Bradley and O'Keefe. As Denis Bradley testified:

> "I had been dealing with, I believe, Michael Kelly, but after he had been taken away it was the first time I saw the bodies" **H1.12 paragraph 29**

18.5.3.20 There are no photographs of Michael McDaid and John Young after they were shot at the Rubble Barricade. It is difficult, therefore, owing to the lack of objective evidence to pinpoint with precision the exact point where they fell. However, overwhelmingly the civilian evidence suggests that they were shot close together.[10] Alex Nash can be seen on Video 48 at **V48/10.35 to 11.35** tending his son. The Tribunal's attention is also drawn to Michael Rodgers' cine-film at **V52/1.00 to 2.00**. This shows blood stained pieces of rubble on the Barricade. It would appear that this area of rubble is on the western side of the Barricade.

18.5.3.21 It is our submission, relying upon the video evidence, which finds support in the civilian evidence, that John Young and Michael McDaid were shot close to the edge of the footpath that can be seen in **P428** on the Glenfada Park North side of the Rubble Barricade.

---

[9] See for example, Brian Rainey **Day 132/112/9 to Day 132/112/17** "a group seemed to fall at the one time." Bernard Feeney **AF8.4 paragraph 22** "All three fell together, or at least within a few seconds of each other." James Patrick McNulty **AM377.11** "the next thing I see was the three of them falling. They lay with no movement at all, they were dead an all,. . ."

[10] See above

Sequence of Shooting at the Rubble Barricade

18.5.3.22 Michael McDaid and John Young were certainly shot after Michael Kelly was murdered by Lance Corporal F. In **P636** and **P637** Michael Kelly can be seen lying on the footpath, having been shot. Michael McDaid can be seen walking in a southerly direction through the Rubble barricade. In **EP27.11**, Michael Kelly is seen being carried by several persons in a northerly direction along the western side of the eastern block of Glenfada Park North. John Nash, the brother of William Nash, positively identified his brother in that photograph, standing with his back against the southern gable of the eastern block of Glenfada Park North, apparently facing in a southerly direction. **Day 097/89/11 to Day 097/89/20**

18.5.3.23 It is not entirely certain if Michael McDaid, John Young and William Nash were shot dead before, or after, Hugh Gilmore. However none of the witnesses who saw Hugh Gilmore murdered on the eastern side of Rossville Street were conscious of one or more bodies in very close proximity to each other on the southern side of the Barricade at the time when Hugh Gilmore was shot.

18.5.3.24 Also Robert White, who photographed Hugh Gilmore as he ran, apparently wounded towards the main doors of Block 1 of the Rossville Flats, was not aware of dead bodies on the Barricade. Mr White gave evidence that a "short time" (**Day 137/81/16 to Day 137/81/22**), (anything up to a minute **Day 137/81/23 to Day 137/82/1**), had elapsed between taking photographs of Michael Kelly lying prostrate on the pavement of Rossville Street and taking the photograph of Hugh Gilmore on Rossville Street. Mr White's evidence is that a bullet then passed close over his head as he made his way to safety via Glenfada Park South. It seems probable that if there were a number of dead bodies on the Rubble Barricade at that stage, Mr White would have sought to capture that image.

18.5.3.25 It does seem certain that Kevin McElhinney was the last person shot dead near the Rubble Barricade. This is clear from the evidence of a number of witnesses, including Fergus McAteer[11] and Barry Liddy[12], who were aware of the bodies on the Barricade when they saw Kevin McElhinney crawling for his life in a southerly direction along Rossville Street towards the safety of the Rossville Flats.

Wounds Sustained

18.5.3.26 John Young was shot through the left cheek, just to the left of the nose, one centimetre from the inner corner of his left eye. The bullet exited the left side of his back, four and a half centimetres to the left of the midline **D0150**. His injuries are discussed in more detail below.

18.5.3.27 Michael McDaid was shot through the left cheek. The bullet exited through the right side of his back **D0089**. His injuries are discussed in more detail below.

18.5.3.28 John Young and Michael McDaid were taken to Altnagelvin Hospital in the rear of a Mortar Platoon pig. They left the Rossville Street area at approximately 4.45 pm, arriving at the Hospital at approximately 5.30pm. The issue of the removal of the bodies is addressed in detail below.

Relevant Photographs

18.5.3.29 There are a number of photographs showing both Michael McDaid and John Young a short period before their death.

18.5.3.30 **Michael McDaid** is photographed both in the general William Street area and subsequently on Rossville Street.

18.5.3.31 The sequence of photographs showing Michael McDaid in William Street near Barrier 14 appears to be as follows:

[11] **AM42.8 paragraphs 23 to 26**
[12] **AL13.7 to AL13.8**

P645: Photograph taken by A Brown of the RUC, showing Michael McDaid in the centre of William Street, just to the east of the junction with Chamberlain Street.

P644: Photograph taken by R Simpson of the RUC, showing Michael McDaid side on to the camera, linking hands with Joseph Martin Gallagher (**AG19**).

P646: Photograph taken by A Brown of the RUC, showing Michael McDaid close to Barrier 14 on William Street.

P647: Photograph retrieved from the Sunday Times Archive showing Michael McDaid on waste ground in the proximity of persons sheltering behind sheets of corrugated tin.

18.5.3.32 Michael McDaid was then photographed in Rossville Street. Two of those photographs were taken by Liam Mailey. They are photographs **EP23.5** and **EP23.6**.

18.5.3.33 According to Mr Mailey's evidence, **EP23.5** is the first in the sequence. It is a heavily foreshortened photograph in which the outline of Michael McDaid's face can be seen. He is on the footpath on the eastern side of Rossville Street, just south of Pilots Row. **EP23.5** also shows the armoured command vehicle, the ferret car and the soft skinned lorries of Composite Platoon. The Pigs of Anti Tank Platoon are further to the north, close to the junction with William Street. There are perhaps a dozen or more soldiers on the western side of Rossville Street in the vicinity of the derelict buildings, other evidence suggests that these were soldiers from Anti-Tank Platoon.

18.5.3.34 **EP23.5** was soon followed by **EP23.6**. This shows Michael McDaid, again on the eastern side of Rossville Street, but probably just on the road, rather than the footpath. He would appear to be looking north towards the soldiers on the footpath on the western side of Rossville Street in the vicinity of Kells Walk.

18.5.3.35 The last picture which shows Michael McDaid alive is the photograph taken by Robert White at **P650** showing Michael McDaid walking through the gap in the Rubble Barricade in a southerly direction, and looking in a south westerly direction at the fatally wounded Michael Kelly.

18.5.3.36 There are no photographs of **John Young** on Rossville Street before he was shot. He was however photographed by the RUC while at Barrier 14. Those photographs can be found at **P657** and **P658**. In **P659** John Young appears to be throwing a stone at the troops behind the Barrier.

18.5.3.37 **P660** is taken from the western side of Barrier 14 by Fulvio Grimaldi. John Young appears to have a stone in his right hand. In each of these photographs, John Young is wearing a hat. [13] This hat was not handed over for forensic analysis by the RUC Scenes of Crime Officer, and it is not clear if he was wearing it when he was shot, although Matthew Connolly described John Young was wearing a "combat hat" when he went out onto the Rubble Barricade from the gable wall. **AC76.15**

18.5.3.38 None of the photographs taken of people at or about the Rubble Barricade show civilians in possession of weapons. The Tribunal has received a Booklet of Enhanced Images (Copy No.6) from Network International Forensic Sciences Division.

18.5.3.39 Photograph **EP27.6** has been significantly enhanced to zoom into sixteen separate objects in the possession of persons on Rossville Street and the area to the south of the Rubble Barricade at its western end.

18.5.3.40 Photograph **EP27.8** has been enhanced to zoom into a similar number of objects in the hands of civilians standing on top of the Rubble

[13] Jerry Mallett, an acquaintance, describes this as "an Australian khaki coloured combat hat, of a type which was all the rage at the time" **AM21.1 paragraph 4**

Barricade, or on Rossville Street to the eastern side of the gap in the Rubble Barricade.

18.5.3.41 Photograph **EP27.9** has been enhanced to consider four further objects in the hands of three civilians to the south of the Rubble Barricade.

18.5.3.42 Finally **EP35.9** and **EP35.10** focussed on objects in the hands of persons in or about the vicinity of a fatally wounded Michael Kelly.

18.5.3.43 Network International have been unable to confirm the presence of anything more sinister than a stone in the hand of anyone in the vicinity of the Rubble Barricade on Bloody Sunday.

Movements of John Young and Michael McDaid

18.5.3.44 In this section we seek, via the civilian testimony and the photographic evidence to create some picture of the movements of John Young and Michael McDaid before they reached the Rubble Barricade. The photographic evidence shows both of them on the Civil Rights March, both are also seen at Barrier 14, John Young was undoubtedly throwing stones and it is accepted that Michael McDaid may also have been throwing stones at soldiers at the Barrier.

John Young

18.5.3.45 John Young had gone on the march on Bloody Sunday with, among others, Eugene Roddy[14] and Brian McCay.[15] However, he had become separated from his friends by the time he reached the eastern end of William Street. Little is known of John Young's movements from when he left Barrier 14 on William Street to his arrival at the Rubble Barricade on Rossville Street.

---

[14] Eugene Roddy was last with John Young at the eastern end of William Street. In the time he had been with John Young, he had not thrown any stones, and had obviously become separated from him by the time **P659** was taken. **AR17.2 paragraph 9**

[15] Brian McCay was last with John Young on Lecky Road **AM100.1 paragraph 4**

18.5.3.46 **Jerry Mallett** was also 17 years on Bloody Sunday. He has a recollection of messing around with John Young near Free Derry Corner. **AM21.1 paragraph 4** It is not clear, however, at what point in the day this occurred.

18.5.3.47 **Michael McCusker** spoke to John Young on Rossville Street. He recalls that after making his way through the gap between Blocks 1 and 2 of the Rossville Flats, he went onto Rossville Street:

> "I stayed at the Rubble Barricade for about five minutes. A man I knew, John Young, who was a tailor whose services I had used, tapped me on the shoulder and told me that two people had been shot. He went on to say that he thought one of them was my friend Michael Bradley. I asked him whether he had been killed and Young told me that he had not but that he had been taken to the first, that is the northern most, house in Joseph Place..." **AM160.2 paragraph 10**

18.5.3.48 Mr McCusker gave oral evidence to the Tribunal. His evidence was that John Young had come towards the Barricade from the direction of Free Derry Corner.[16] This would lend some support to the evidence of Jerry Mallett, who did not give oral evidence, that John Young was at Free Derry Corner area at some point in the afternoon.

18.5.3.49 Matthew **Connolly** knew John Young. He saw John Young at the junction of Rossville Street and William Street but left him there and did not know where John Young went after that. **AC76.2 paragraph 11**. It is not clear whether this was before or after John Young was at Barrier 14. Matthew Connolly later saw John Young again when he was at the southern gable of the eastern block of Glenfada Park North and was a witness to his murder. **AC76.4 paragraph 26**.

[16] **Day 148/54/3 to Day 148/54/23**

Michael McDaid

18.5.3.50 **Donal Moran** has given evidence to this Inquiry. In his written statement, he stated that he had been on the march with Michael McDaid. **AM421.1 paragraph 5** In his oral testimony he stated that he had met Michael McDaid somewhere on William Street. **Day 153/50/4 to Day 153/50/9**

18.5.3.51 **Martin McGilloway** has also given evidence to the Tribunal. He had been in William Street and made his way to Rossville Street via the courtyard of the Rossville Flats and the gap between Blocks 1 and 2:

> "I was stood at the position marked C on the map (grid reference J16) [map is at **AM236.4**] Here I could see about a dozen people to the south of the Rubble Barricade, including Michael McDaid. He was crouched down on one knee behind the barricade. I knew Michael as I worked with his brother, Kevin. Michael was well dressed and did not look like he was going to riot. I did not know him to be a rioter. He was just talking to people around him. He did not have a weapon." **AM236.2 paragraph 9**

Conduct of Crowd and Casualties at the Barricade before the Shooting

18.5.3.52 Before dealing with the shooting of John Young and Michael McDaid, it is proposed to deal with a number of discrete issues which have arisen in the course of the written evidence received and oral testimony heard by this Tribunal. In particular:

i) The question of whether Michael McDaid was arrested and escaped from a saracen prior to being shot and killed.

ii) The issue of whether there was a 'foray' over the Rubble barricade prior to the shooting from soldiers, and the significance, if any which should attach to that fact.

iii) The question of whether youths were throwing stones from behind the Rubble Barricade.

"Arrest" of Michael McDaid

18.5.3.53 There is a body of evidence before the Tribunal that Michael McDaid was arrested on Bloody Sunday, but somehow managed to escape from the back of an armoured personnel carrier on Rossville Street, before being shot. At least three witnesses attest to having witnessed this event.

18.5.3.54 **John Begley** stated in 1972, in both his NICRA statement **AB30.1** and the statement made by him to the RUC on 23rd February, 1972 **AB30.2** that he saw Michael McDaid arrested and placed in a Saracen on Bloody Sunday. He has in his evidence to this Tribunal distanced himself from those statements stating that he was drunk when he made the statements and that he does not seek to stand over their contents **AB30.5**.

18.5.3.55 **Frankie Boyle**, was a near neighbour of Michael McDaid and claims to have spoken to him at Barrier 14. (**AB48.2 paragraph 8**) He has given evidence that Michael McDaid was throwing stones on Rossville Street at soldiers, who had entered Rossville Street from the alleyways and side streets from William Street, Kells Walk, Columbcille Court and Glenfada Park. (**AB48.2 paragraph 13**) He recalls that Michael McDaid wiped his hands on a handkerchief after throwing stones on Rossville Street (**AB48.3 paragraph 14**) and then went towards soldiers on the waste ground in the area between Pilots Row and the northern gable of Block 1. According to Frankie Boyle, Michael was then arrested by three soldiers, and thrown into the back of an armoured vehicle positioned on waste ground facing the Rossville Flats. He claims that two or three others were also in the Saracen and that a soldier fired CS gas into the back of it when the civilians 'kicked up'. Michael and one or two others then escaped, rubbing their eyes from the effects of the gas. (**AB48.3 paragraph 14**)

18.5.3.56 He then claims that Michael McDaid ran away from the Saracen in towards Rossville Street and the Rubble Barricade. **Day 127/63/2 to Day 127/63/9** When he had got 20 yards away from the Saracen Michael McDaid was shot in the back by a soldier. Frankie Boyle believed that at that stage Michael McDaid was on Rossville Street near the Rubble Barricade. **AB48.3 paragraph 15**

18.5.3.57 In oral evidence Mr. Boyle gave evidence that he was at Kells Walk when he saw Michael McDaid being arrested. **Day 122/61/20 to Day 122/61/22** He stated that there were no soldiers in or around Kells Walk at the time Michael McDaid was arrested. **Day 122/63/21 to Day 122/63/23** He also stated that the Saracen into which Michael McDaid was placed, and from which he escaped, was on the south side of the Rubble Barricade. **Day 122/62/2 to Day 122/62/7**

18.5.3.58 Significantly according to Frankie Boyle Michael McDaid was in his continuous sight from the point at which he was arrested to the point at which he was shot. **Day122/65/8 to Day122/65/17**

18.5.3.59 Mr. Boyle's evidence is demonstrably unreliable for the following reasons:

i) Fundamentally Mr. Boyle's evidence must be wrong given that he states that Michael McDaid was in his sight from the point at which he was arrested until he was shot. We know from **P650** that Michael McDaid walked through the Rubble Barricade alive, and that he did so when there were soldiers at Kells Walk. Mr Boyle's description is therefore completely inconsistent with objective photographic evidence which he cannot explain.

ii) It is evident from **P650** that Michael McDaid is not suffering from the effects of CS gas having been fired at him within the confines of an armoured vehicle.

iii) Contrary to Mr. Boyle's evidence, Michael McDaid was not shot in the back. **AB48.3 paragraph 15**

iv) The only time a Saracen went behind the Rubble Barricade was to pick up the three bodies, one of whose was Michael McDaid.

v) The other arrestees who allegedly escaped, have never come forward and never been identified by anyone.

vi) No handkerchief was recovered from the clothing of Michael McDaid or handed over by the RUC Scenes of Crime Officer for forensic analysis. **D0072**

18.5.3.60 It will also be our case that Mr. Boyle's evidence about his dealings with Patsy O'Donnell is at best confused and is certainly unreliable. In those circumstances, the Tribunal ought to find that this witness' account of Michael McDaid's arrest is inherently unreliable[17].

18.5.3.61 Liam **Lynch** also gives evidence about Michael McDaid's arrest. He did not personally know Michael McDaid, but knew him from being around the district. The youth who he described as having been being arrested, had long hair, wore a brown jacket **AL26.2 paragraph 13**, and stood approximately five feet, nine inches tall. **AL26.2 paragraph 15**.

18.5.3.62 The description that Mr. Lynch provides does not fit Michael McDaid, who was five feet five inches, and wore a green checked sports jacket. It is apparent from the photographs available to the Tribunal that Michael McDaid did not have long hair.

18.5.3.63 Mr Lynch rejected a suggestion from Arthur Harvey QC that what he had in fact witnessed was William John Dillon being arrested by two soldiers on the waste ground, as depicted in **EP2/7**, **Day 145/16/18 to Day 145/19/23**. It is submitted however, that Mr Lynch is mistaken and that the person he saw being arrested by two soldiers was either John Dillon, James Charles O'Doherty or Charles Canning, all of

[17] The Tribunal will also recall that Mr Boyle gave an account of the removal of a substantial amount of armaments involving a not inconsiderable number of persons on 29th January which has not been supported by any other witness before the Tribunal or by any Intelligence in the possession of the Security Forces.

whom were arrested and escorted across Rossville Street to the corner of William Street and Rossville Street.

18.5.3.64 **Eamonn Melaugh** also gave evidence to this Tribunal. Mr Melaugh was a local amateur photographer and he gave evidence about a photograph which depicted Michael McDaid alive and well, and clearly not injured, standing in the middle of the Rubble Barricade, *after* the shooting had ended. **AM397.8 paragraph 72** He maintained that this photograph was given to John Lloyd of Time Out Magazine and never returned to the owner.

18.5.3.65 Mr Melaugh continued: "A couple of weeks after Bloody Sunday I was on the street in the Bogside area talking with a friend and showing him the photographs that I'd taken on Bloody Sunday when 2 members of Sinn Féin came up uninvited and listened in." **AM397.8 paragraph 77**

> "When I came to the photograph of Michael McDaid the 2 men became very excited, saying that he was still alive when I took the photo. They then told me that he was one of the men that had been shot on Bloody Sunday. The penny still didn't drop and they went on and then I finally understood that there was a real question over how Michael McDaid had died that day. This was because when I took the photo I thought that the shooting had stopped and for the time thereafter that I stayed in the vicinity I can't recall hearing any further shooting.
>
> Although John Lloyd failed to return the photograph of Michael McDaid to me I believe that I have seen it recently, so there may be a copy of it still around. I will make some inquiries and if I manage to get a print of it I will supply it to the Inquiry." **AM397.8 paragraphs 78 to 79**

18.5.3.66 It is our contention that the evidence of Mr Melaugh in this regard is clearly mistaken. Mr Melaugh is the source of a number of invaluable photographs of Bloody Sunday. His photographs can be found from

P600 to **P612** inclusive. Such a photograph has never been supplied to the Inquiry and no further evidence has ever come to light about the existence of such a photograph.

18.5.3.67 When he gave oral evidence to the Tribunal he stated that it was his belief that this photograph was taken: after the shooting had stopped; after he had photographed the fatally wounded Hugh Gilmore, Paddy Doherty and Barney McGuigan; and, after he had spoken to and photographed Patsy McDaid in Joseph Place. **Day 143/51/13 to Day 143/52/19**

18.5.3.68 Mr. Melaugh confirmed that he did not actually see Michael McDaid being shot on Bloody Sunday, nor did he see his body. **Day 143/54/10 to Day 143/54/16** Mr Melaugh also believes that he photographed Michael McDaid from much the same position as the position from where Mr Robert White took **P650**. It is submitted that Mr Melaugh is essentially confused in his belief that he took such a photograph, particularly since all the evidence suggests that Michael McDaid was shot well before Paddy Doherty and Barney McGuigan were killed in Sector 5. It should also be noted that Mr Melaugh gave a lengthy interview to the Sunday Times Insight Team in 1972, "within days" of Bloody Sunday. (**Day 143/23/22 to Day 143/24/1**) The interview spanned some twelve pages of notes and at no stage during that interview did Mr. Melaugh state that he had photographed Michael McDaid alive, and on top of the Rubble Barricade. **AM397.19 to AM397.30**

18.5.3.69 As Counsel to the Inquiry has pointed out, the photograph described has never been published in any newspaper or journal since Bloody Sunday. **Day 143/59/14 to Day 143/60/2**

18.5.3.70 Few witnesses have been asked about this issue in the negative, so to speak but **Brendan Harley** was asked whether he had seen anyone

arrested to the north of the barricade and subsequently escape from a Saracen and rejected the notion. **Day 121/150/2 to Day 121/150/6**

18.5.3.71 It is apparent in our submission that upon consideration of the above evidence and the photographs available to the Tribunal there is no sensible or objective basis upon which it could be concluded that Michael McDaid had been arrested and escaped from custody on Bloody Sunday, prior to being shot.

"Foray" over the Rubble Barricade

18.5.3.72 A number of civilian witnesses have been questioned about 'forays' over the Rubble Barricade. In effect whether groups of youths advanced, either once or repeatedly, onto or over the Rubble Barricade and down Rossville Street, throwing stones at soldiers. There were also suggestions that this group of youths were chanting "Hey, hey IRA" at the soldiers. It has also been specifically suggested to witnesses that Michael McDaid may have been a participant in such a foray. **Day 127/54/16 to Day 127/56/15**

18.5.3.73 The suggestion has generally been put in the context of the arrest of William John Dillon on the waste ground, as seen in photos **P486**, **P487**. The suggestion being that the crowd became enraged at the manner of his arrest and advanced with the intention of rescuing him. **Day 127/57/12 to Day 127/60/6** However, it is clear that while in the course of questioning, reference is made to the arrest of William John Dillon, the issue is being put because of evidence given by Soldiers P and 017. **Day 127/73/14 to Day 127/74/2**

18.5.3.74 It should be noted that this was also a feature of the case put on behalf of the soldiers in 1972. A number of witnesses were asked by Mr. Gibbens whether they had seen relays from the Rubble Barricade, groups of 40 to 50, "coming up to the barricade and throwing missiles

at the troops, then going back and bringing more missiles and coming up again and throwing them at the troops".[18] **WT4.62F**

18.5.3.75 It is our submission that this issue is something of a 'red herring' as regards the conduct of civilians. It was put apparently because of the case being advanced on behalf of Soldiers P and 017, however:

i) The soldiers involved in the arrest of William John Dillon, Soldiers 006 and 037 were unaware of what was happening at the Rubble Barricade. (**Day 334/20/12 to Day 334/20/15** and **Day 357/133/6 to Day 357/133/9**)

ii) Soldiers P and 017 had no involvement in the arrest of William John Dillon, which was taken place some distance away.

iii) No civilian witness has suggested that any advance from the Rubble Barricade was directed at Soldiers P and 017.

18.5.3.76 However, the most significant reason why this issue is a 'red herring' is because what has been suggested to witnesses is entirely inconsistent with the case advanced by Soldiers P and 017.

18.5.3.77 It is necessary in relation to this issue to refer briefly to the evidence of soldiers about this matter. Soldiers P and 017 have given evidence of soldiers coming under attack from stone-throwing rioters while they were positioned on Rossville Street. Their evidence is addressed in more detail in **Section 20.7.1** below.

18.5.3.78 However the following points about their evidence should be noted at this juncture:

i) In P's first RMP statement he refers to 20 rioters who advanced towards Soldier P and his companions, immediately upon their debussing, throwing stones and missiles constantly as they approached. It was from this crowd of rioters that P's first target, who he claims was a nail bomber was identified and at

[18] The issue was also raised with James Chapman, who gave evidence at Widgery and Fr. O'Keefe at **WT5.17E-F**

whom P fired 2 shots. **B577** From his description these rioters must have been advancing from Kells Walk across Rossville Street.

ii) In his statement to the Treasury Solicitor Soldier P claims that along with 017 he took cover along-side the east-facing wall at the Kells Walk pram-ramp, a group of people came along an alleyway leading to Columbcille Court, throwing stones and bottles at them. Soldier 017 fired a number of baton rounds into the crowd, splitting them up. According to his Treasury Solicitor statement it was from this crowd of rioters that P's first target, who he claims was a nail bomber was identified and at whom P fired 2 shots. **B592**

iii) In his evidence to Lord Widgery Soldier P could see people behind the Barricade who were either throwing stones or moving towards Free Derry Corner. **WT13.46A** There is no description of forays over the Rubble Barricade. Then a group of people came out from the Columbcille Court alleyway and began throwing stones and bottles at the soldiers. Soldier 017 again fired baton rounds and dispersed the crowd. It was from this crowd of rioters that P's first target, who he claims was a nail bomber was identified and at whom P fired 2 shots. **WT13.46C**

iv) P subsequently fired 4 shots at a man who he claimed was a gunman, positioned behind the Rubble Barricade, hitting him 3 times. Soldier P fired 4 live rounds, 1 hit the Rubble Barricade and the others hit the man who fell back. **WT13.50A-E**

v) Finally Soldier P stated that after he had shot and killed a man at the Rubble Barricade, he fired a further 5 rounds over the heads of rioters in an attempt to disperse them. **B578** Soldier P then went on to make a second RMP statement on the 1st February 1972 in which he claimed that instead of having fired 5 rounds over the heads of rioters he had in fact only fired 3, because he had only fired 9 rounds in total. **B588**

18.5.3.79 Soldier P now claims to have no independent recollection of the events of the day and invites the Tribunal to accept his 1972 accounts.

18.5.3.80 In summary Soldier P's evidence amounts to the following:

i) There were no forays from the Rubble Barricade;

ii) In his first account rioters advanced upon him from Kells Walk **B577**, in his subsequent account from an alleyway leading to Columbcille Court. **B592**

iii) He describes rioters behind the Rubble Barricade, but does not allege that they advanced on him or his colleague, either once or repeatedly. **WT13.46A**

iv) He does claim that a crowd advanced upon him from the Rubble Barricade, **B578** but only after, on his own account, he had fired two sets of shots over the Rubble Barricade, the first two at a nail bomber **WT13.46C** and the next 4 at a gunmen. **WT13.50A-E**

18.5.3.81 It cannot therefore be correct to suggest that on P's evidence he fired shots over the heads of the crowd before firing at targets with the aim of killing them.

18.5.3.82 Soldier 017 also gave a number of accounts of events, it is not proposed to deal with his RMP statements as they are dealt with in greater detail below. In his statement to the Treasury Solicitor at the relevant portions he stated as follows:

i) There was a crowd of about 50 people in front of the Rubble Barricade, they rushed towards Soldier 017 so he fired 1 round which split them up. **B1482 paragraph 3**

ii) Soldier P then warned Soldier 017 to look out as he had seen a man come from behind the crowd, Soldier 017 then goes onto describe Soldier P shooting someone who he claimed to believe was a nail bomber. **B1482 paragraph 3**

iii) The crowd then went behind the Rubble Barricade and continued to throw bottles and stones in the direction of the soldiers. **B1482 paragraph 4**

iv) People were also running in and out of an alleyway which led to Columbcille Court, throwing bricks, bottles and stones at the soldiers. Soldier 017 then describes firing rubber bullets at a man with a pistol/revolver. **B1482 paragraph 4**

18.5.3.83 Soldier 017 has also given evidence to this Tribunal, in his statement prepared for Eversheds, dealing only with the relevant portions he stated as follows:

i) There were thousands behind the Rubble Barricade and he was showered with bricks and stones from there. **B1484.004 paragraph 22**

ii) A group broke away from the crowd behind the Rubble Barricade and made approaches towards Soldier 017, he stated that the crowd "would have ripped me to pieces if they had got me. Crowds had killed soldiers before. I felt very vulnerable there on my own." **B1484.004 paragraph 23**

iii) Soldier 017 fired 2/3 rubber bullets at the crowd and was then joined by Soldier P. **B1484.004 paragraph 24**

iv) 40 – 50 people came out from an alleyway leading to Columbcille Court, they ran south to join the main group of rioters and Soldier 017 fired rubber bullets at them. **B1484.004 paragraph 27**

v) Soldier P then shouted a warning about a nail bomber, who was in the midst of a crowd just north of the Rubble Barricade. Soldier 017 goes on to describe Soldier P shooting an alleged nail bomber. **B1484.004 paragraph 27**

vi) Shortly after that Soldier 017 looked down an alleyway immediately to his right, he could see rubble, 4/5 youths were throwing bottles or bricks towards Soldier 017 and he went forward to arrest someone, when he saw a man with a pistol at

whom he fired his rubber bullet gun before making his escape. **B1484.005 paragraph 29** and **B1484.005 paragraph 31**

18.5.3.84 Thus Soldier 017 does give evidence of rioters advancing from the Rubble Barricade. **B1484.004 paragraph 23** That incident is followed by a crowd advancing from an alleyway leading to Columbcille Court. He does not describe the incident which apparently resulted in Soldier P firing rounds over people's heads.

18.5.3.85 It has been necessary to go through that evidence in some little detail because of the case which was put by Counsel acting on behalf of Soldiers P and 017 to civilian witnesses.

18.5.3.86 During the course of Ronald Wood's evidence to the Tribunal the following photos were put to Ronald Wood **EP32.1**, **EP 32.2**, **P648**, **EP35.04**, **EP23.04**, **EP23.07** and **EP21.02**. The following suggestion was then put to Ronald Wood:

"Q. I want to suggest that there was firing of high velocity rounds from the north of where you were, but none of those rounds hit anyone at the barricade at all?

A. You are suggesting it.

Q. Is it your recollection that when Michael Kelly is hit, he is hit by one of the very first high velocity rounds?

A. Yes.

Q. Do you remember witnessing arrests or an arrest happening in the wasteground north of you?

A. No, I never saw anybody arrested.

Q. Do you remember a lot of people at the barricade getting very angry at that arrest?

A. No, I do not remember that.

Q. Do you remember any shouts or chants of "Hey, hey, IRA"?

A. I said in my statement that they were shouting obscenities at the army when they came in, yes." **Day 127/57/3 to Day 127/57/22**

18.5.3.87 Mr. Clarke QC who represented Soldiers P and 017 then stated that:

"What I am suggesting, while you were at the barricade, for whatever reason, you have missed or forgotten a whole episode in where everyone at the barricade gets incredibly angry at what the army were doing and surged forward over the barricade?

A. No, I do not recall that." **Day 127/59/24 to Day 127/60/6**

18.5.3.88 Mr. Clarke was then asked to clarify what case was being made in relation to the high velocity rounds purportedly fired before the killing of Michael Kelly and stated:

"What I hope we made clear a few days ago is that Soldier P in his statement has said he fired shots over the heads of a crowd of people who came out of Glenfada Park North, the northeast corner, and 017 says that from those people emerged a man with a handgun who fired towards 017. 017 fired a baton round and fled and P discharged high velocity rounds over the head of that crowd.

Now, it is that discharge of shots that I have put to Mr. Wood, and I hope made clear, was not responsible for the deaths of any people on the barricade." **Day 127/73/14 to Day 127/74/2**

18.5.3.89 The difficulty is of course, that this is an attempted amalgamation of different aspects of the evidence of Soldiers 017 and P and is not consistent with the case they have ever made, either collectively or individually for the following reasons:

i) Soldier P claims to have fired over the heads of a crowd **after** he had killed two people, one of whom was positioned behind the Rubble Barricade, and the other positioned according to his

trajectory photograph **P22** on Rossville Street. Thus, regardless of where the shooting of Soldier F fits into the sequence, this firing took place after, on his evidence, two people had been shot and killed on Rossville Street, one in front of and one behind the Rubble Barricade.

ii) The crowd from which 017 claims the gunmen he saw came from, was a crowd which came from an alleyway leading to Columbcille Court. In his evidence to this Inquiry he maintains that this gunman never made it onto Rossville Street, moreover, Soldier P did not fire at this gunman. In fact reading any of Soldier P's accounts, he neither saw, nor was made aware of this gunman.

18.5.3.90 On Soldier 017's evidence the attack or 'foray' described by him, did not result in any response from soldiers other than the firing of baton rounds. On Soldier P's account, the attack or 'foray' described by him occurred after at least 2 men had been shot and killed by him. Moreover this evidence ignores the fact that at this time, soldiers from Anti-Tank Platoon were also positioned behind the Kells Walk Wall and on the evidence it would appear had fired live rounds over the Rubble Barricade before Soldier P left the area.

18.5.3.91 It therefore appears that the entire premise upon which this line of questioning was conducted is flawed. The issue is not without significance however, as will be seen below when dealing with civilian evidence about the conduct of soldiers on Rossville Street, there is evidence which suggests that the first two shots fired at the Rubble Barricade were fired by Soldier P. They were fired from his hip, they were not fired at a nail-bomber and they did not in fact result in any casualties. That fact is however inconsistent with the evidence which has been given by Soldier P about the circumstances in which he fired live rounds.

18.5.3.92 There is certainly evidence of at least one move from a group of youths over the Rubble Barricade, throwing stones at soldiers. Inasmuch as there has been evidence about this, it appears to relate to the arrest of William John Dillon. It would also appear from the photographic evidence that when the Saracens came into Rossville Street some youths were positioned in advance of the Rubble Barricade and may have been throwing stones. **EP23.4, EP27.6, EP27.7, EP27.8**

18.5.3.93 Other witnesses, who can be regarded as reliable have rejected this account. It is our submission that while there was in all probability, some slight advance made by a small group of youths over the Rubble Barricade and some stone-throwing from the Rubble Barricade, the incident was of a relatively minor nature and went unnoticed even by people at the Rubble Barricade.

18.5.3.94 In any event, this incident took place at an early stage, prior to the shooting of Michael Kelly and neither put soldiers under threat, nor provided any basis or justification for the firing of live rounds, either at civilians, or over their heads.

18.5.3.95 **Ronald Wood** was asked about this issue, not only in the course of this Inquiry, but also when he gave evidence in 1972 to Lord Widgery. While Mr Wood accepted that there had been stone-throwing from the Rubble Barricade he rejected the suggestion that 40 or 50 youths were running back and forward throwing stones. (**AW24.21E-F**) It should be noted that in 1972 it was not being suggested that these persons advanced forward of the Rubble Barricade.

18.5.3.96 Ronald Wood has also given evidence to this Inquiry. On his own account he was present at the southern gable of the eastern block of Glenfada Park North when the soldiers took up position on Rossville Street. He witnessed Michael Kelly being shot and then saw two further people shot and killed by the soldiers. **AW24.12 paragraphs 11 to 12**

18.5.3.97 He has always acknowledged that there was stone-throwing from the Rubble Barricade at soldiers and that people shouted obscenities at soldiers. **AW24.2 paragraph 9** As can be seen from the extract of the transcript of his evidence quoted above, he rejected the suggestion of a foray put to him by Peter Clarke QC. **Day 127/5712 to Day 127/57/22**

18.5.3.98 It is our submission that, given that he was at the Rubble Barricade when the soldiers arrived and remained there until after Michael Kelly was shot, had this incident been of any significance he would not have missed it. **Day127/59/23 to Day 127/60/6**

18.5.3.99 **George Downey** gave evidence that he saw people advance south of the Rubble Barricade and that:

> "A. The reason why they done this, there were some fella got arrested that was on the waste ground and I think it was a rioter that jumped over, started throwing stones and stuff like that, you know, and they were swearing at them, you know, but no-one ever got up that far, you know." **Day 123/15/21 to Day 123/16/5**

18.5.3.100 He went on to state that

> "A. . . . there were three or four guys, and they got about, say, five or six foot over the barricade, that is about as far as they got, and they started to throw stones at them." **Day 123/18/24 to Day 123/19/7**

18.5.3.101 He subsequently confirmed that this occurred before the first live rounds were fired. **Day 123/24/3 to Day 123/25/1**

18.5.3.102 Having, after detailed questioning by Mr. Clarke QC on behalf of the tribunal, given evidence that the sequence of events was first the foray

and then the shots, including the one which killed Michael Kelly, it was put to him by Peter Clarke QC

"Q. But if there was that short sally over the barricade, would it have happened after the shot at the high?

A. Aye, yes, it happened after that.

Q. Do you remember how that abortive attempt to help the man who was being arrested, do you remember how that stopped and how it ceased?

A. The man getting arrested was actually too far away from the barricade . . . I think there was just . . . a gesture of their anger . . . but they were not up far enough . . . to do any damage." **Day 123/65/21 to Day 123/66/10**

18.5.3.103 George Downey also gave evidence that he never saw any incident involving rioters and Soldiers P and 017. **Day 123/68/20 to Day 123/69/4**

18.5.3.104 In relation to the issue of sequencing of events, it is clear that Mr Downey's evidence is confused. It is submitted that, if witnessed by George Downey, this incident could only ever have occurred prior to the shooting of Michael Kelly because of Mr. Downey's involvement in removing Michael Kelly from the Rubble Barricade. In any event, after the shooting of Michael Kelly such an incident would simply not have occurred.

18.5.3.105 What is being described is a relatively minor incident, involving a small number of youths, it did not justify the firing of live rounds by any soldier.

18.5.3.106 **Gavan Duffy**, who was accompanied by his friend Paul McGeady, describes a similar incident. He witnessed a youth running away, being assaulted by soldiers and falling to the ground. People behind the Barricade surged forward to help, some throwing stones. **AD155.2**

paragraphs 10 to 11 He then witnessed Michael Kelly being shot. **AD155.2 paragraphs 12**

18.5.3.107 Mr Duffy, estimated that this event prompted around 80 persons to surge forward in an effort to rescue the boy, although must of those moved forward towards the Rubble Barricade, with 20-30 crossing the Barricade. **Day 126/144/7 to Day 126/144/10** and **Day 127/145/2 to Day 127/145/8** Some of them threw missiles at the soldiers, more of whom were now visible at the waste ground, around the Flats, and at Kells Walk. However, none of those persons actually approached the soldiers to rescue the boy. **Day 127/145/9 to Day 127/145/17**

18.5.3.108 While this incident certainly appears more significant than that described by George Downey, it must be remembered that this incident occurred just prior to Michael Kelly being shot, and the photographic evidence, showing Michael Kelly, at **EP27.6**, **EP27.7** undermines the suggestion of a significant move across the Barricade as described by the witness. Again the incident appears to bear no relationship to Soldiers P and 017, focused as it is on the waste ground and again it is apparent that people did not advance any significant distance, or pose any real threat.

18.5.3.109 **Paul McGeady** had been on Rossville Street, south of the Rubble Barricade with his friend, Gavan Duffy. Mr. McGeady's evidence was that he saw a youth stumble across the waste ground on the east of Rossville Street and then saw a soldier strike the young man on the left hand side of the face with his rifle, causing the man to fall at the feet of the soldier. **AM219.3 paragraph 19** He then witnessed three to four youths, of about 20 years old, south of the Rubble Barricade say that they would go out and try to rescue the young man from the soldier. **AM219.4 paragraph 20**

18.5.3.110 In oral evidence he recalled that 'several dozen' surged towards the Rubble Barricade from the south **Day 137/128/1 to Day 137/128/4** and

that between six to twelve persons crossed the barrier to the north. **Day 137/128/10 to Day 137/128/12**

18.5.3.111 Mr. McGeady also describes the shooting immediately afterwards of Michael Kelly. While this witness was somewhat confused about Michael Kelly's location and actions prior to being shot, it is nonetheless our view that the person he saw shot was Michael Kelly.

18.5.3.112 Mr. McGeady and Mr Duffy were in each others company at this time. While Mr. McGeady's original statement spoke of 3/4 youths advancing towards the Rubble Barricade, on having Mr. Duffy's account put to him, he increased it to several dozen. It is submitted that the incident was, as per Mr. McGeady's evidence of a more insignificant nature than that described by Mr. Duffy. Again the incident appears to bear no relationship to Soldiers P and 017, focussed as it is on the waste ground and again it is apparent that people did not advance any significant distance, or pose any real threat.

18.5.3.113 **Alphonsus Oliver Cunningham** in the transcript of his Keville tape stated that at the time of the arrest on the wasteground about 'ten or fifteen' went over the barricade. **AC125.11**

18.5.3.114 A witness who has not come to give evidence to this Tribunal **Brendan Carlin** has made a statement to the effect that two soldiers, on his account, probably soldiers P and 017 were being stoned by a crowd coming out of an alleyway eastwards from the north of Glenfada Park North. According to this witness the soldier with the rubber bullet gun, (Soldier 017) was "loading his gun as fast as he possibly could and was firing at the youths who were coming back and forth from the alley." He claims that the other soldier, Soldier P fired a live round "with his right elbow at the hip but with the gun pointing over the heads of the youths." **AC30.7 paragraph 12**

18.5.3.115 According to this statement the soldiers were attacked, not from the Rubble Barricade, but from an alleyway leading on to Rossville Street and in response (Soldier P) fired a live round, in breach of the yellow card and more seriously, from the hip. His account is inconsistent with the soldiers' version of events, it is also uncorroborated by civilians. In the absence of seeing the witness give oral testimony it is difficult to make an assessment as to the reliability of this account. We are unaware of the reason for his failure to come forward and invite the Tribunal to draw an adverse inference from his failure to give oral testimony in the event that no good reason for his non-attendance has been advanced.

18.5.3.116 A number of witnesses also reject the suggestion of a 'foray' over the Rubble Barricade, a few are dealt with below. These witnesses are discussed, not to suggest that the witnesses above are lying, but because it demonstrates that whatever the nature of the incident, it was relatively insignificant in that it went largely unnoticed by a significant number of civilian witnesses.

18.5.3.117 Charlie **Lamberton**, who is in fact the only witness to contend that people behind the Barricade were chanting "Hey, hey IRA" rejected the suggestion that there people had advanced north of the Rubble Barricade. **Day183/111/22 to Day183/112/11**

18.5.3.118 **Brian Rainey** (**AR3**) was also questioned about this matter. Brian Rainey was standing on a small wall which ran around the gardens on the south east side of Glenfada Park South, from where he had a good view of the Rubble Barricade and down Rossville Street. **Day 132/106/17 to Day 132/106/19** From that location he could see a number of youths throwing stones. **Day 132/107/2 to Day 132/107/10**

18.5.3.119 Brian Rainey had a specific recollection of the two arrests conducted in the waste ground and was asked:

"Do you remember, did that have the effect of thoroughly annoying and infuriating particularly the young men at the rubble barricade?

A. I could not say that it had any more that they had seen this sort of thing before. I do not think this in particular would infuriate them." **Day 132/154/3 to Day 132/154/8**

18.5.3.120 There are also other witnesses who make no reference to any such incident and were not asked about it. The photographic evidence, showing the crowd behind the Rubble Barricade before the shooting of Michael Kelly and in particular, photographs **P635A** also undermine the suggestion that this was a major incident.

18.5.3.121 In our submission, while an incident may have occurred in that youths advanced north of the Rubble Barricade in response to the arrest of William John Dillon, it was of a relatively insignificant nature and posed no threat to any soldiers. None of the witnesses lend support to Soldier 017's suggestion that he believed that the crowd "would have ripped me to pieces if they had got me. Crowds had killed soldiers before. I felt very vulnerable there on my own." **B1484.004 paragraph 23** In fact consistently the witnesses speak in terms of the actions of civilians as amounting to a gesture, rather than posing any threat. Moreover, on their account it was not directed at Soldiers P and 017.

18.5.3.122 None of these witnesses lend support to the soldiers' case that there were nail bombs thrown from, or gunfire coming from the Rubble Barricade, which was the basis upon which soldiers claimed that they used lethal force. All of them give clear evidence that the persons they saw shot and killed were unarmed and were posing no threat to soldiers. Moreover, all of the witnesses testify to the fact that no one at the Rubble Barricade was posing a threat to soldiers.

18.5.3.123 The issue has been elevated by those acting for the soldiers into a major issue out of all proportion to its importance and, while it lends support to the evidence that people at the Barricade were engaged in stone-throwing and were hostile to the soldiers, it tells us little more. However, the incident is not insignificant given the evidence dealt with below in relation to Soldier P which suggests that, unprovoked by any significant attack or threat, Soldier P fired off 2 rounds from his hip prior to the firing of the round by Soldier F which killed Michael Kelly. This firing, while it did not in fact, claim any casualties was completely unjustified.

Stone throwing at the soldiers from the Rubble Barricade

18.5.3.124 There is evidence, not merely from the witnesses identified above, but from other civilian witnesses that some youths were involved in stone-throwing at soldiers from behind the Rubble Barricade.

18.5.3.125 **Father O'Keefe** can be seen in **P412** and **P413**, with his back to the camera, surveying the scene on Rossville Street. He recalled that there were perhaps 35 people in the general area of the Rubble Barricade. His recollection was that a

> "small group of youths, about 7 or 8, towards the middle of the barricade on the Free Derry Side...clearly intended to confront the soldiers. As the soldiers dispersed, I have a vague recollection of these youths waving their arms and yelling at the soldiers. I do not remember actually seeing them throwing stones – I was watching the Saracens – but I had the impression that stones were being thrown. The boys were calling out to other people in the area to join them. I assume that they must have been thinking that the soldiers were not going to come right in and that there could be another confrontation." **H21.46 paragraph 11**

18.5.3.126 **Matthew Connolly**, who was at the southern gable of Glenfada Park North, also recalled about 20 to 30 people throwing stones at an armoured vehicle on the waste ground **AC76.2 paragraph 13**, and some people throwing stones in the general direction of the soldiers, although there was nothing close enough to throw stones at. He also recalled the crowd shouting obscenities at the soldiers. **AC76.2 at paragraph 16**

18.5.3.127 **Margo Harkin** recalled that at least one youth was to the north of the Rubble Barricade, throwing stones **Day 416/7/10 to Day 416/7/18**. She also remembers that a young man with long shoulder length hair, which may have been dirty fair, stood slightly to the north of the Rubble Barricade and entertained the crowd at the Rubble Barricade by putting on a show of bravado **AH 23.13 paragraphs 21 to 22**. She went on:

> "A few of the younger lads were throwing stones at the army, which they were picking up from the ground and from the Rubble Barricade. It was nothing unusual to see fellas of this age throwing stones in Derry at this time and on this occasion, at this point; it wasn't on any great scale. They would have been between say 14 and 18 years old." **AH23.14 paragraph 24**.

18.5.3.128 In her oral evidence to the Tribunal, she suggested that there could have been anything from 5 to 15 people gesticulating or throwing stones from the Barricade area. **Day 416/9/15 to Day 416/9/22**

18.5.3.129 **George Roberts** candidly admits to throwing stones[19] from the Rubble Barricade towards soldiers who, he says, were coming in their armoured cars. He says that maybe 15 to 20 people were throwing stones, but that the soldiers were too far away for his stones to reach. **Day 151/69/20 to Day 151/70/4**

[19] See also James Quinn **AQ10.5 paragraph 24**

18.5.3.130 It is not in dispute that there was stone-throwing and some name-calling from youths behind the Rubble Barricade. While, as will be seen below, there is evidence from some of the persons who witnessed the shooting of John Young and Michael McDaid that one or more of those shot may have been throwing stones, or were part of a group throwing stones. There is no evidence before the Tribunal to establish conclusively that either of these deceased were involved in stone-throwing. In any event, stone-throwing did not pose a threat to soldiers and could never have justified the use of lethal force by soldiers on Bloody Sunday.

Presence of Guns and Nail Bombs behind the Rubble Barricade

18.5.3.131 The soldiers' case to this tribunal is dependent on demonstrating that there were lethal weapons behind the Rubble Barricade, even if not used by the Deceased. On the military evidence, Soldiers P, F and J were firing at nail bombers, Soldier P also fired at a gunman, Soldier E fired at a sniper, Soldier U fired at a pistol man. Other soldiers give evidence of gunfire coming from behind the Rubble Barricade, including Soldier 028 who states that there was a man with a machine-gun firing live rounds.

18.5.3.132 Not one civilian lends support to the case made by the soldiers. The issue of civilian evidence about civilian gunmen and bombers in Sector 3 is dealt with separately. Here it is proposed to deal briefly with some of the evidence, representative of the body of civilian evidence, from people positioned behind the Rubble Barricade and at the gable end of the eastern block of Glenfada Park North. That evidence demonstrates conclusively that there were no weapons behind the Rubble Barricade, at the time that Michael Kelly, John Young, Michael McDaid and William Nash met their deaths.

18.5.3.133 **Terence O'Keefe** who gave evidence to both the Widgery Inquiry and this Tribunal was asked about the case being made by the soldiers:

"You may or may not know that the case which has been made by the soldiers before this Tribunal is that in and around the southern side of the rubble barricade, there were as many as three persons with rifles; there were two persons with pistols; there was one person with a sub-machine gun; and there were three people with nail bombs; did you see any of that?

A. I saw none of that and I think it would have been impossible for that to have happened without me having noticed." **Day 127/150/11 to Day 127/150/20**

18.5.3.134 **Denis Bradley** was also asked about this issue:

"It is also their [the soldiers'] evidence that there was something like 13 gunmen and 3 blast bombers operating out of Rossville Street between Rossville Flats and Glenfada Park. Did you see or hear any of that?

A. No, that I will give evidence about very definitely. From the view from Glenfada Park was a very panoramic of Rossville street right across into Joseph Place; there were no gunmen on Rossville Street; there were no petrol bombers on Rossville Street by the time I got there to that gable end, which was within 30 seconds of Michael Kelly having been anointed by me and me being aware of bodies on --- at the barricade on Rossville Street; there were certainly no gunmen on Rossville Street; there were no bombers in Rossville Street; there was no-one responding to fire out of that Rossville Street area." **Day 140/181/17 to Day 140/182/8**

18.5.3.135 **Ciaran Donnelly** a photographer for the Irish Times on Bloody Sunday witnessed Michael Kelly fall, having been fatally wounded by Soldier F. he was questioned in the following terms at the Widgery Tribunal:

"Q. It may be suggested here that shots were fired from the area where this man fell – from the people behind the barricade? A. No.

Q. What would you say to such a suggestion? A. I was there, and if I was 15 yards at the most from these people I would know if someone was shooting near me, and the first thing I would do would be to run away, because I would not want to be caught in it.

Q. Have you any doubt about that? A. None whatever.

Q. Did you see anything from that crowd behind the barricade which would justify anyone in shooting that man? A. No. That man at the time, he might have thrown stones, but he did not seem to be doing anything at all. He was not even throwing stones at that time." **WT2.84E-G**

18.5.3.136 Ciaran Donnelly was also questioned in the course of this Tribunal about this issue and confirmed that he had not seen any weapons behind the Barricade. **Day 71/27/7 to Day 71/27/16**

18.5.3.137 **Matthew Connolly** who witnessed the murder of John Young stated that:

"Nobody was shooting from the Rubble Barricade at the army. I was not aware of any civilians at the barricade with guns. If I had seen a civilian gunman, I would have remembered." **AC76.5 paragraph 29**

and he went on to say that

"At no time during the day did I see any civilians with firearms or petrol or nail bombs. I only saw some civilians throwing stones, bottles or bricks. Similarly, I do not think I heard any explosions." **AC76.7 paragraph 47**

18.5.3.138 **Albert Faulkner** a former member of the Royal Navy, who gave evidence at the Widgery Inquiry and made a statement to this Tribunal stated that:

" . . . I heard no sound which could have been an explosion. The only guns I saw were those carried by the army. Whilst I would not necessarily have been able to distinguish between the sound of an army rifle and a civilian rifle or small hand gun, I do believe that the sharp cracks I could hear all came from army rifles." **AF4.4 paragraph 18**

18.5.3.139 **Hugh Anthony Duffy** stated in the account given by him in 1972 to NICRA that

"None of us had any signs of arms, nail bombs or petrol bombs. The truth is those people who so easily could have included myself were gunned down unnecessarily . . . For them to say they were met by a hail of bullets is a lie. They opened fire indiscriminately, they hit everybody. There was no nail bombs, no petrol bombs and nobody opened fire at them. I swear that". **AD157.9**

18.5.3.140 **Hugh Duffy** of the same name, stated to the same effect:

"I swear that, apart from he British soldiers, I saw no other person with a gun that day, neither did I see or hear any nail bombs or petrol bombers." **AD156.5 paragraph 28**

18.5.3.141 The truth of the matter is, as it was so eloquently put by Bishop Daly, when being questioned about the IRA in Derry:

"I would point out to you that the men of violence were not just civilians.

Q. No?

A. **And men of violence on that particular day, certainly were those in uniform.**" **Day 75/72/2 to Day 75/72/9**

18.5.3.142 It is not proposed to identify every civilian witness who gave evidence about the fact that, not merely were the deceased unarmed, but those around them, on the Rubble Barricade were unarmed and posing no threat, real or imagined to the soldiers. The civilian testimony

demonstrates without more that those killed behind the Barricade were gunned down mercilessly without justification or excuse and that what happened to John Young and Michael McDaid was murder.

Conclusion

18.5.3.143 In relation to the conduct of the crowd at the Rubble Barricade, it is our submission that the civilian evidence can be summarised as follows:

(i) None of the deceased had a weapon, or was near any person who had a weapon.

(ii) There is no evidence, photographic, or otherwise, before the Tribunal (including the expert analysis of photographs) to support the conclusion that the civilians at the barricade were armed.

(iii) No lethal weapons were used against the army.

(iv) None of the civilians saw a lethal weapon in the vicinity of the Rubble Barricade.

(v) A number of civilians threw stones in the direction of the army on Rossville Street.

(vi) The stone throwers could have involved up to a maximum of thirty persons.

(vii) Only stones and pieces of rubble were thrown at the army.

(viii) A small number of civilians may have advanced towards, onto or over the Rubble Barricade, throwing stones and shouting at soldiers, at the time of the arrests in the waste ground.

(ix) Because of the distance between the Rubble Barricade and the soldiers, the stones were never going to reach soldiers and posed no appreciable threat.

(x) The soldiers on Rossville Street were never under threat from the crowd at the Rubble Barricade, nor could they have perceived themselves to be under threat.

Civilian Evidence about Soldiers Firing at Rubble Barricade

18.5.3.144 While civilians came under live fire within a short time of the arrival of soldiers on Rossville Street, some civilians have been in a position to

assist the Tribunal as to the actions of those soldiers, both in terms of their positions on Rossville Street, how they fired and whether they took cover. What follows is a brief review of that body of civilian evidence.

18.5.3.145 **Fr. O'Keefe** gave a very vivid account of the soldiers dismounting from their Saracens and getting into firing positions almost immediately. Such evidence sits uneasily with the suggestion that the soldiers were there to conduct an arrest operation.

18.5.3.146 "As the Saracens stopped and I stopped, and I turned to look north back up Rossville Street, I saw groups of soldiers jumping out of the Saracens and taking up positions. They were all carrying rifles. Some moved swiftly to my left (their right) and took up positions at Kells Walk. Others took up positions across Rossville Street, in front of the Saracens. Some of those soldiers kneeled in firing positions, others stood in firing positions with one foot in front of the other. All the soldiers were holding their rifles to their shoulders. I could not see whether any soldiers went behind the Saracens. It was like a movie scene – men silhouetted against the backdrop, moving very fast with rifles. As the soldiers ran towards their positions, they had their rifles pointing up in the air, but as they adopted their positions, they pointed their rifles down Rossville Street towards the barricade.

. . .

18.5.3.147 Very quickly after the soldiers had got into position, the shooting started. The shots were coming from the soldiers I had seen adopting firing positions. I assumed, at first, that the soldiers were firing rubber bullets to drive the crowd further back. It never occurred to me that the soldiers might be firing live ammunition as the crowd had done nothing to justify that."

H21.45 paragraphs 10 to 12

18.5.3.148 When questioned by Counsel to the Inquiry Professor O'Keefe felt that **EP23.8** resembled the group he saw running between the two vehicles. He believed that by the time **EP23.9** was taken the firing had started and along with other people he had begun to take shelter at the gable wall. In an image preserved as **H21.141** the pink arrow depicts the direction in which soldiers were running, while the turquoise arrow depicts other soldiers coming around to stand in front of their vehicles. The blue arrow represents the vehicles. **Day 127/98/7 to Day 127/98/12**

18.5.3.149 **Ronald Wood**, also gives an account of the soldiers actions as they debussed:

18.5.3.150 "The doors of the Saracens were thrown open and soldiers disembarked and took up positions . . . One or two soldiers stayed near the vehicles, while a few soldiers took up kneeling positions at a small wall at the north east corner of Glenfada Park North [the witness later identified the wall as "the higher brick wall running parallel to Rossville Street" **Day 127/11/9 to Day 127/11/18**] . . . using the wall as cover. The remainder positioned themselves between the vehicles and the small wall in kneeling positions facing southwards towards the Rubble Barricade, with their rifles held in an aiming position at their shoulders. . . ." **AW24.1 paragraph 7**

18.5.3.151 While Ronald Wood's evidence refers to soldiers apparently taking cover, there is a substantial body of evidence that many soldiers got into firing positions without cover.

18.5.3.152 **Alphonsus Oliver Cunningham** describes the conduct of one soldier in particular, at about the time that soldiers were involved in the arrest of William John Dillon:

"I then noticed a soldier standing in front of a ramp on the southern end of Kells Walk . . .The soldier was standing in full

view. There may have been other soldiers near him but I did not notice any. He was wearing a helmet – I cannot say whether it had a visor, and I don't remember any other details about his appearance or what he was wearing. He raised his rifle casually to his shoulder and fired a shot in the direction of the rubble barricade. . . " **AC125.2 paragraph 7**

18.5.3.153 Under questioning the witness remained clear that the soldier was standing in front of the wall of the ramp leading through to Columbcille Court, close to the end of the gable and that he had fired the first high velocity shot the witness heard that day, fired within a few minutes of the arrival of the Saracens. **Day 150/9/16 to Day 150/11/23**

18.5.3.154 Liam Mailey took photographs **EP23.6**, **EP23.7**, **EP23.8**, **EP23.9** in all of which Soldiers P and 017 can be seen. Liam Mailey was asked about **EP23.7** in the course of his evidence to the Widgery Tribunal and was asked about Soldier P, who is the soldier with the rifle in that picture:

"Q. When you saw him what was he doing? A. He was holding a gun about his hip and pointing it towards the barricade.

Q. Was he doing anything with the gun as far as you could see? A. My attention was attracted to him by the sound of two shots and I imagine that he being the only one there with a rifle, he was the one who fired them.

Q. Was that what caused you to attempt to take his photograph. A. Yes.

Lord Widgery: You mean he fired them down the entry? **No, he fired them towards the barricade.** He had just turned round at this stage.

Mr. Hill: As a result of his having fired these two bullets at the barricade did you then try to take his photograph? A. Yes.

Q. So the time the photograph was taken was he in the position he is in photograph 7, just turned and looking down the entry? A. Yes.

Q. Did he then give any signal to other soldiers who were in the background and not shown in photograph 7? A. He gave me that impression, that he was signalling other soldiers, yes.

Q. As a result of that did a number of soldiers come round the wall towards him, and have you shown them in photograph No. 8 (**EP23.8**) A. Yes.

. . .

Q. In photograph No. 9 (**EP23.9**) is it clear that the soldiers who have come forward in apparent order and have failed to gain entry to the back of Kells Walk have gone back again and between the two walls in order to go up the ramp towards the back of Kells Walk? A. Yes.

Q. Did some of the second group of soldiers appear already to have taken up a firing position at the back of the wall? A. That is right." **WT7.36A-G**

18.5.3.155 Liam Mailey no longer has a clear recollection of the events of the day, but his evidence to the effect that Soldier P fired two shots from the hip is consistent with the evidence of two other witnesses to this Inquiry.

18.5.3.156 **Eamonn Melaugh** in the account he gave to the Sunday Times also refers to a paratrooper firing two rounds from the waist:

"There were three troopers who came the furthest up Rossville St. One was a rubber bullet man who was at the front and he was shooting his rubber bullet gun almost as quickly as he could load it. Immediately behind him and slightly further away because they were standing tight into the brick wall one of the troops I know now to be a paratrooper fired two rounds. He didn't take aim. He fired from the waist. . . " **AM397.23**

18.5.3.157 On Soldier P's account the first two shots he fired were at a nail bomber. According to his statement to the Treasury Solicitor and the Trajectory Photograph prepared for the Widgery Tribunal **P22** Soldier P was at the east facing wall of the Kells Walk pram ramp, as depicted in **EP23.7** and the nail bomber was on the same side of the road, on the footpath adjacent to the alleyway leading to Glenfada Park North. Thus on his Treasury Solicitor's account he fired straight down Rossville Street in the direction of the Rubble Barricade as described by Liam Mailey. The distinction is of course that there was no nail bomber and he fired from the hip.

18.5.3.158 **Brendan Carlin** also describes soldiers in the positions of Soldier P and 017, one with a rubber bullet fun. On his description the soldiers were being stoned by rioters coming from an alleyway "eastwards from the north of Glenfada Park North . . . These two were under pressure and the other soldier with a rifle fired a live round. He did this with his right elbow at the hip but with the gun pointing over the heads of the youths." **AC30.7 paragraph 12**

18.5.3.159 This witness did not give oral evidence to this Inquiry and we are not aware of the reason for his non-attendance. No civilian corroborates his account of these two soldiers being stoned, and the photographs do not tend to support that account. Nonetheless he also gives an account of Soldier P firing two shots from the hip.

18.5.3.160 Ciaran Donnelly's account of the sequence of shooting lends support to the proposition that the first two shots fired were fired by Soldier P and that this was followed by the shot from Soldier F which resulted in the death of Michael Kelly. He was questioned about the shooting over the Rubble Barricade in the course of the Widgery Tribunal:

> "Q. ... It is not true to say that you heard any quantity of firing going on after the troops came in? A. Not immediately after they came in.

Q. Until that one shot at the barricade. A. there were first of all two shots and no-one fell and then about a minute later another shot and one man fell." **WT3.8D-E**

18.5.3.161 His account to this Tribunal was the same, he heard two shots, nobody fell and then he saw Michael Kelly and possibly Hugh Gilmore fall. **Day 71/ 28/7 to Day 71/28/14**

18.5.3.162 He also suggests that photograph **EP27.7** which is the photograph in which people behind the Rubble Barricade begin to crouch, was taken at the time he heard the two shots. **Day 71/32/7 to Day 71/32/18**

18.5.3.163 A number of witnesses also give an account of firing from soldiers at the northern gable end of Block 1 of the Rossville Flats, where Soldier U was positioned. Given that soldier U is the prime candidate for the shooting of Hugh Gilmore it is not proposed to address that evidence in this section.[20]

18.5.3.164 A number of witnesses describe sustained firing from the soldiers positioned in and about Columbcille Court and behind the Kells Walk Wall. However once the firing started in earnest people took cover and the evidence about the volume of firing after the shooting of Michael Kelly and at the time of and after the shooting of Michael McDaid and John Young is dealt with below.

Shooting at the Rubble Barricade

18.5.3.165 The shooting of John Young and Michael McDaid at the Rubble Barricade took place in the immediate aftermath of the shooting of Michael Kelly. Broadly speaking witnesses to their shooting fall into two categories: those sheltering at the southern gable of the eastern block of Glenfada Park North; or, those observing from the windows

[20] Don Mullan **AM448.4 paragraphs 29 to 33**, Ciaran O'Somachain **AO70.3 paragraph 14**

of Block 1 of the Rossville Flats. Others witnessed it from Joseph Place.

18.5.3.166 The fact that they were shot just a short time after Michael Kelly was shot has added to the confusion in the evidence about the circumstances in which they were shot. The reaction of those around him, to the shooting of Michael Kelly was one of shock. In its initial aftermath, many people had difficulty in believing that he had been shot with a live round, and there was some confusion.[21] Inevitably many people panicked and tried to get way from the Rubble Barricade as quickly as possible.[22]

18.5.3.167 A number of people became involved in moving Michael Kelly from the Rubble Barricade to the relative safety of the gable end of the eastern block of Glenfada Park North, while others looked on. The evidence would tend to suggest that as Michael Kelly was being tended to at the gable end wall, Michael McDaid, John Young and William Nash were shot and killed[23].

18.5.3.168 Because of the conditions under which it occurred, with people panicking, running for shelter, or either assisting in or watching the removal of Michael Kelly, the evidence provided by the civilians in respect of the events at the Rubble Barricade is confused and often mistaken.

18.5.3.169 Many witnesses also testify to a sustained volley of shooting over the Rubble Barricade in the aftermath of the shooting of Michael Kelly, this operated to prevent people from watching what was happening and

[21] See for example, Fr. O'Keefe at **WT5.6G** See also **AW 24.16E-F**
[22] See Charlie McLaughlin **AM321.4 paragraph 12**; **Day 177/86/10 to Day 177/86/15**
[23] See Denis Bradley **H1.9 paragraph 23 to H1.10 paragraph 24**; also Terence O'Keefe **H21.46 paragraph 14**

also prevented people from going to the assistance of those shot and killed at the Rubble Barricade[24]. **Day127/22/20 to Day 127/23/8**

18.5.3.170 An additional problem for witnesses to the murders at the Rubble Barricade is that absent personal knowledge of the victims, it would have been difficult for witnesses to distinguish one youth from another. Under conditions of sustained live fire, where the victims were close to each other in age, in terms of the location at which they were shot and given the proximity of the times of their shooting, understanding what had happened was difficult for those involved.

Photographic Evidence

18.5.3.171 It is apparent from **P638** that the body of Michael Kelly was taken to the relative safety of the entrance to Glenfada Park North. It is also clear from the demeanour of some persons at the southern gable of Glenfada Park North that their attention has been drawn to an incident to the east. Two persons can be seen pointing towards the Rubble Barricade, and Mr Barry Liddy, who can be seen in the cream raincoat and hat kneeling close to the body of his fatally wounded nephew, is also watching the Barricade.

18.5.3.172 **P639** was taken before **P638** and shows a similar scene. Christopher Doherty can be seen at the western edge of the southern gable of Glenfada Park North. He has a white handkerchief tied around his neck, covering his mouth and nose from gas. In **P640**, Mr. Doherty can be seen walking in an easterly direction, towards the Rubble Barricade, closely followed by Fr Denis Bradley[25], who has just anointed the body of Michael Kelly. Professor Terence O'Keefe, his back to the camera, can be seen standing on the cobble stones, comforting Denis McLaughlin, who was in a distressed state. He is the youth in the camouflaged jeans.

---

[24] See Ronald Wood **AW24.12 paragraph 12** (statement in 1972 to Treasury Solicitor); Terence O'Keefe **H21.47 paragraph 16** and **Denis Bradley H1.12 paragraph 28**

[25] Christopher Doherty says that he had drawn Father Bradley's attention to the bodies on the barricade. **Day182/137/22 to Day 182/138/4**

18.5.3.173 **Matthew Connolly's** evidence has been looked at briefly in this section in regard to his meeting with John Young at the corner of William Street and Rossville Street (**AC76.2 paragraph 11**) and in respect of the stone throwing from the Rubble Barricade. (**AC76.2 paragraph 13**) It is Mr Connolly's evidence, however, that when the shooting began towards the Rubble Barricade, there was no stone throwing immediately before the troops opened fire. **AC76.4 paragraph 23**

18.5.3.174 As Mr. Connolly stood behind the Rubble Barricade, close to Glenfada Park North, a small boy in front of him jumped and screamed as if he had been shot. Matthew Connolly initially did not believe he had been shot. Mr. Connolly, was unable to identify the person but was later advised that the person may have been William Nash or Michael McDaid **AC76.3 paragraph 17**.

18.5.3.175 He gave a description of a youth of 15 or 16 years old, wearing a shirt (which may have been light blue in colour) but no jacket. He believes his hair was dark and of average length. He was shot high up in the left hand side of the chest and it took the witness a couple of minutes to see blood. (In his oral evidence he confirmed that this was just his impression of what the youth was wearing; he couldn't be sure. **Day 151/13/7 to Day 151/13/10**) There were two or three people around him. He was still screaming. The group stayed around the boy for about two minutes, during which time there was no shooting **AC76.3 paragraph 18**. In his deposition to the Coroner, he said that the youth was wounded high up on the left hand side of his chest. It should be noted that Denis McLaughlin's evidence was that the first person he recalled shot, was also screaming. (**AM326.5 paragraph 17**)

18.5.3.176 In his interview with Peter Pringle and Peter Jacobsen on March 14, 1972, he said:

"I was standing on the Glenfada Park side of the barricade on the pavement when I heard a single rifle shot a young fellow of about 16 or 17 fell in front of me. He had been shot in the chest on the left side. I learnt after that it was Willie Nash. I could see the bullet hole in his light coloured shirt. The shot appeared to come from the soldiers who were about 40 yards away up Rossville Street on the same side crouched behind the door of a pig. Nash squealed. He was not dead. He was moaning **AC 76.14**.

The Tribunal will be aware that William Nash was wearing a light coloured shirt.[26]

18.5.3.177 After this youth was shot at the barricade, the witness saw about four soldiers at the low wall at Kells Walk. There was a Saracen almost level with them. He could see that its back doors were open as they projected beyond the sides of the Saracen. The soldiers were aiming their guns south down Rossville Street. He could not say whether they had shot the boy. He described a soldier standing behind the left-hand (as witness looked at it) door of the Saracen. **AC76.3 paragraphs 19 to 21** In a deposition for the Inquest, he said he had the impression that this soldier at the rear of the Saracen had fired. **AC76.26.**

18.5.3.178 The Sunday Times account suggests he then saw John Young for the first time that day. This conflicts with his evidence to this Tribunal at **AC76.1 paragraph 9**, which suggests that he had met John Young earlier in the day before the Army came in.

18.5.3.179 There was then a volley of automatic shots and the impression that these shots were very close to him. The impact sounded as if it was hitting stones, perhaps the stones in the Rubble Barricade. He believed that there were more than ten or fifteen shots. (In his deposition

[26] **D0102**: William Nash wore a yellow flowered shirt, and underneath, a white T Shirt.

provided to the Coroner, he estimated that 12 – 15 shots rang out **AC 76.26**)

"Immediately, I got down flat on the ground. Nobody had been throwing stones immediately before these shots. The soldiers near the Saracen were too far away to throw stones at. Although there had been ten or fifteen of us behind the Rubble Barricade before these shots, it is my recollection that there were only four or five of us lying down behind the barricade after these shots. The others must have moved away, perhaps south down Rossville Street, although I do not know." **AC76.3 paragraphs 22 to 23**

18.5.3.180 Mr Connolly then gave a detailed account of the shooting of John Young:

"...I think I was about ten or twelve feet south from the end gable wall but I am not very sure how far east or west along the gable wall I was. I heard someone in the crowd shout "come back in". I saw somebody on his honkers move out from the gable end of the wall where we were sheltering towards the Rubble Barricade. I thought that the person who had shouted "come back in" had shouted at this man. There was also another man behind him and slightly to his left as I was looking at them and I will describe him later. The first man who I had seen then fell over. He was between the gable wall and the Rubble Barricade, to the south of the Rubble Barricade, approximately at the point marked 2...[almost in centre of Barricade]. He fell to his right. He had been crouched down with his left side towards the Rubble Barricade and he fell to the south away from the barricade onto his right side, facing east. I then saw him plainly and I saw that he was John Young. He had been shot in the head. The wound was in the left hand side of the head. He lay on his side with his feet towards the Rubble Barricade, still in a crouched position. He did not move. Although I heard shots at the time, there was no

specific shot which I could say hit him. At no time had I seen John Young throw stones." **AC 76.4 paragraph 26.**

18.5.3.181 In his deposition to the Coroner, he said that John Young was about two foot from the end of the garden wall. **AC 76.26** This garden wall is best captured in **P502**. Although Mr. Connolly said in oral evidence he could not be sure about that exact position **Day 151/22/3 to Day 151/22/8**, in his NICRA statement, Connolly stated his belief that John Young crawled out and was about a yard from the shot youth, when he too was shot. **AC 76.13** John Young wore a combat hat and jeans **AC 76.15** and the witness confirmed that John Young's hands were empty **Day 151/20/24** and he was making no attempt to call to the soldiers, to signal or wave a white handkerchief. **Day 151/21/5 to Day 151/21/8**

'There had been sporadic shooting ever since the first boy had been shot. Occasionally, there would be clusters of heavier shooting too. John Young fell during the sporadic shooting as did the man who was behind him when he was shot'. **AC 76.5 paragraph 30**

18.5.3.182 He also confirmed that he had heard a single shot and saw John Young fall **Day 151/25/20 to Day 151/25/22**, and just before he had heard that single shot, there was no shooting going on. **Day 151/25/23 to Day 151/26/1**

18.5.3.183 Mr. Connolly believed that John and the second person who had fallen, fell "either on the pavement or very close to it". **Day 151/25/1 to Day 151/25/4**

18.5.3.184 Counsel for the Families questioned Mr. Connolly as to the timing between the different shootings and the identity of the first person he saw shot and killed. Mr. Connolly said that he believed, but could not swear to it, that five or ten minutes had elapsed before

John Young went out to the first body. **Day 151/44/7 to Day 151/44/9**

18.5.3.185 Mr. Connolly was also questioned about the accuracy of his identification of the first person he saw shot. Specifically it was suggested to him that the first person he had seen shot was Michael Kelly but that he had seen John Young go to the aid of William Nash, lying shot on the Rubble Barricade. Matthew Connolly accepted that this was possible. **Day 151/40/11 to Day 151/40/19** He also accepted that the first casualty might have been Michael Kelly when this was suggested to him by Counsel to the Inquiry. **Day 151/13/3 to Day 151/13/6**

18.5.3.186 Mr Connolly then gave evidence about the possible shooting of a third person:

> "Immediately after this, the second man who had been behind John Young and to his left, that is nearer to the Glenfada Park North side of Rossville St, seemed to stumble. He was approximately at the point marked 3 [south of the barricade, almost near the gap] ... I think, therefore, that he was further out on the road than the first boy marked 1 I had seen shot. I would say this man was about eighteen or nineteen years old. I think that he wore something dark, maybe jeans, although I am not sure. He was not tall (average height, 5'4" or 5'5" (**Day 151/23/17**)) and I cannot recall what his hair was like. After I saw him stumble someone then blocked my view and I never saw him again. I do not know what happened to him, but assumed he had been shot. I did not know who he was, but afterwards have discovered that he may be either William Nash or Michael McDaid, because I learned that they, too, were shot there." **AC76.4 paragraph 27**.

18.5.3.187 In his NICRA statement at **AC76.13**, witness says this youth was shot, stumbled back towards the wall and taken onto a house (sic).

When this second man went out he did not appear have been carrying anything that looked like a weapon. **Day 151/23/21**

18.5.3.188 It is clear that Mr Connolly is unable to give a reliable account of what happened to the third person that he saw "stumble". He told Counsel to the Inquiry that he was not 100% sure, but that he did not think that he saw this person again. **Day 151/24/6 to Day 151/24/10** He accepted that in relation to this aspect of his evidence he is reliant upon information that he received after Bloody Sunday, based upon which he made an assumption that it must have been Michael McDaid or William Nash. **Day 151/24/3 to Day 151/24/5**

18.5.3.189 It was Matthew Connolly's belief that the shooting he had heard had been coming south down Rossville Street from where he had earlier seen the soldiers at Kells Walk. He accepted that he could not tell the difference between a high or low velocity shot, but could tell the difference between the sound of a rubber bullet and live shots. **AC76.5 paragraph 28**

18.5.3.190 Mr Connolly could not state conclusively whether John Young and the second man had gone out towards the Rubble Barricade to help the boy he now believes to be William Nash, or not. As stated above John Young and William Nash had been classmates at St Joseph's school. In addition, William Nash lived at Dunree Gardens, which was a street leading off the street where John Young lived, Westway and was probably therefore known to John Young.

18.5.3.191 It is clear that having witnessed more than one person shot at the Rubble Barricade, and only recognising one, the evidence of Matthew Connolly in relation to the casualties, other than John Young behind the Rubble Barricade is confused. His account has also undoubtedly been influenced by what he was told about the identities of the casualties in the aftermath of the shooting. However his evidence

about the circumstances of John Young's shooting is clear and in our submission reliable. John Young was shot and killed while going to the aid of another person shot and killed at the Rubble Barricade, in all probability William Nash. That submission finds some support in the testimony of Denis McLaughlin below.

18.5.3.192 **Denis Mc Laughlin** is an important witness to the shooting of John Young, Michael McDaid and William Nash. He was 16 years old on Bloody Sunday and has identified himself as the youth wearing the distinctive camouflaged or bleached jeans in **P640**. He had run through Glenfada Park North and stopped at the gable wall where he estimates that 20 or 30 people were already gathered. He describes a scene of panic at the entrance to Block 1 of the Rossville Flats and stated that he could hear high velocity shots coming from the northern end of Rossville Street. **AM 326.4 paragraph 15** Mr McLaughlin did not witness any soldier shooting towards the Rubble Barricade. **Day 159/32/12 to Day 159/32/14**

18.5.3.193 According to Denis McLaughlin's evidence William Nash was the first person he witnessed being shot at the Rubble Barricade. If his evidence is correct, William Nash must have left the position in which his brother John had identified him in **EP27.11**, because Denis McLaughlin recalled that William Nash was running over the loose stones of the barricade at a point he has marked as '10' on the plan attached to his statement at **AM326.23**.

18.5.3.194 Mr. McLaughlin has provided an accurate description of the clothing worn by William Nash on Bloody Sunday, of a brown suit. William Nash was crossing the Rubble Barricade in a southerly direction towards Free Derry Corner, and was approaching the Barricade from the direction of Block 1 of the Rossville Flats. "He was not holding anything in his hands and did not look as if he was about to pick anything up. He was in a brisk walking posture but crouching from the shoulders with his head slightly bent, as if to make himself

smaller to avoid the firing. He was running towards Free Derry Corner." **AM326.5 paragraph 16**

"As I caught sight of him he fell back and rolled over on his mouth and nose, on the Free Derry side (southside) of the Rubble Barricade. He lay no more than three to four yards from me and closer to the Glenfada Park pavement side. There is no doubt that he was unarmed. He began to start screaming, at which point I realised that he had been shot." **AM326.5 paragraph 17**

18.5.3.193 According to Denis McLaughlin, George Roberts, who is the long haired person on his hands and knees, slightly to the north east of Michael Kelly in **P418**, wearing jeans and a denim jacket, threw himself to the ground and began to crawl over to see if he could do anything for the man. Mr. McLaughlin then described how he "threw himself on to the ground and out into the Rubble Barricade over to the side of the man in the brown suit who had been shot. Just as I reached him the screaming died away to a moan. I began talking to him hysterically, telling him, "Don't worry, you'll be alright; we'll get you in". I cannot remember seeing a wound anywhere on his body. I looked at George and he told me the man was dead."' **AM326.5 paragraph 18**.

"Since Bloody Sunday I have seen pictures of the men who were killed that day, and can confirm that William Nash is the man I saw in the brown suit on the Rubble Barricade. I still have a clear picture of his face today." **AM 326.6 paragraph 20**

18.5.3.196 In oral evidence, he said he was sure that George Roberts was running with William Nash **Day 159/14/7 to Day 159/14/20** and that Nash was facing Free Derry Corner when he fell face down **Day 159/15/17 to Day 159/15/25**. At the time that witness and George Roberts went out to the aid of the man, he recalls that **no other casualties were at or near the Barricade and is certain that both he and Roberts went to the aid of the same person.** **Day 159/16/11 to Day 159/16/17** The

position where the witness believes he saw William Nash fall was on the left hand side of what is shown in photograph **E14.12** (**Day 159/21/1 to Day 159/21/16**) and the body was on the Glenfada Park North side of the gap in the barricade. **Day 159/21/17 to Day 159/21/25**

18.5.3.197 Mr. McLaughlin described the shooting which followed the death of William Nash in the following terms:

"After a brief moment everything happened very suddenly. As I turned away in fear from the man in the brown suit, I saw another person fall and I later found out he had been shot dead. He was four or five yards away lying on the road while I lay on the wide pavement. Another person walked out slowly and cautiously to this second person who had been shot. More shots rang out and he fell on top of me. People over at the flats were calling out and roaring "There's men dead", meaning us. I also heard someone saying "They're shooting from the Derry Walls". I then turned on my back and saw a person's head burst open and blood was pouring out. All I saw was red. This person fell on my side and blood came all over me and covered my hands. At no time did these people have anything in their hands. At this point I became totally hysterical and began roaring at George "Look at the blood". He replied "There's nothing we can do, we'll get in out of the road". I cannot remember anything about the position in which those bodies fell, from where they were shot, where they were shot in their bodies, what they were wearing or anything about their appearance. I can only say that they were shot very close to me." **AM 326.5 paragraph 19**

18.5.3.198 Mr. McLaughlin was not able to remember where the second person he saw shot was before he fell save that he was on the Free Derry Corner side of the Rubble Barricade. **Day 159/23/15 to Day 159/23/24** McLaughlin places himself in the area of the photograph marked with

a block, which can be found at **AM326.36**, but he could not remember exactly where the person fell. (**Day 159/26/14 to Day 159/27/7**) His statement at **AM326.5 at paragraph 19** states that he was four or five yards away, and on the road. He did not see from where this person came but presumes he walked out from the Glenfada Park side. **Day 159/29/8 to Day 159/29/15**

18.5.3.199 He did not see any sign of injury on the third man but knew he was shot by the way he fell. **Day 159/30/7 to Day 159/30/12**

18.5.3.200 Mr. McLaughlin then goes onto describe the volume of fire coming over the Barricade:

> "At this point it was total chaos and shooting was really heavy. The bullets were bouncing off the barricade above our heads. George started crawling back towards the gable wall. A man who at the time I knew only as [redacted] was crouching at the gable end. He grabbed George's feet, and George grabbed my hands and pulled us to safety. I sat down with my back to the gable wall at the point marked 8 on the map (grid reference I15). Emotionally, I was in a real state.
>
> . . . I noticed Father Bradley about to head out to the bodies at the barricade, but the people at the gable wall held him back. I pulled him down towards me and said, "Father forgive me", as by that stage, I thought that I was going to be shot and killed too. Father Bradley said, "Don't worry, I'm here". There is a photograph of me near the gable end wall attached to this statement marked A. I was wearing bleached jeans and a denim jacket, and had long hair." **AM 326.6 paragraphs 21 to 22**

18.5.3.201 In summary, on the account given:

i) William Nash was shot, and then 2 young men who went to his assistance were also shot, one in the head.

ii) All of these people were unarmed.

iii) People at the gable end were confused about what was happening and some believed that both he and George Roberts had also been shot.

iv) They were eventually assisted from the Rubble Barricade by PIRA 1.

v) He became hysterical and had to be assisted by Fr Bradley.

vi) Because of the volume of firing none of the three persons he described was removed from the Rubble Barricade.

18.5.3.202 Mr. McLaughlin gave an account of events in 1972 which is slightly different account to that given to this Inquiry;

"I was hit with a rubber bullet and I fell and two men dragged me up. I went on down to see what was happening and I *saw* a body on the barricade. There was another fellow along with me and he was over with the body. I went over along with him and this boy came out and he was shot in the stomach. (He can no longer recall the wound to the stomach but stands by the account given in 1972. **Day 159/34/13 to Day 159/34/17**) He fell. Then this other man came out and he was shot and he fell. A boy came out and he was shot in the head. None of them were armed at all. They just came out to help this boy who had been shot. They thought we were shot also as we were lying beside him because we didn't want to get up. He was hit in the head. The blood came over my hand. There was a boy come over and he dragged this boy by the feet in order to get him out of the road. He said for us to get out of the road as we would only get shot. We said, what about these bodies. He said, you'll have to get over here or you'll get shot. He grabbed this first boy by the feet and he grabbed me by the hands and dragged me across. We were all against the wall with Fr Bradley...' **AM326.24**.

18.5.3.203 He clarified the latter part of the above account. PIRA 1 grabbed George Roberts by the feet and started to pull him towards the gable. **Day 159/36/8 to Day 159/36/14**

18.5.3.204 This account can be summarised as follows:

i) He saw a body and went to give assistance and one of the persons who accompanied him was shot.

ii) Two more persons went to the aid of the person who had been shot and both were shot, one in the head.

iii) Again, none of these people were removed from the Rubble Barricade.

18.5.3.205 Mr. McLaughlin was questioned by Counsel to the Tribunal about the sequence of events:

> Q. To summarise this so far: you saw first of all a man fall who you believed to be William Nash. Then a second man fell four or five yards away; that is right?
>
> A. Yes.
>
> Q. Another man came out, you thought, to assist that man and fell on top of you?
>
> A. Yes.
>
> Q. You turned away and a fourth person came and fell on you again; is that your recollection?
>
> A. The only recollection of a fourth person is the red at this time now sitting here today, yeah.
>
> Q. Are you certain that is a different person from the one who first fell on you?
>
> A.Yeah." **Day 159/31/22 to Day 159/32/11**

18.5.3.206 Mr McLaughlin can offer no details regarding the sex, age or clothing about this fourth person. **Day 159/32/20 to Day 159/33/6**

18.5.3.207 Counsel to the Tribunal raised the suggestion that the first person shot behind the Rubble Barricade was not in fact Michael Kelly and that

"the bullet might have gone through one and into the second man, Michael Kelly." **Day 159/22/12 to Day 159/22/15** and that it was this first man who was attended by Denis McLaughlin.

18.5.3.208 Mr. McLaughlin, rejected the suggestion that two men fell at about the same time and stated that he did not see anyone else in the area. **Day 159/22/17 to Day 159/23/2**

18.5.3.209 Counsel for a majority of the soldiers questioned Mr McLaughlin relating to the Barricade and suggested that if a person was removed from the area of the Barricade, while McLaughlin was at the gable, then it must have happened either before witness arrived in that area or after he had left it. **Day 159/80/22 to Day 159/81/5** The witness did not see anyone carried away from the Rubble Barricade and he is photographed at that gable end wall and was later arrested there.

18.5.3.210 On his evidence before the Inquiry, therefore it seems that he accepts that:

i) He may have seen 4 people shot, one of whom was shot in the stomach and one to the head. Michael Kelly was shot in the stomach, William Nash in the chest and both John Young and Michael McDaid in the head.

ii) It is not in fact entirely clear that he did see 4 persons shot, because given the live fire coming over the Rubble Barricade, it does not follow that the fact that someone had fallen meant that they had been shot and killed. His account becomes very vague in respect of the supposed third and fourth man, in that he can only say that two men fell on top of him and one was shot in the head. He can give no other description. Moreover his considered recollection prior to hearing the Keville tape was that he had only seen three men shot.

iii) The men were shot in sequence and there was not a shoot-through as suggested to him, because the second man shot had

gone to the attendance of the first man and could not therefore have been shot and killed at the same time as the first man.

iv) Again none of the bodies were removed from the Rubble Barricade.

18.5.3.211 It is our submission that the evidence of Denis McLaughlin amounts to the following: he witnessed three people shot and killed behind the Rubble Barricade. He must also have seen the body of Michael Kelly, probably at the Rubble Barricade and certainly by the time he got to the gable wall.

18.5.3.212 Denis McLaughlin has candidly accepted that the event was extremely traumatic and that he had blocked parts from his mind. On his own account:

"I was not in – I was not in full mind at that particular time."

Day 159/29/22 to Day 159/29/23

18.5.3.213 Given the traumatic events witnessed by him, there is undoubtedly room for confusion. In essence his evidence is reliable. He was at the Rubble Barricade at a time when we know four young men were shot. He did not see the first man shot, but saw the body, but he did witness the shooting of the other three. The confusion caused by a traumatic event and a gap of 30 years should not be used to justify the suggestion that he witnessed the killing of someone whose body was somehow, spirited away and the fact of whose death has been kept hidden for the last 30 years.

18.5.3.214 There are moreover a number of difficulties with the proposition that the person who Denis McLaughlin saw first, was a missing casualty.

i) While he witnessed the shooting of the missing casualty and then the shooting of William Nash, John Young and Michael McDaid, he managed to completely miss the shooting of Michael Kelly who, on the case being suggested to him, was shot and killed with the same bullet as the missing casualty.

ii) It is the consistent evidence of the civilians at and about the Rubble Barricade that the first person to fall at the Rubble barricade was Michael Kelly. If there was a shoot-through, all of these witnesses have to be wrong and a substantial body of them must be lying.

iii) He has consistently stated that the people he saw shot were not removed from the Rubble Barricade. In those circumstances they must have been the three people picked up by Mortar Platoon.

iv) According to his evidence there was no 'shoot-through', this means that the alleged missing casualty was not killed with the bullet fired from Soldier F's gun. However as it is the soldiers' accounts cannot account for all of those killed behind the Rubble Barricade. The question thus arises how could they have killed yet another person, when they cannot even account for the known deceased.

v) Moreover the suggestion put to him, that the 'missing casualty' was a person shot before Michael Kelly implies that the person shot was F's actual target. However on the evidence of both Denis McLaughlin and George Roberts the person was unarmed. The entire premise of the soldiers' case with regards to missing casualties is dependent on the missing casualties having been persons engaged in the use of lethal force.

18.5.3.215 There are other difficulties with the suggestion. If the shoot-through theory were to be accepted it means either that: one of William Nash, Michael McDaid or John Young was the first person shot on the Rubble Barricade, or that the person shot was a 'missing casualty' and the person identified by Soldier F as his nail bomber. However, this extra casualty went unnoticed by those who went to the aid of Michael Kelly, with the possible exception of George Roberts.

18.5.3.216 There is a large volume of evidence to the effect that after the removal of Michael Kelly from the Rubble Barricade, no one was able to gain

access to the other bodies. This means that this 'missing casualty' had to have been removed at or about the same time as Michael Kelly. Alternatively this 'missing casualty' is in fact one of the three persons removed from the Rubble Barricade by Mortar Platoon.

18.5.3.217 If the body was removed at the same time as Michael Kelly, then despite the extensive photographic coverage of the Rubble Barricade and Glenfada Park North before and after the shooting this person was brought from the Rubble Barricade unnoticed. The removal was also unnoticed by the people at the gable wall of Glenfada Park North. Alternatively witnesses like Fr. Bradley, Barry Liddy and Fr O'Keefe have participated in a massive conspiracy, which has included the unidentified people who removed the body, a conspiracy which went into motion within minutes of this man's death and which has gone uncovered for 32 years.

18.5.3.218 **George Roberts** was 23 years old on Bloody Sunday. His evidence is that he was at the southern gable of the eastern block of Glenfada Park North with [redacted] He amended this when he gave oral evidence, to say that this person was PIRA 1. **Day 151/69/14 to Day 151/69/15**

18.5.3.219 In 1972 George Roberts' evidence seems to be to the effect that he had witnessed at least 3 people being shot:

> "...I was standing at the barricade and the army started shooting and the fellow standing beside me fell. He was hit and I got down beside him to try and pull him into the gable house. I called to the crowd and 6 of them ran forward to help us and 3 of them were shot. They fell towards me and another boy. I crawled behind the barricade behind this small wall. This person pulled me behind the wall and the shooting continued." **AR13.8**

18.5.3.220 However in his evidence to this Tribunal, he has stated in relation to referring to 3 people being shot:

> "I had probably heard this after, only the next day that three were shot at the barricade" **Day 151/81/8 to Day 151/81/9**

18.5.3.221 In his evidence to this Tribunal he has given an account of the shooting of a young man, slightly in front of him, and to his left. He describes him as wearing an arran sweater and states that he was shot below the eye. **AR13.1 paragraph 7**

18.5.3.222 Mr Roberts then identifies himself in **EP 27.6**, **EP 32.1** and **EP 32.2** **EP 32.1** and **EP 32.2** show Mr Roberts kneeling on the ground, over the person he believes was shot in the eye. To the rear of Mr Roberts' position is Michael Kelly who has been shot.

18.5.3.223 Mr Roberts stated that at the time Robert White took **P637**, showing the body of Michael Kelly, he was kneeling over the body of the other young man: "I was focusing on the other young fella, my head was away from that area there." **Day 151/72/17 to Day 151/73/1**

18.5.3.224 He rejected the possibility that he could have been simply kneeling in that position when **P637** was taken, but rather he only went down because of the young man being shot. **Day 151/73/7 to Day 151/73/14**

18.5.3.225 However Mr. Roberts changed his position in relation to that issue over the course of his evidence. He confirmed that he had only a recollection of one person being shot behind the Rubble Barricade and that, the person had been shot below the eye. **Day 151/97/4 to Day 151/97/11**

18.5.3.226 When questioned by Mr Harvey QC on behalf of the Families he was asked in reference to John Young who was shot below the eye, on the Rubble Barricade:

"Q. Could it be that is the person that you have seen shot but it is in a later sequence than in the photograph on which you can be seen crouching?

A. Very possible.

Q. And that simply because of the shock you were in, you have missed quite a considerable number of events that went on before the person was shot in the eye?

A. Quite possible, yes." **Day 151/97/16 to Day 151/97/24**

18.5.3.227 When questioned by Mr Glasgow the witness was clear, as he had been with Mr. Harvey, **Day 151/91/10 to Day 151/91/20** that the person he saw shot in the eye was not the first person shot, but was the first person he had seen shot. **Day 151/106/15 to Day 151/106/18**

18.5.3.228 However when the witness was re-examined he was shown photograph **E14.12**, an enhanced copy of **P636**. He was asked which of the two persons which he appeared to be kneeling over was the person who had sustained the wound to the eye. His answer was that "it could be neither of them" **Day 151/117/8 to Day 151/117/10**, and that he could not be sure if it was either of the two. **Day 151/117/16 to Day 151/117/23** At the conclusion of his evidence he was asked:

"Q. Do you think the person you saw fall might be off this photograph?

A. I am not too sure now, I could not say, looking at it at that time, you know, a split second on a photo, it could be moved back or forward, whatever you know.

A. (Pause) Well, I could not be sure after all this time, you know. It does not look as though any of the two is the young fella was shot, you know what I mean." **Day 151/118/17 to Day 151/119/11**

18.5.3.229 The witness recalls sheltering behind the rubble and puffs of smoke from rounds hitting the Barricade. He suggests that there were perhaps

an interval of a few seconds between the rounds hitting the barricade. **AR13.2 paragraph 9** He then describes how he crawled to the safety of the gable wall, urged on by PIRA 1, and apparently oblivious to what was happening behind him at the Rubble Barricade.

18.5.3.230 Mr. Roberts accepted that when he had returned to the safety of the gable wall, he was "in shock" and "could not believe what was happening". **Day 151/77/14 to Day 151/77/15**

18.5.3.231 Denis McLaughlin has given evidence that he was with George Roberts when he witnessed a person shot in the head. Both have also given evidence of George Roberts being assisted from the Rubble Barricade by PIRA 1.

18.5.3.232 It seems probable that both witnesses witnessed one or more of John Young, Michael McDaid and William Nash being shot. It is also clear that the conditions under which they witnessed the incident were frightening and distressing and life-threatening for both of them and confusion in relation to the accounts is understandable. One issue upon which both witnesses are absolutely clear is that they did not see anybody at the Rubble Barricade with a weapon and none of the people behind the Rubble Barricade were armed. The people who they saw shot and killed were shot without justification.

18.5.3.233 Ronald **Wood**, gave evidence to Lord Widgery that after Michael Kelly, who was the first person murdered at the Rubble Barricade, had been hit, people continued for a few seconds to stand in amazement until they collected their wits about them. "The shooting started and two more went down." **AW 24.16E to F**

18.5.3.234 Mr Wood sought to make his way to assist the two but states that there was further live fire, "a bullet passed close to my head . . . I therefore retreated. It was evident that if anyone tried to help the two youths who had fallen they would also be shot. . . no-one managed to get out

to the two youths who had fallen because of the continuous shooting." **AW24.3 paragraph 18**

18.5.3.235 Mr Wood gave clear evidence that he saw no weapons on the deceased or around their bodies and was clear that there had been no firing from the barricade. **AW24.12 paragraph 12** He was quite clear that:

> "not only did you not see anything at that barricade which would have justified live rounds being fired, but neither have you ever heard anyone tell you that there was anything at the barricade which would have justified that?
>
> A. That is correct." **Day 127/26/2 to Day 127/26/7** (See also **Day 127/43/1 to Day 127/43/7**)

18.5.3.236 **Brian Rainey** has also given evidence to this Tribunal about the shooting behind the Barricade, as has been seen above he was standing on a small wall which ran around the gardens on the south east side of Glenfada Park South, from where he had a good view of the Rubble Barricade and down Rossville Street. **Day 132/106/17 to Day 132/106/19**

18.5.3.237 He states that he heard a shots or shots before he heard the shots over the Rubble Barricade, he recognised them as live rounds and got down from the wall. **Day 132/111/2 to Day 132/111/9** Then he heard further shots ring out and saw three or four young lads fall at the rubble barricade. **AR3.2 paragraph 14** He was of the view that they fell behind the Rubble Barricade, rather than on it. **Day 132/112/23 to Day 132/113/3** He had stated in his statement that they had all been throwing stones and stated in relation to the youths he had seen at the barricade that "Most of them, I feel, were throwing stones, but I could not say all of those who were shot were throwing stones." **Day 132/113/12 to Day 132/113/17**

18.5.3.238 Mr. Rainey was specifically asked about whether the youths were engaged in any offensive action, other than stone-throwing and replied:

"None whatsoever. That was the surprising thing about it. In fact, if there had been any form of either petrol bombs or nail bombs, I certainly would not have been standing where I was. The only thing I can say is, with my hand on my heart is, yes, there was some stone throwing taking place, but nothing else." **Day 132/149/19 to Day 132/150/2**

Bodies on the Barricade

18.5.3.239 A number of witnesses missed the shooting of the three young men but saw the bodies on the barricade in the aftermath. There is a consistent body of evidence about the inability of those at the gable end of the eastern block of Glenfada Park North to get to the bodies, because of the firing over the Rubble Barricade.

18.5.3.240 **Fr. Denis Bradley** (as he then was) has given evidence that he administered the last rites to Michael Kelly and therefore did not see Michael McDaid or John Young being shot at the barricade.

18.5.3.241 Having anointed Michael Kelly, Denis Bradley can be seen walking along the southern gable of the eastern block of Glenfada Park North in **P435**. Denis McLaughlin can be seen in this photograph, in the bleached or camouflaged jeans, having returned to the safety of the gable wall.[27] However, both Fr Bradley and Fr O'Keefe were unable to go out to the bodies on the Rubble Barricade because of the continuous firing over the Barricade by the soldiers. Bradley recalls:

"As people started to lift him [Michael Kelly] up, I started to walk beside him, and I became aware of something behind me, in the direction of Rossville Street. It was pure panic. People were shouting, running. There was shooting and the penny was beginning to drop. I began to understand that something terrible was happening out there in Rossville Street.

[27] Professor O'Keefe also believes that he had, by this time, also seen the bodies on the Barricade **Day 127/107/22 to Day 127/108/24**

I looked over towards the Barricade from the edge of the wall and saw bodies on the Barricade. They were on the road south of the Rubble Barricade. It was really not much of a barricade at that stage, more a pile of rubble about 1 ½ - 2 feet high, perhaps a bit more. It obviously had been a barricade at one stage but there was more rubble then. I remember seeing three bodies although there may have been four. I remember their contorted positions. I drew the conclusion that they had been shot because they were not lying behind the barricade as if taking cover. They were in different contorted positions. There was certainly an older man and two others. The older man called out. He was obviously alive. He may have put up his arm. The others were not making any movement and were more likely dead. They were only 15 to 20 feet away. I was very close. The Barricade was slightly north up Rossville Street from the gable end in the direction of William Street. I have the strongest memory of wanting to go out to these men. I had just anointed a young boy. I wanted to do the same to these bodies. I made as if to step out from the gable end but was very conscious of firing down Rossville Street as I looked left. **H1.9 paragraph 23** to **H 1.10 paragraph 24**

18.5.3.242 Fr Bradley's recollection was that the bodies were at the middle of the barricade. **Day 140/119/12 to Day 140/120/15**

"I was aware of the dead boy nearest to me on the barricade. I did not see anything in his hands. He was only a few yards away but it was just not possible for anyone to have taken away a weapon he might have had. I knew that if I got out there I would be dead. No-one went out there. There was too much firing. The gunfire was intensive. That was definitely its heaviest period that afternoon." **H1.12 paragraph 28**.

18.5.3.243 **Fr O'Keefe** (as he then was) gives similar evidence. He was with Fr Bradley as he attended Michael Kelly. He then saw the bodies of three

young men on the Barricade although his memory of the positions of these bodies is no longer clear. He then witnessed the shooting of Alex Nash. O'Keefe then recalls:

> "Father Bradley and I were anxious to go out to the three boys and the older man to anoint them, but the shooting was still continuing. I would describe the shots as single shots, being fired relatively continuously. It was not automatic gunfire. I could hear the whining of bullets as they whizzed by. **It was just too dangerous to go out**..." **H21.47 paragraph 16**.

18.5.3.244 He estimated to Mr Clarke that in the region of 20 – 40 shots were fired **Day 127/113/4 to Day 127/113/15** and there was nothing which would remotely justify the discharge of those shots by the Army. **Day 127/114/3 to Day 127/114/8** Fr O'Keefe did not see any soldier actually fire at the Barricade but assumes that the shots he heard came from the soldiers whom he had seen adopt firing positions, earlier on. **Day 127/100/1 to Day 127/100/13**

18.5.3.245 **Frank Lawton** gave evidence that he "saw three young men lying still on the southern side of the Rubble Barricade." **AL6.26** He states that two were identified to him as John Young and William Nash and he recognised the third young man as Michael McDaid. **AL6.4 at paragraph 17** He gave evidence that none of the young men had anything in their hands as they lay on the barricade and they were not approached by anyone other than Alex Nash. **AL6.4 paragraph 19**

18.5.3.246 There is a large volume of evidence about the bodies at the Barricade, some of it inconsistent and much of it confused. What emerges is a consistent picture of three young men, eventually tended to by an older man, Alex Nash, who was then shot and injured. It is not proposed to deal with the circumstances of the shooting of Alex Nash in these submissions, save to say that it is our submission that he was shot by soldiers and that his location on Video 48 pinpoints as closely as

possible the location at which John Young and Michael McDaid were shot and killed.

Conclusion

18.5.3.247 It is submitted that the civilian evidence taken as a body demonstrates that, contrary to the conclusions of Lord Widgery, the shooting of John Young and Michael McDaid was entirely without justification. In fact, the shooting of unarmed civilians behind the Rubble Barricade: some of whom may have been throwing stones: none of whom posed a threat to any soldier: was an act of gratuitous violence and wilful murder.

18.5.3.248 It is clear as will be seen from the testimony of soldiers, that no soldier admits to the shooting of these men and the reasons for this failure is their knowledge that the shooting over the Rubble Barricade was unjustified. It is clear, from the fact of the deaths alone, that more shots were fired over the Rubble Barricade than have been admitted. The issue in Sector 3 is not a question of Missing Casualties, but a surplus of casualties for which soldiers have refused to account. The testimony of civilians about the level of firing over the Rubble Barricade at and after the shooting of John Young and Michael McDaid and their consequent inability to reach these bodies, demonstrates that there was more live fire over the Rubble Barricade than has ever been admitted and that soldiers fired more that 108 live rounds on Bloody Sunday.

18.5.3.249 The actions of the soldiers who fired live rounds over the Rubble Barricade on Bloody Sunday constituted murder and attempted murder and was without justification.

18.5.4 Removal to Hospital of John Young and Michael McDaid

18.5.4.1 Uniquely the bodies of John Young, Michael McDaid along with William Nash, were removed from the southern side of the Rubble Barricade on Rossville Street by members of 1 Para and placed in the rear of one of the Mortar Platoon pigs. The bodies were eventually brought by soldiers from Mortar Platoon to Altnagelvin Hospital.

18.5.4.2 The manner in which the bodies were removed, kept in the Pig on Rossville Street for a period, denied access to medical or spiritual aid and eventually and belatedly removed to Altnagelvin Hospital has been the source of great distress for the families of the deceased.

18.5.4.3 After the shooting of Michael Kelly civilians were unable to gain access to the bodies because of the ferocity of the shooting over the Rubble Barricade. Eye-witnesses who saw the bodies being removed from the Rubble Barricade believed that they were treated with disrespect bordering on contempt, a frequent description is that they were thrown into the rear of the Pig like sacks of potatoes. Nobody who picked up the bodies was medically qualified and no attempt appears to have been made to obtain medical assistance, in the eventuality that one or more of these young men was still alive. The bodies were removed from the Rubble Barricade and then left in a Pig on Rossville Street and initially Catholic priests and the Knights of Malta were denied access to the bodies and denied the opportunity of rendering medical or spiritual aid. There was a significant delay in these bodies being removed from the Bogside and they were the last to arrive at Altnagelvin Hospital. No explanation for the delay has ever been given.

Evidence of Mortar Platoon soldiers

18.5.4.4 In his statement to the RMP on the 31st January 1972 Lieutenant N stated that he had been ordered forward by his Company Commander, Major Loden:

"I took the Humber to the Barricade and drove through it. There were five members of Mortar Platoon section and all

were armed. I caused the vehicle to be stopped and reversed towards 3 bodies which were lying on the south side of the barricade. I dismounted from the Humber and looked at the bodies. They were all huddled together. They were all young men. 1 was aged about 16 yrs the other two about 20 yrs. One of these youths I saw with a wound to his head on the left side. The other two appeared to have body wounds. Their complexion was very pale ... I supervised the section loading those bodies on to my vehicle.

I caused the Humber with the 3 bodies to return to the Coy location at the north end of the Rossville Flats. There 15 minutes later I gave the Humber with the bodies to 'O' and 5 members of his section. He was instructed to deliver the bodies to the Altnagelvin Hospital." **B384 to B385**

18.5.4.5 It appears from the evidence given by members of Mortar Platoon that those who played an active part in lifting the bodies were Soldier 006 (**B1377.006 paragraphs 27 to 33**) and Soldier 013 (**B1408.004 paragraphs 20 to 28**). Soldier 162 claims to have provided cover to his colleagues (**B1962.004 paragraphs 24 to 26**) and Soldier 112 remained in the Pig in order to 'help' bring the bodies in, despite his faulty recollection that only one body was collected from the Rubble Barricade (**B1732.006 paragraph 27**).

18.5.4.6 It is not clear who drove the Pig to the south side of the Barricade. Soldier S drove Lieutenant N's Pig into the Bogside but claims to have no recollection of being involved in the incident involving the bodies **Day 332/101/16 to Day 332/102/14**. However, he also claims to have recollection of little else. Soldier 006 recalls, however, that S was the driver for this task. Lieutenant N believes that the soldier who drove the Pig into the Bogside ought also have been the soldier who drove the Pig forward to collect the bodies. **Day 322/104/23 to Day 322/105/14** Sergeant O, on the other hand, told the Tribunal that it need not necessarily have been one of the regular drivers who

performed this task, and that up to ten members of the eighteen-man platoon were capable of driving the Pig. **Day 335/99/5 to Day 335/99/19**.

18.5.4.7 Neither of the other two regular drivers in Mortar Platoon, INQ 1579 or INQ 768 claim to have driven N's Pig south of the Rubble Barricade, although INQ 768 does admit to having driven the bodies from the Company location at the northern end of Block 1 of the Rossville Flats to Altnagelvin Hospital. **C768.3 paragraph 22**

18.5.4.8 It seems probable therefore, that Soldier S, fresh from having fired a dozen rounds at one or more alleged gunmen in the gap between Blocks 1 and 2 of the Rossville Flats then drove Lt. N's Pig forward to the Rubble Barricade to pick up the bodies.

18.5.4.9 Sergeant O was also involved in the task of retrieving the bodies from the Barricade. He did not however arrive at the Barricade in Lieutenant N's Pig. He chose instead to walk close by the Pig as they were under fire at the time. Consoled by his notion that the IRA 'hard men' were in the Creggan and that only 'second raters' with low grade weapons were in the Rossville Flats (**B1575.122 paragraph 87**), he would prefer to walk in the open, in unfamiliar territory, rather than have the benefit of travelling in an armoured vehicle, while 'under fire'. **Day 335/99/25 to Day 335/100/8**

18.5.4.10 The expert evidence makes it clear that John Young and Michael McDaid were dead by the time that the soldiers picked up their bodies. The autopsies of John Young and Michael McDaid were conducted by Doctor Press on 31st January, 1972 and in his conclusions on both deaths, he found that death would have been rapid due to the injury to their spinal cords (**D0154** (John Young) and **D0092** (Michael McDaid)).

18.5.4.11 Both Lieutenant N and Sergeant O observed the bodies before they were lifted. Sergeant O took the view the bodies had been moved after they had been killed. All their heads were facing north towards 'Aggro Corner' **Day 335/98/4 to Day 335/98/14**. Lieutenant N recalls that they were heaped together, almost lying on top of each other. **Day 322/105/23 to Day 322/105/24**.

18.5.4.12 Soldier 162, who it would appear also approached the Barricade on foot, has described the position of the bodies in the following terms:

> "I saw three bodies on the southern side of the rubble barricade. They were lying side by side on their backs with their hands on their chests. They had definitely not fallen in that position. I believe that they were all men but I cannot remember anything else about them." **B1962.004 paragraph 25**.

18.5.4.13 It is noteworthy, that despite the soldiers' collective case that the only people shot at were gunmen, the soldiers sent to remove the bodies did not search them for weapons. Neither did they search the Rubble Barricade for weapons, nor did they see any weapons en route to the Barricade or on their way back from the Barricade. **Day 323/38/19 to Day 323/39/2**. Soldier 006 confirmed that he had received no orders to search the bodies, and went further suggesting that there would be no point in searching their bodies, despite the fact that army firing was supposedly at armed men and bombers, the result of which was three dead youths at the Barricade. Indeed, he did not even think it would be interesting to search them (**Day 334/65/17 to Day 334/66/14**) which leads one to the inescapable conclusion that he did not expect to find anything of significance.

18.5.4.14 Soldier 112 who was inside the Pig as the bodies were put inside, confirmed in oral evidence that he did not search the bodies as he did not expect to find weapons or nail bombs. **Day 320/146/20 to Day 320/147/10** Not one soldier involved in the retrieval of the bodies of

John Young, Michael McDaid or William Nash has given evidence, either in 1972 or to this Inquiry, of finding or seeing any expended cartridges at or near the Rubble Barricade. This in circumstances where soldiers claim to have been under sustained attack from gunmen operating under the cover of that Barricade.

18.5.4.15 If the soldiers' case that soldiers only fired at identifiable targets was true then the failure of Major Loden, or Lieutenant N to order the soldiers to search for weapons, and the failure of the soldiers themselves, including the Platoon Sergeant to search for weapons, is inexplicable. It is not of course inexplicable because contrary to the case made to the Widgery Inquiry and this Tribunal, there was no expectation that weapons would be found because the soldiers from the Parachute Regiment knew they had not been under fire and did not believe that they had fired at gunmen or bombers.

Civilian Evidence

18.5.4.16 In respect of the civilian evidence, there is some confusion with regard to the position of the Pig when it stopped. Some civilians have said that the Pig stopped to the north west of Block 1 of the Rossville Flats,[28] others have said that the Pig stopped to the north of the Barricade,[29] while still others describe the Pig as having driven south through the Barricade and reversing back up towards the bodies, a description consistent with the evidence of Lt. N.[30]

18.5.4.17 Despite this apparent confusion, however, there is a plethora of evidence that the soldiers handled the bodies of John Young, Michael McDaid and William Nash, in a manner which can be described at best as with complete and utter contempt. Residents of both Glenfada Park North and Block 1 of the Rossville Flats had a panoramic view of this

[28] See Ann Gallagher **AG1.3 paragraph 10** and Dolores MacFarland **AM8.4 paragraph 20**
[29] For example, Albert Edward Faulkner **AF4.3 paragraph 13**, who says that the Pig came to a halt about a foot or so to the north of the Rubble Barricade
[30] See Margo Harkin **AH 23.18 paragraph 47**

event as if unfolded. Those witnesses included a number of former British servicemen.

18.5.4.18 Frank Lawton was visiting his mother-in-law in Block 1 of the Rossville Flats. He was 33 years old on Bloody Sunday and had previously served for 10 years in the Royal Navy. From a window of her flat, he observed the following:

> "The three bodies were thrown, unceremoniously, into the Saracen by two of the soldiers. They were lifted one by the leg and either the armpit, scruff of the neck or clothing on the upper body. I did not see any of the bodies lifted by the hands or hair. The soldiers who lifted them did so with one arm; they carried their rifles in the other...All three were thrown head first, but I cannot remember in what order they were thrown. There was no sign of movement from any of them and there was no sign of life in them as far as I could see. It did not take very long for the soldiers to lift them and throw them into the Saracen." **AL6.5 paragraph 23**

18.5.4.19 **Albert Faulkner** served with the Royal Navy during World War II. He witnessed the deaths of Young and McDaid and then described the removal of their bodies from the Barricade, witnessed from his flat in Garvan Place, Block 1, in the following terms:

> 'The next thing I remember is that a Saracen came out on to Rossville Street and drove south towards the Rubble Barricade. It stopped on the Glenfada Park side (the west side) of Rossville Street, adjacent to the pavement and a foot or so north of the Barricade. . . . There were, however, about four soldiers following it on foot down Rossville Street. . . . The soldiers grabbed the bodies of the three youths who had fallen and slung them in back of the Saracen, as if they were sacks of potatoes. I distinctly remember that each body was lifted by two soldiers, each of which was holding it by a leg and an arm. I cannot remember exactly where the soldiers

had hold of the bodies, specifically whether it was directly by the limbs or through the clothing. I think that each body was carried face down and, therefore, that they must have been slung in the back of the Saracen face down. The soldiers didn't appear to take any notice of the fourth man who was still alive – I do not know what happened to him. It appeared to me that the soldiers wanted to get the bodies and themselves away from the area as quickly as they could. I saw no sign of movement from any of the three bodies." **AF4.3 paragraph 13**

18.5.4.20 **George McGinley** was 14 years old on Bloody Sunday and observed the bodies being removed from the Rubble Barricade by the Paras:

"The two Paras took one arm and one leg each and threw the body into the back of the Saracen like a sack of coal." **AM238.4 paragraph 23**

18.5.4.21 He saw this repeated once or twice and the Saracens then left the barricade. **AM238.4 paragraphs 24 to 25**

18.5.4.22 The one aspect of all the civilian evidence that is constant, regardless of where the civilians say the incident took place, is that the bodies were treated with appalling disrespect.[31] It should be noted that those opinions are not exclusive to civilian witnesses. Indeed, two military witnesses have given evidence to the Tribunal that the bodies were handled in an unsatisfactory manner. This shall be explored further below. Taken together, the eye-witness accounts demonstrate conclusively that the bodies were handled with disrespect and that the soldiers' evidence to the contrary should not be accepted.

[31] See also the evidence of Ann Gallagher **AG1.3 paragraph 11**; Marie Kopiak **AK39.11**; Olive Mottram **AM441 paragraph 38** and **AM441.13**; Letty Donnelly **AD125.2 paragraph 15**; William McDonagh **AM192.4 paragraph 24**; John Barrett **AB21.1**; Kevin McGonagle **AM254.11 paragraph 18**; Lila Fleming **AF21. 3 paragraph 17**

18.5.4.23 Of the two soldiers who have admitted handling the bodies, Soldier 006 gave evidence on Day 334. Soldier 013 also attended at the Inquiry on Day 334, as scheduled, but apparently an issue suddenly arose in respect of his health and at the last minute the parties were informed that he would not give oral evidence. The Solicitor to the Inquiry, in correspondence dated 9 July, 2003, informed Madden & Finucane Solicitors of the Tribunal's refusal to provide more information in respect of this sudden turn of events.

18.5.4.24 Soldier 006 recalls that:

> "I definitely picked up one or two of them. With another soldier I grabbed them by their ankles and he grabbed them under their armpits and put them in the Pig. We did not touch their hands/forearms. I am not sure if there was a soldier already in the Pig who helped to pull their bodies in. They were placed one on top of the other, although I cannot say exactly how; I was outside the vehicle.' **B1377.006 paragraphs 27 to 33**

18.5.4.25 Soldier 006 told the Tribunal that he can not explain how an onlooker could have formed the impression that the bodies were treated in a disrespectful way. His evidence is that the bodies were 'lifted' in, rather than thrown, and in giving oral evidence he casually recalled:

> **"...we just picked 'em up and pulled 'em in..." Day 334/32/15 to Day 334/32/21**

18.5.4.26 Unlike Soldier 006, who was very keen to point out the fact that he did not touch the hands of the victims at the Barricade, Soldier 013 recalled:

> "I could not carry the bodies with one hand. I needed both. I put my SLR on my back and used both hands. I was worried about getting shot from the flats, but no one was shooting at us. Together with one of the others (who I do not wish to name),

we picked them up by their hands/wrists and put them in the Pig. We did not check their pulses but there was no movement from the bodies in the Pig. I am sure that they were dead." **B1408.004 paragraph 22**

18.5.4.27 Soldier 013 has not provided any explanation for his failure to name the other soldier concerned with these events. If, as the soldiers contend, the bodies were not treated with disdain, there should be no reason why 013 need be reluctant about identifying his colleague.

18.5.4.28 Soldier 118 was an observation specialist in the 22nd Light Air Defence Regiment posted on observation duties on the Embassy Ballroom. He recalled the bodies being lifted from the Barricade. In his statement to the Inquiry, he recalled that the bodies were carried across the waste ground to a three tonne army lorry. When he gave oral evidence on **Day 359/181/16 to Day 359/181/21** he confirmed that he had no recollection of seeing an army vehicle drive south through the Rubble Barricade but was prepared to concede that it may have done. He described the event as follows

"It looked pretty callous from where I was. They were throwing the bodies in like bits of wood. I remember I was shocked and could not work out how the bodies could have been killed. I was sure it had not been by Army fire because the bodies had been on the south side of the rubble barricade." **B1752.004 paragraph 23**

18.5.4.29 Soldier 028 was a Captain in 22 LADR. He was also their press officer. He did not see the bodies being lifted from the Barricade, but was present later in Rossville Street and witnessed the bodies in the Pig. He described what he saw as:

"I went over and looked into the Pig. What I saw was an horrific scene; bodies piled on top of each other, heads, arms and legs at strange angles and blood all over the bodies and the walls of the Pig." **B1582.4 paragraph 15**

18.5.4.30 By virtue of the way the bodies were placed in the Pig Soldier 028 concluded that:

> "I didn't see the bodies being put into the Pig but at the time, my impression was that the bodies must have been thrown in to the Pig very hurriedly whilst the soldiers were under live fire and that is why they hadn't been laid in an orderly manner or their limbs arranged neatly. I knew that if any of the press did start taking photographs it would look terrible in the papers the next day. Consequently, I pushed the priest to one side and slammed the doors shut, saying that no one was allowed to take pictures." **B1582.4 paragraph 15**

18.5.4.31 While the scene he saw suggested to him that the troops who placed the bodies in the Pig must have been under live fire, in fact no soldier claims to have been under live fire when the bodies were thrown into the Pig. Soldier 028, whose evidence will be dealt with in more detail below when dealing with the military evidence in relation to Sector 3, was in our submission a witness whose bias in favour of the army and against the citizens of Derry was remarkable even by military standards. Nonetheless even he recognised that the manner in which the bodies were in the Pig would create an unfavourable impression should it go into the public domain.

18.5.4.32 It is clear that after the bodies had been loaded into the Pig that the Pig then returned to the area of the northern gable of Block 1 of the Rossville Flats. Lieutenant N's Pig can be seen in **P774**. The Pig has reversed into Glenfada Park North. Alexander Nash can be seen in the flat cap and dark coat at the southern gable of Block 1 of the Rossville Flats.

Fr Mulvey and Fr Irwin's Attempts to administer spiritual aid

18.5.4.33 Fr Irwin gave written evidence to the Tribunal (**H9.1 to H9.30**) and gave oral evidence on Day 153. His evidence is that, while inside

Block 1 of the Rossville Flats attending to the body of Kevin McElhinney, he was approached by Ms Eileen Gallagher and asked to go to the Pig containing the bodies. (Ms. Gallagher's handwritten, contemporaneous statement can be found at **AG10.1**.) In his written statement prepared for the Widgery Tribunal he stated as follows:

> "When I came out onto the corridor of the flats a woman in a very distraught state told me that she had seen three bodies being thrown into a Saracen. I rushed down the backstairs of the flats which led into Rossville Street. I was accompanied by a member of the Knights of Malta. At the entrance of the backstairs there was a soldier standing with a gun. I asked him if there were three bodies in one of the Saracens and he said he did not know." **H9.5**
>
> "I asked him who was in charge and he nodded towards a group of soldiers a few feet away. I shouted to this group 'Who is in charge here?', and an Officer, I presume, wearing a red beret, came forward. I asked him if he had any dead or injured in a Saracen. He answered that none of his soldiers was injured. I said 'I didn't ask you about your soldiers; I am asking you if you have any dead or injured bodies in one of the Saracens, as I wish to anoint them.' He said 'No we haven't'."
> **H 9.6**
>
> "The Knights of Malta member and myself, believing the officer to be telling the truth, returned up the backstairs again. We again met the lady who had told us about the three bodies. She asked us if we had got to the bodies. When I told her the officer had denied that there were any bodies in a Saracen, she brought me into a flat, went to the window looking onto Rossville Street, and pointed out the Saracen. The Knights of Malta member and myself rushed out and ran down the backstairs again. I shouted to the Army officer that there were three bodies in a Saracen. I saw Father Anthony Mulvey of Pennyburn a little beyond the officer. I shouted at him 'Father, there are three bodies in a Saracen that need anointing.' He

shouted 'Come on'. Father Mulvey, the Knights of Malta member and myself ran towards the Saracen. The Army officer followed and when we all reached the Saracen the lady in the flats had pointed out, the officer flung open the door and there were three bodies piled one on top of the other. I climbed into the Saracen and anointed the two bodies. I then held up these two bodies to enable Father Mulvey to anoint the bottom body. The bottom body, that of John Young, was lying facedown in his own blood, and even if he had been living would have been smothered; the middle body was that of Michael McDaid, who was lying face outwards; and the top body was that of Nash. From the way the bodies were lying in the Saracen it was obvious that they had been flung into it like bags of potatoes. When I climbed out of the Saracen again I said to the Army officer 'You deliberately lied to me' and he just shrugged his shoulders and smirked. Just as I and the others were leaving the Saracen, one of the top officers in the Knights of Malta came running towards the Saracen to examine if any of the three were living, but the door of the Saracen was slammed shut, and an Army officer said 'You can't go in there'." **H9.6**

18.5.4.34 The Order of Malta volunteer who accompanied Father Irwin is Bernard Feeney. He has provided a statement to the Inquiry at **AF8.1 to AF8.18** and has given oral evidence. His account of the incident corresponds broadly with that provided by Father Irwin:

"Father Irwin and I went to speak with him. At this stage there was no shooting at all. We asked him whether there were any bodies in the back of the Saracen. He said 'There is no fucking way there are any bodies'. We asked him if he was sure and he repeated his comment. We therefore went back into block 1 of the Rossville flats." **AF8.5 paragraph 25**

18.5.4.35 Sergeant O denied that he was the soldier who had smirked at the priest. When the evidence of Leo Day in 1972 was put to him, of the soldier wearing three stripes and a crown on his uniform, he confirmed that was the insignia on the uniform of a Colour Sergeant. **Day 335/108/1 to Day 335/108/24** Three colour sergeants from Guinness Force, INQ 1318, INQ 147 and Soldier 002 were present on Rossville Street on Bloody Sunday.

18.5.4.36 Like Fr. Irwin, Feeney also recollects that John Young was on the floor of the Pig and Michael McDaid was the body in the middle. William Nash lay on top of both Michael McDaid and John Young. **AF 8.5 paragraph 27**

18.5.4.37 Father Mulvey gave evidence to Lord Widgery, he is now deceased. His evidence was also that John Young lay face down on the floor of the Pig, in a pool of his own blood. He recalls that Father Irwin anointed the man on top, who Fr. Mulvey was later told was Michael McDaid while he himself tried to get the body on the floor. He had to grope to find the head of the body on the floor in order to administer the last rites of his church. Fr. Mulvey could not positively say if any of the three were dead but was of the opinion that the boy on the bottom – John Young – would have suffocated bearing in mind his own injuries and weight of the bodies on top of him. **WT4. 29 A-E**

Denial of Access to Medical Attention

18.5.4.38 There is no evidence to suggest that any of the soldiers involved in the removal of the bodies from the Rubble Barricade was medically qualified. Lieutenant N, in his statement to the Widgery Tribunal at **B 400**, said that he asked a corporal in the Royal Medical Corps, to look at the bodies. That corporal was Soldier 221, attached to C Company and held a first class qualification as a paramedic. He gave evidence that the bodies were side by side in the rear of the Pig, in such a way that each would have been able to breathe freely. Ms McGahey pointed out to him the evidence of Irwin and Mulvey that the bodies

had to be manhandled in order to facilitate their anointing. **Day 361/132/6 to Day 361/132/24**.

18.5.4.39 Soldier 221 was in no doubt that the bodies were dead when he examined them. **Day 361/133/14 to Day 361/133/19** It is also his recollection that about 2 to 3 minutes after he had examined them that the Pig drove off with the bodies inside **B 2164**. If this evidence and the evidence of Lieutenant N is correct, this means that the bodies remained in the Pig for some 10 to 12 minutes after arriving back at the Company location at the northern end of Block 1 of the Rossville Flats and prior to receiving any medical attention. There is thus no evidence that any urgency was attached to the request for medical attention, despite Soldier 221's confirmation that in any operation involving a 300 strong battalion, it would have been normal practice for a full medical team, including doctors to be present. **Day 361/139/13 to Day 361/139/21** In addition, 221 confirmed that the bodies ought to have been treated before their bodies were moved. **Day 361/139/22 to Day 361/139/25**

18.5.4.40 It has been seen above that as well as refusing Fr Irwin and Fr Mulvey access to the Pig to render spiritual assistance, Bernard Feeney of the Knights of Malta was also denied access to the Pig.

18.5.4.41 Moreover as Fr Irwin stated:

> "Just as I and the others were leaving the Saracen, one of the top officers in the Knights of Malta came running towards the Saracen to examine if any of the three were living, but the door of the Saracen was slammed shut, and an Army officer said 'You can't go in there'." **H9.6**

18.5.4.42 Fr Mulvey told Lord Widgery that he called to Leo Day, who in 1972 was the most senior member of the Order of Malta in Derry to have a look at the bodies:

"...I went with him to the armoured car. The soldier had half opened the door to admit him, when one helmeted soldier who said he was in charge – he may have been an NCO – called to him to close the door and not to open it again. So that by that time no medical attention was permitted to be given to the dead men inside or to the men inside if they were dead." **WT4.29 F-G**

18.5.4.43 This evidence is broadly corroborated by Mr Day, who is also deceased. His evidence is that a sergeant opened the door and he could see a tangle of bodies lying on each other and blood all over the floor. As he was about to climb inside the Pig the sergeant said 'Nobody is allowed inside' and pushed the door closed again. **AD13.3**

18.5.4.44 Therefore having failed to administer medical attention at the Rubble Barricades, or even carry out anything more than a cursory check, having failed to seek immediate and urgent medical attention when the vehicle was parked near Block 1, soldiers from the parachute Regiment denied the three young men access to medical attention from medically qualified civilians. No medical attention was afforded John Young, Michael McDaid or William Nash, save that provided by Bernard Feeney, a seventeen years old member of the Order of Malta who was not professionally qualified and who managed to check Michael McDaid's ankle for a pulse and to check John Young, who in his view was clearly dead. **AF8.5 paragraph 28**.

18.5.4.45 Alice Doherty, who on Bloody Sunday was known as Alice Long, was also a member of the Order of Malta. She is one of a number of witnesses[32] who suggest that at least one of the bodies may have been alive while in the rear of Lieutenant N's Pig. **AD50.12 paragraph 15** It is not our case that either John Young or Michael McDaid were alive

[32] See also William Patrick McDonagh and Margo Harkin

and we rely upon the expert evidence that both would have suffered a rapid death. (**D0154** (Young) and **D0092** (McDaid))

18.5.4.46 Neither is it our case that Alice Doherty's evidence is reliable when she states that soldier fired three live rounds into the rear of the Pig. **AD50.13 paragraph 18** There is a preponderance of evidence that the 3 bodies placed in the Pig had already been shot, and in the absence of any of them having sustained more than one bullet wound, we do not consider the account reliable and we do not invite the Tribunal to accept her account about this issue. It should also be noted that she herself admitted an element of doubt in respect of live rounds being fired in to the rear of the Pig. **Day 135/171/10 to Day 135/171/19**.

18.5.4.47 With regard to the evidence which states that John Young would have suffocated had he been alive. We do not make the case that John Young suffocated or that either John Young or Michael McDaid were alive when placed in the Pig.

18.5.4.48 However: none of the soldiers who picked up the bodies was medically qualified; no attempt was made to get the bodies medically examined; and, a member of the Knights of Malta was refused access to the bodies. What is clear is that the soldiers of the Parachute Regiment did not care to establish whether the lives of one or more of those young men could in fact have been saved, demonstrating an attitude towards the lives of three young men, murdered by their colleagues, which was nothing short of callous.

18.5.4.49 It was not only that the bodies of these young men were treated with disrespect and contempt, but that the soldiers involved simply did not care whether they were alive or dead.

Removal to Altnagelvin Hospital

18.5.4.50 Sergeant O was ordered by his platoon commander, Lieutenant N to take the bodies to Altnagelvin Hospital. Soldier 112 says in his RMP statement at **B1732.013** that withdrawal from the Bogside happened at approximately 4.45pm.

18.5.4.51 The Pig was driven by INQ 768, in what he has described as his most vivid recollection of the day. **Day 323/165/20 to Day 323/166/7** Sergeant O was in the passenger seat. **Day 335/104/18 to Day 335/104/21** It is not entirely clear if Sergeant O is the person described by Bernard Feeney, the Knight of Malta, when Feeney was attempting to aid the bodies at the Company location at the northern end of Block 1:

> "I remember that there was a soldier sitting in the passenger seat of the Saracen (there was no division between the front and back of the vehicle). He was sitting sideways across the seat with his back to the passenger door and his legs stretched out very casually into the back of the Saracen. His legs would have been very close to the head of the middle body." **AF8.5 paragraph 29**

18.5.4.52 Soldier 112 who 'helped' lifted the bodies in to the Pig also travelled to Altnagelvin. He thinks that Corporal P and INQ 768 took one of the bodies out of the Pig when they reached there. **B1732.006 paragraph 27**

18.5.4.53 INQ 1918, Lieutenant N's radio operator was also involved. He made his statement to the Inquiry on 3 July, 2000. When he gave evidence on 10 June, 2003 he claimed that he could no longer recollect the incident, save for some tiny recollections in what was the first and only time in which he has assisted in transporting several dead bodies in a Pig to a mortuary. **Day 342/119/25 to Day 342/123/22**

18.5.4.54 Soldier P, who is the most likely person to have murdered Michael McDaid and John Young was also a rear seat passenger as the bodies were taken to Altnagelvin Hospital. **B593** He claims not to have been involved in taking them out of the Pig at hospital. **B623.002 paragraph 15**

18.5.4.55 Soldier 006, one of those who threw the bodies into the rear of the Pig gives an insight into the manner in which the soldiers coped with the limited room in the rear of the Pig:

> "We then got in the back and had to sit with our feet on top of them, it was the only way we could get in because of the lack of space." **B1377.007 paragraph 33**

18.5.4.56 Not one of those soldiers offers a satisfactory explanation for the wholly unjustified delay in getting these bodies to hospital. It is apparent from the evidence of SOCO McCormac at **ED40.6** that the bodies of John Young, Michael McDaid and William Nash did not arrive at Altnagelvin Hospital until around 5.30pm.

18.5.4.57 There is also evidence before the Inquiry that the bodies were then removed from the Pig in similar fashion to the manner in which they were thrown in. Ivan Cooper, the MP for Mid Derry was at Altnagelvin Hospital:

> "The soldiers carried each of the bodies in the same way. No stretcher was used. There was a para taking each end of each body. A para took hold of each body by the palm of the hands or the wrists and another para took hold of each body by the ankles. The bodies were all handled as if they were "stuck pigs". The arms of each body were stretched out above the head and the body was sagging. I was standing close to the Saracen just watching without saying a word. It seemed to me that arrangements must have been made over the radio between the army and the hospital staff for the paras to bring the casualties to the hospital through the rear entrance.

...

As the bodies were lifted out of the Saracen each soldier who was doing the carrying handed his weapon to a soldier who was not doing any carrying. The soldiers were joking with each other and laughing and were talking about the events of the day as the bodies were carried from the Saracen. The soldiers were jubilant and gave me the impression that they were thinking that they had busted an IRA unit in the Bogside. I could hear some of the soldiers talking about how they had shot people and that there had been people carrying nail bombs...

The bodies were taken into the hospital and then quickly brought back out again and thrown back into the Saracen. The whole operation of carrying the bodies into the hospital and back out of the hospital was conducted by the soldiers in a very matter of fact way with the soldiers acting throughout in a jubilant manner.

The soldiers got back into the Saracen with two soldiers in the front and the other soldiers in the back. The Saracen was driven away. I assumed that the Saracen was being driven to the hospital mortuary. I made this assumption as I had taken it that whoever in the hospital had looked at the bodies as they were brought in by the soldiers had certified the young men dead and had directed the soldiers to take the bodies to the mortuary. My memory of the Saracen driven away is, however, hazy." **KC12.27 paragraphs 81 to 85**

18.5.4.58 There appears to be some confusion about the timing in which the bodies were received at the mortuary. The mortuary register is at **D500.20, D500.21** and states that Michael McDaid's body was received at 9.30pm but that the bodies of John Young and William Nash were received at an earlier unspecified time. Father Irwin, however, checked his watch when the Pig arrived at the morgue, his evidence is that it was 6.15pm. **WT5.37 E-F**

18.5.4.59 INQ 768 has described what he calls a detailed memory of what happened when they reached the morgue. He claims the soldiers were conscious of finding a 'quiet moment' in order to take the bodies out:

> "I went to the back of the PIG and opened the doors. There was a body facing me with it's head towards the doors. I cannot now describe this body in any detail. I grabbed the body under the arms to slide it out. As I was doing this, a soldier told me that someone was coming, so I immediately pushed the body back so as not to upset anyone. As I pushed the body back into the PIG and shut the door I heard the head hit the back of the doors and I remember subsequently seeing blood at the bottom of the PIG doors which I believe came from this incident." **C768.4 paragraph 24**

18.5.4.60 William McDermott made a statement to the Inquiry, but passed away before giving oral evidence. He was at the morgue and observed the following:

> "The last body to have been pulled out of the Saracen was lying on his stomach on the floor of the morgue. I stood near his head. I turned the body onto his back. Father O'Gara was standing nearby as the body was turned over and said "Jesus Christ." I said as he walked out "I don't think his mother would even recognise him". The young man's tongue was protruding from his mouth and was swollen and blue. His eye was a mess and was also blue. I think he had been shot in the eye, because I didn't see any other wound on his body but I thought he had been suffocated rather than shot because his tongue was blue. The other priest, Father Irvine, asked me if I recognised him. I said I thought he looked like one of the O'Hagan's from Rosemount. They searched his pockets. From his pocket, they took out a rubber bullet and a one pound note and a sixpence. They also took out a payslip from his pocket which was from John Collier tailors. It showed them

that the man's name was Young. He was actually a cousin of the O'Hagan family. I then got a lift from the hospital." **AM189.7 paragraph 34**

18.5.4.61 The manner in which the bodies were removed from the Rubble Barricade, kept in a Pig and eventually transported to the Hospital and then the morgue, is of course an issue which undoubtedly contributed to the findings that positive findings for lead on the clothing and bodies of John Young and Michael McDaid. That aspect of the evidence is addressed in more detail in the **Forensics Section** below.

18.5.4.62 The manner in which the bodies of John Young and Michael McDaid were treated was disrespectful. The soldiers involved demonstrated a level of callousness which for many people was as distressing to witness as the wilful murder of these young men. The issue is important in demonstrating the lack of concern felt, not merely by the individual soldiers but their officers, about the men shot and killed on Bloody Sunday.

18.5.5 Michael McDaid - Injuries Sustained

18.5.5.1 The post mortem examination on Michael McDaid was carried out by Dr Press at 12.00 noon. **(E2.68)** The report of Doctor Shepherd and Mr O'Callaghan appears at **E2.24, E2.25** with the accompanying diagram at **E2.71**. Photographs taken in the mortuary can be found at **P2.55 to P2.68**.

18.5.5.2 In summary, a single bullet which entered his left cheek struck Michael McDaid. The bullet penetrated his neck and right chest before exiting the right side of his back. There were no other apparent injuries.

18.5.5.3 Assuming the Normal Anatomical Position, the initial track passed from downwards, backwards and from left to right. The most significant aspect of the injury is the downward track of 45°. It was

this angle and the fact that John Young and William Nash, killed alongside Michael McDaid both had injuries with a downward track of 45°, which resulted in the opinion of some commentators that Michael McDaid along with John Young and William Nash had been shot by a sniper from the City Walls.

18.5.5.4 There were undoubtedly points from the City Walls and Naylor's Row from where shots could have been fired at the Rubble Barricade. However as Dr Shepherd and Mr. O'Callaghan have pointed out, if shot from the Walls the Deceased would have to have bent forwards at a 40° angle while if shot from ground level, from either Rossville street or the Kells Walk Wall, the deceased would have had to have been bent forwards at a 45° angle. In those circumstances "nothing in the pathology of the wounds lends greater weight to this proposition then that the shots were fired [from] ground level." **E2.0065**

18.5.5.5 What is however beyond dispute is that to sustain the injuries he did, Michael McDaid would have had to have been facing in the direction from where the shots had come from. It is our submission that the preponderance of civilian evidence supports the conclusion that Michael McDaid was shot from Rossville Street or the Kells Walk Wall as he faced in the direction of the soldiers from 1 Para who had entered the Bogside.

18.5.5.6 Michael McDaid's injuries are consistent with his having taken cover behind the Rubble Barricade as soldiers from Rossville Street and the Kells Walk Wall fired shots over the Rubble Barricade. His injuries do not directly correspond with any of the accounts of the soldiers who admit firing from Rossville Street or the Kells Walk Wall, however it is clear that if the accounts of the soldiers were to be accepted, Michael McDaid was not killed on Bloody Sunday. His injuries could correspond with the following account put to Soldier P who fired shots over the Rubble Barricade on Bloody Sunday:

"Q. You are a good enough shot, if someone was crouching behind the barricade, you are a good enough shot to pick them out and hit the target; are you not?

A. Yes.

Q. Even if the target was just the head?

A. Not necessarily, no.

Q. But not necessarily, but you believe you could; do you not?

A. Yes.

Q. What happened in fact was that three young boys were crouching behind this barricade and they were, two of them, hit in the face. You are a good enough shot to have done that; are you not?

A. Um, no, I – well, yes.

Q. That is what you did do; is it not?

A. No, it was not." **Day 353/117/14 to Day 353/117/20**

18.5.6 John Young - Injuries Sustained

18.5.6.1 The post mortem examination on John Young was carried out by Dr Press at 2.20pm. **E2.68** The report of Doctor Shepherd and Mr O'Callaghan appears at **E2.28, E2.29** with the accompanying diagram at **E2.73.** Photographs taken in the mortuary are in **P2.81to P2.93**

18.5.6.2 In summary, a single bullet which entered his left cheek at the inner corner of the left eye struck John Young. The bullet penetrated his neck and right chest before exiting the left side of his back.

18.5.6.3 John Young also sustained abrasions on his right cheek, his left cheek, his chin, his right hand, the knuckles of fingers on the 3rd and 4th fingers of his left hand and his left thumb. The injuries to John Young's face were consistent with his having fallen, the other injuries

are also consistent with his having fallen but may have been caused by other blunt trauma.

18.5.6.4 Assuming the Normal Anatomical Position, the initial track of the bullet passed from downwards, backwards with only slight deviation to the left. As with Michael McDaid the most significant aspect of the injury is the downward track of 45°.

18.5.6.5 As with Michael McDaid and for the reasons set out in **Sections 20.6.3.**

> "nothing in the pathology of the wounds lends greater weight to this proposition then that the shots were fired [from] ground level." **E2.0065**

18.5.6.6 It is our submission that the preponderance of civilian evidence supports the conclusion that John Young was shot from Rossville Street or the Kells Walk Wall as he faced in the direction of the soldiers from 1 Para who had entered the Bogside.

18.5.6.7 As with Michael McDaid, John Young's injuries are consistent with his having taken cover behind the Rubble Barricade as soldiers from Rossville Street and the Kells Walk Wall fired shots over the Rubble Barricade. His injuries do not directly correspond with any of the accounts of the soldiers who admit firing from Rossville Street or the Kells Walk Wall, however it is clear that if the accounts of the soldiers were to be accepted, John Young was not killed on Bloody Sunday. His injuries could also correspond with the account put to Soldier P during the course of his evidence to this Inquiry. **Day 353/117/14 to Day 353/117/20**

18.5.7 Michael McDaid - Forensic Evidence

18.5.7.1 As appears from the table in Dr Lloyd's report at **E1.30** setting out details of Dr Martin's tests, the tests for lead were positive in that one

particle was found on swabs from the right hand, 17 on the jacket surface and 15 on the trouser surface. None was found on the left hand.

18.5.7.2 Inasmuch as any weight could ever have been attached to Dr Martin's tests, the absence of particles on Michael McDaid's left hand is significant. The evidence of Michael McDaid's former employer to the Widgery Tribunal was that Michael McDaid was left handed. **AB60.2(C-D)**

18.5.7.3. During his testimony at the Widgery Tribunal, Dr. Martin said the results were consistent with Michael McDaid having been handling firearms. He also gave evidence that it would not make any difference to his conclusion if he were told that Michael McDaid were left handed, although he did acknowledge that "the absence of lead on the left hand is unusual if he had been firing with the hand uncovered." (**WT9.12D-E**)

18.5.7.4 As a general observation Dr Lloyd noted that "it is profoundly disturbing that a single particle of lead on a hand swab should have been considered as significant evidence that a person had been handling a firearm or been in the vicinity of a discharging firearm." **E1.0027 (8.2.c)** In the course of his evidence to this Inquiry Dr. Martin accepted that the adverse conclusion reached by him in relation to Michael McDaid on the basis of one spot was "pushing interpretation to the limit." **Day 226/88/15 to Day226/88/21**

18.5.7.5 Moreover he concluded that the absence of controlled testing nullified any evidential significance that Dr Martin's results might have had **E1.25 (8.1.g)**. Bearing in mind the likelihood of spurious contamination, he considered that Dr Martin's results were "worthless". **E1.52 (g)**

18.5.7.6 In any event as has been seen, Michael McDaid was transported to Altnagelvin Hospital on the floor of a Pig, having first been thrown into the Pig by soldiers and having been removed from the Pig by soldiers. Without reference to either the soldiers or the Pig as potential sources of contamination Dr Lloyd was of the view that the "result from the hand could well be due to contamination from the clothing, and does not support the use of a firearm by McDaid or his being a bystander". **E1.0044 to E1.0045 (8.7.3.a)**

18.5.7.7 However in his view the results of the testing of Michael McDaid were explicable solely on the basis that Michael McDaid had been transported in a military vehicle which was likely to have been "heavily and continuously contaminated with firearms residue." **E1.0045 (8.7.c)**

18.5.7.8 In his evidence to this Tribunal Dr Martin was asked whether he agreed with this proposition to which he replied "Oh, entirely, yes." **Day 226/98/5 to Day 226/98/11**

18.5.7.9 Thus, contrary to the conclusion reached by Lord Widgery, there is not a shred of evidence to support his conclusion that Michael McDaid was "in close proximity to someone firing."

18.6.8 John Young Forensic Evidence

18.6.8.1 As appears from the table in Dr Lloyd's report at **E1.30** setting out details of Dr Martin's tests, the tests for lead were positive in that 4 particles and 1 smear were found on swabs from the left hand, 15 particles on the jacket surface and 34 on the trouser surface. No particles were found on the left hand.

18.6.8.2 During his testimony at the Widgery Tribunal, Dr. Martin said the results were consistent with John Young having been handling firearms. (**WT9.13A**)

18.6.8.3 The basis upon which Dr Martin came to this conclusion is not without significance. In the course of the Widgery Tribunal Dr Martin was questioned about the possibility that firearms discharge could have resulted in contamination leading to the presence of lead particles. In response to questions from Mr. McSparran he stated:

> "A. It could possibly happen. But the amounts on the hands here rather suggest that they are in fact nearer the source in all cases than the clothing is. It is more consistent with the hands being in the forefront of the contamination. .
>
> . .
>
> **LORD WIDGERY: Could you say that in these cases the hands indicate that they were nearer the source than the clothing?**
>
> **A. Yes."** **WT9.19D**

18.6.8.4 However, as is clear from John Young's results, the opposite was in fact the case, and the number of particles on his clothing, far exceeded those on his hands.

18.6.8.5 As was pointed out to Dr Martin in the course of this Tribunal:

> "Q . . . You appear to have been telling Lord Widgery that the results showed that the hands were nearer the source of the particles than the clothing. Was not the precise opposite the case?
>
> A. Yes, if you take the trousers into account, that is true.
>
> Q. **Do you know how you came to the say the opposite of what was correct to Lord Widgery?**

A. I am afraid I cannot remember, it does seem odd.

Q. You simply cannot help us as to how you came to make an important error?

A. I just cannot remember." **Day 226/84/17 to Day 226/84/25**

18.6.8.6 During the Widgery Tribunal Dr Martin was specifically questioned by Mr. McSparran QC about the possibility that, given that John Young had been "in a situation near to where guns were being discharged or bullets fragmenting" could have caused a higher lead particle density than normal. In response Dr Martin stated:

> "So far as contamination to the clothing is concerned. I **think his hand level is rather too high. His left hand level is too high to be consistent with exposure which covered the clothing as well.**" **WT9.30F**

18.6.8.7 However, when Dr Martin was questioned about this aspect of his evidence in the course of this Inquiry, given the number of particles on the jacket surface, Dr Martin was unable to explain his evidence in this respect.

> "Q . . . the hand level for Young was 4. If you take the jacket surface it was 15, which is over three times the hand. **I do not quite understand what you were meaning by saying that the hand level was too high?**
>
> **A. No, I do not either, not at this time."**
>
> **Day 226/100/16 to Day 226/100/22**

18.6.8.8 Mr. Read, followed on from Mr McSparran's questions as to the possibility that bullet fragmentation in the area of the Rubble Barricade had resulted in the positive readings, in response to which Dr Martin stated:

> "**In the case of Young there is rather too much on the hand. It would imply that the hand for some reason for a dense pocket of lead specks from within the general**

discharge, the probabilities must be very remote." **WT9.35E-F**

18.6.8.9 He went on to say:

> **'The trousers were in fact examined [for surface particles] but much after the original report was prepared. The trouser levels are within the same range as the coat levels . . . Yes, they do not contradict or add to the coat evidence.'** **WT9.36A**

18.6.8.10 However the opposite was in fact the case, in that there were a significantly higher number of lead particles on John Young's trousers, than on his jacket or his hands. As Dr Lloyd pointed out

> **"The statement is at odds with Dr. Martin's own results. On Young's trousers for example, the number of particles was nearly twice the number on the jacket, although whether Dr. Martin would have considered this to be within the same range is uncertain."** **E1.0033, E1.0034 (8.4.1.e)**:

18.6.8.11 Consequently Dr. Martin's evidence to the Widgery Tribunal in relation to the conclusions which ought to have been drawn from the presence of lead particles on John Young's hand, jacket and trousers was, at best misleading and contributed directly to the conclusion that John Young had either handled a gun or been close to someone firing a weapon. In circumstances where "The distribution is not consistent with Young's use of a firearm or his role as a bystander." **E1.0049 (8.7.9.a)**

18.6.8.12 In any event as has been seen, John Young, as with Michael McDaid was transported to Altnagelvin Hospital on the floor of a Pig, having first been thrown into the Pig by soldiers and having been removed from the Pig by soldiers. Dr Lloyd has stated that his conclusion that

Michael McDaid's results were "explicable solely on that basis" **E1.0045 (8.7.3.c)** were equally pertinent to John Young. **E1.0050 (8.7.9.c)** This has now been accepted by Dr. Martin **Day 226/98/5 to Day 226/98/11**

18.6.8.13 Thus, not only is there not a shred of evidence to support Lord Widgery's conclusion that John Young had been handling firearms, it is at least questionable whether, if Dr Martin had not given misleading evidence to Lord Widgery, that conclusion would ever have been arrived at.

18.6 Kevin McElhinney

18.6.1. Personal Details and Background

18.6.1.1. Kevin McElhinney was 17 when he was murdered on Bloody Sunday. He was single and lived with his parents. He was the middle child in a family of three sisters and one brother. He was the youngest boy. He had no criminal record or political affiliations.

18.6.1.2. Kevin's father, Laurence McElhinney worked as a Fitter in the Ulster Transport Company, a job that he occupied for over 50 years. The family would have been known as quiet, industrious and trustworthy. They had no interest in politics and would not have been perceived as having any Republican or Nationalist sympathies or associations. Kevin was born and reared in Philip Street near Fort George, which was a religiously mixed area at the time. When he left school, Kevin secured a job in Lipton Supermarket on the Strand Road directly opposite the RUC Station. He would travel to and from work approximately four times per day six days a week. Kevin's youth, easy going and kindly manner made him popular with the rest of the

workforce. His enthusiasm and willingness enabled him to gain the rapid respect of his employers and the appreciation of his fellow employees Catholic and Protestant alike. He would be equally happy stacking shelves, filling customers bags or conducting casual security checks at the doors. At the time of his death Kevin had been learning to drive and indeed had arranged a driving lesson with his father later that afternoon.

18.6.1.3. It should be noted that at no time prior to his death or afterwards was the McElhinney household subjected to any form of security intrusion. This fact alone reflects the very neutral attitude that this family enjoyed. The tarnished reputation and lingering doubts which were created by the findings of Lord Widgery are not only confined to Kevin but have for over 30 years placed the McElhinney family in a position where they must defend the innocence of their brother in respect of the events of Bloody Sunday. For this reason the controversial circumstances surrounding the death of Kevin McElhinney have created an ongoing burden for his immediate family.

18.6.1.4. Relevant Photographs

The following are photographs of Kevin McElhinney taken on Bloody Sunday:

Photo Ref. #	Description of Photograph	Relevant Witnesses Depicted in Photograph[1]
P673	Kevin McElhinney on march at Rathlin Drive	N/A
P673.001	Kevin McElhinney in William Street (water canon being fired from Barrier 14)	N/A
P673.002	Kevin McElhinney in William Street	N/A
P673.003	Kevin McElhinney at rubble barricade	N/A
P674	Maybe him, crawling along Block 1	John McLaughlin and Barry Liddy
P674.001	Kevin McElhinney's body in stairwell of Block 1, covered with a yellow blanket	John Dunleavy? and John McGrory?
P674.002	Kevin McElhinney's body being carried from Block 1 to ambulance	**Charlie Downey**, **Jim Norris**, Seamus O'Donnell, **Bernard Feeney**
P674.003	Kevin McElhinney's body being carried from Block 1 to ambulance	**Charlie Downey**, **Jim Norris**, Seamus O'Donnell, **Bernard Feeney**

[1] Witnesses in **bold** have given statements to the Inquiry

In addition to these photographs, Kevin McElhinney can be seen walking on the march in his brown suit on Michael Rodgers cine film **V52/40 to 49**.

18.6.2. Civilian Evidence in relation to shooting

18.6.2.1. Summary

It has been established throughout the relevant civilian and military evidence that Kevin McElhinney either alone or together with at least one other person left the vicinity of the Rubble Barricade for what was undoubtedly perceived as the greater safety of the entrance to Block 1.

Only two witnesses recalled seeing Kevin McElhinney at the Rubble Barricade prior to the soldiers opening fire. The first, **Liam Lynch** who at the time did not know the deceased but who later identified him from newspaper photographs stated that he had not seen him throwing stones but had remembered him standing in the middle of the Rubble Barricade **Day 145/9/4**.

18.6.2.2. **Daniel Morrison** however admitted that both he and Kevin had been throwing stones at soldiers from the Rubble Barricade **Day 143/149/17**, despite having said the exact opposite in a statement to the Inquiry at **AM 429.5 paragraph 9**. It is also worth noting that this witness stated that he had a "fleeting memory of Kevin McElhinney bending down and picking up a rubber bullet somewhere in the vicinity of the Rubble Barricade" somewhere on the southern side **AM 429.5 paragraph 9**. The witness highlights the "fear" and "pandemonium" which he experienced once the shooting had started. This response compelled him to run towards the safety of the entrance to Block1 Rossville Flats. He at all times assumed that the deceased had followed him. Moments later he confronted the body of Kevin McElhinney but did not immediately recognise him, however when he realised who it was he became completely traumatised and recalls very little of what

actually occurred subsequently apart from his overwhelming desire to go home. The witness remained traumatised for weeks thereafter **AM429.5 paragraphs 11 to 15**.

18.6.2.3. **Sean Eugene O'Neill**, aka "The General", a witness whose credibility and standing remains in serious doubt provided a statement to the effect that the deceased was "a regular rioter" but was not a member of the IRA **AO65.9 paragraph 44**, **AO65.10 paragraph 45**. This description was corroborated to a degree by Kevin's friend **Paul Coyle** in an interview he gave to Maureen Shiels which later featured in Eamon McCann's book "Bloody Sunday in Derry: What really happened." **Paul Coyle** told the Inquiry he had seen Kevin at the beginning of the march with a paint bomb, which he intended to throw at an Army vehicle **AC105.5 paragraph 2**. Counsel for the Soldiers attempted to confirm that in fact the paint bomb was an acid bomb. Mr Coyle denied any such suggestion Day 152/90/7 to Day 152/91/14, as did **Paddy Kelly** in his statement who described the deceased in the following way:

> "Kevin was not the sort of boy who carried guns and nail bombs... he might have thrown a bottle or a stone in a riot but he would not have carried any guns." **AK20.2 paragraph 12**

18.6.2.4. In any event, whether or not Kevin was engaged in low level rioting on Bloody Sunday it is, in our respectful submission, beyond doubt that he was not engaging in behaviour that would have justified being shot.

18.6.2.5. Location Where Kevin McElhinney was Shot

All of the fourteen civilian witnesses who saw Kevin McElhinney make his way from the Rubble Barricade to the entrance of Block1 claim that he was crawling on the ground, (a fact which has not been

disputed by the military witnesses). The majority of civilian witnesses, along with all the military witnesses suggest that he was crawling on his stomach, although three of the civilian witnesses claim that he was on his back or in a sitting position.

18.6.2.6. Of those who witnessed his arrival in Block1, **James Norris** of the Knights of Malta is the only civilian who stands by the suggestion that Kevin McElhinney was upright as he crashed through the doors **Day 147/95/14 to Day 147/95/18**. Curiously, it may be recalled that **Colour Sergeant 002** of Composite Platoon adopted a similar description in his Eversheds (but not his RMP) statement **B1363.005 paragraph 35**.

18.6.2.7. **Liam Mailey** changed his evidence on the stand and accepted that it was more likely that Kevin McElhinney crawled to the entrance of Block1 than ran **Day 163/127/8**.

Evidence surrounding this issue is further confused by the recollections of **Gerard Grieve** who it will be recalled, made had his way from the Barricade ahead of Kevin. He believed that he was shot whilst running, and then he had crawled to the entrance, although the witness did not actually see him shot **Day 147/24/2 to Day 147/25/7**.

18.6.2.8. All the witnesses who actually saw Kevin McElhinney shot agree that he had almost reached the entrance of Block1 when the bullet struck. Three of those who saw him crawling **Robert Devine**, **Christopher Doherty** and **Fergus McAteer** thought that he had already been shot when they first saw him. By inference in other words suggesting that he was already wounded or injured in some way when hit by the bullet that killed him or alternatively of course that they only saw him after he was shot. **Father O'Keefe** and **Helen Johnston** maintained the opinion that he was shot twice, the latter actually claiming to have seen two bullets strike, the first when he was mid-way between the Rubble Barricade and the end of Block1 and the second as he reached the doorway. Messrs **Shepherd** and **O'Callaghan** in their reports and

evidence to the Inquiry remain unconvinced that he was struck by two bullets.

18.6.2.9. The Table below highlights the various descriptions which relate to the manner in which Kevin McElhinney made his way from the Rubble Barricade to the entrance of Block1:

Manner in which KMcE made way from barricade [1]	***Eugene Bradley***	***Paul Coyle***	***Robert Devine***	***Christopher Doherty***	***Gerard Grieve***	***Margaret Healy***	***Helen Johnston***	***Clifford Lancaster***	***Barry Liddy***	***Liam Mailey***	***Eamon McAteer***	***Fergus McAteer***	***John McLaughlin***	***James P McNulty***	***James Norris***	***Patrick Norris***	***Fr Terence O'Keeffe***
Crawling on front	-	✓	✓	-	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	-	✓	-
Crawling on back/backwards	✓	-	-	✓	-	-	-	-	-	-	-	-	-	-	-	-	✓
Running	-	-	-	-	✓	-	-	-	-	-	-	-	-	-	✓	-	-

[1] *Those in **bold** actually saw him shot*

[2] *Saw Kevin McElhinney entering Block 1 but did not see him shot*

[3] *Statement is not detailed, but says he was 'crawling', presumably on his front*

[4] *Saw Kevin McElhinney entering Block 1 but did not see him shot*

[5] *Saw Kevin McElhinney suddenly stop moving amidst a volley of shots hitting the pavement around him, but did not specifically see the bullet that hit him*

[6] *Did not give statement, only interview with Sunday Times which records that Kevin McElhinney **was** 'crawling', presumably on his front* ***AM340.12***

[7] *Saw Kevin McElhinney entering Block 1 but did not see him shot*

[8] *Statement is not detailed, but says he was 'crawling', presumably on his front*

18.6.2.10. Of the twelve people who saw him crawling from the Barricade to the entrance of Block1, six claim that the deceased was alone when he was shot. Both **Paul Coyle** and **Helen Johnston** however refer to seeing two men crawling while **Clifford Lancaster** spoke of three men in total. **Gerard Grieve** claimed in 1972 to have been at the Rubble Barricade and was one of a group of five young men 'who crawled from the Barricade to the entrance of Block1, although his evidence before this Inquiry was to the effect that Kevin McElhinney was crawling on his own at the time he was shot being one of the last, if not the last to make his escape from this location in this manner.

18.6.2.11. It should be noted that representatives for the Soldiers made no attempt to suggest to any of these witnesses that there was an armed man crawling next to, behind or in front of Kevin McElhinney at the time he was shot. The Table below illustrates in summary form the evidence of all the witnesses in respect of this aspect of the circumstances surrounding the death of Kevin McElhinney:

Number of people crawling from barricade	*Eugene Bradley*	*Paul Coyle*	*Christopher Doherty*	*Gerard Grieve*	*Margaret Healy*	*Helen Johnston*	*Clifford Lancaster*	*Eamon McAteer*	*Fergus McAteer*	*James Norris*	*Patrick Norris*	*Fr Terence O'Keeffe*
Alone	✓	-	✓	-	✓	-	-	✓	✓	?	✓	✓
One of two / a group	-	✓	-	✓	-	✓	✓	-	-	?	-	-

[1] ***Did not see Kevin McElhinney making his way to Block 1 so unable to comment, save to say that nobody came into block after Kevin McElhinney***

[2] ***Did not see anybody else in the vicinity as was focused on Kevin McElhinney***

18.6.2.12. Who shot Kevin McElhinney?

Kevin stands almost uniquely among all the victims of Bloody Sunday because the circumstances surrounding his death serve to provide a corresponding account to that offered by three of the soldiers who have confessed to firing shots that day. These have been dealt with in our submissions concerning Soldiers K, L and M. In relation to the civilian evidence, only two of the witnesses claim to have seen the soldier who shot Kevin. **Gerard Grieve** was shown photograph **P261** gave evidence to the effect that it was one of three soldiers who were positioned at the Kells Walk wall **Day 147/19/25 to Day 147/24/2**. **Margaret Healy** claims to have seen the soldier fire from the north western end of Block1 **AH51.4 paragraph 21**.

18.6.2.13. Repeated Fire

Some of the most significant evidence concerned the descriptions of repeated fire in the direction of Kevin McElhinney, **James Barry Liddy** **AL13.8** and **Christopher Doherty** **Day 182/140/10 to Day 182/141/25**. It is clear that deliberate and sustained gunfire was directed at Kevin as he crawled down Rossville Street.

18.6.2.14. Bullet Striking the Doorway Entrance of Block1

Both **Liam Mailey** **WT7.39.E-F** and **Gerard Grieve** spoke of a bullet striking the doorway of the entrance to Block1 as Kevin McElhinney was being dragged into the building. The latter goes so far as to say that he believed the shots were being fired by the same soldiers positioned at Kells Walk:

> "I pulled him into the Flats. As I did so, more shots rang out and a bullet hit the doorway. I thought and still think that those shots were fired by the soldiers at the wall near Kells Walk." **AG55.4 paragraph 17**

18.6.2.15. The Issue of Weapons

Not one of the twenty one witnesses who saw Kevin McElhinney's body or attended to him in any way was questioned by the Soldiers' legal representatives or by Counsel to the Tribunal as to whether there were any weapons on his person though the Tribunal should be reminded that no less than five offered this evidence independently and voluntarily (see table below). This included **Patrick Friel** who searched Kevin's body at the request of **Father O'Doherty** **H17.2 paragraph 14, H17.8** and found only a rubber bullet **AF32.24 paragraph 27**; **Day 118/142/23 to Day 118/143/9**.[33]

[33] It will be recalled that there is evidence to show that rubber bullets were collected routinely by young people either as momentos or to be sold to foreign journalists.

Cross-examination re weapons: witnesses who attended to him / saw his body in Block 1[1]	***John Barrett***	***Don Carlin***	***Donal Deeney***	***Greg Doherty***	***Charlie Downey***	***Bernard Feeney***	*Patrick Friel*	***Gerard Grieve***[3]	***Fulvio Grimaldi***	***Alan Harkens***	***Fr John Irwin***	***Hugh Logue***	*Liam Mailey*	***Frances McCullagh***	***Kevin McDaid***[4]	***Daniel Morrison***	***Denis Mullan***	*James Norris*	***Susan North***	***Fr Kieran O'Doherty***	***Simon Winchester***
Positively assert no weapons[2]	✗	✗	✗	✓	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✗	✓	✓	✗	✗	✓	✗

[1] *Witnesses in **bold** conducted search of body*

[2] *Smaller ticks indicate that witnesses did not discuss weapons specifically in relation to Kevin McElhinney, but made a blanket statement that they had seen no civilians with weapons on the day; those with crosses did not say they saw weapons, but merely made no reference to weapons in their statements or oral evidence.*

[3] *Claims to have pulled Kevin McElhinney into stairwell and was yet not questioned about weapons by Inquiry or soldiers; he did not refer to weapons at all, but said that Kevin McElhinney had no stones on his person.*

[4] *Save one man in duffle coat in Rossville Flats car park*

18.6.2.16. Despite the differences shared amongst the fourteen witnesses who saw Kevin McElhinney making his way from the Rubble Barricade to the entrance of Block1, all of them are unanimous in relation to the point that he was not carrying any weapons. In addition, seven of the ten witnesses who gave evidence about seeing Kevin crawl towards Block1 categorically state that the way in which he was moving made it impossible for him to have been carrying a weapon (See Table below).

18.6.2.17. **Clifford Lancaster** described Kevin using his hands to pull himself along the pavement **AL4.4 paragraph 17**. Both **Paul Coyle Day 152/104/10 to Day 152/105/3** and **Margaret Healy** claimed to have clearly seen both his hands the latter stating that they were flat on the pavement and therefore could not have been holding anything **AH51.4 paragraph 20**.

18.6.2.18. **Fergus McAteer** was clear that Kevin could not have passed any weapons to those in the doorway of Block1 **AM42.9 paragraph 27**. **Liam Mailey** was adamant that Kevin McElhinney had no weapon when he carried him up the stairs and there was no-one present who could have removed the gun from him **M50.5 paragraph 28**. It will be recalled that the only witness who was asked about a weapon in the possession of the deceased was **Paul Coyle Day 152/90/7 to Day 152/91/14** and this was confined exclusively to whether the paint bomb that Kevin had at the start of the march could have been an acid bomb.

Cross examination re weapons: witnesses who saw him crawling towards Block 1[1]	*Eugene Bradley*	*Paul Coyle*	***Christopher Doherty***	*Margairet Healy*	*Helen Johnston*	*Clifford Lancaster*	***Eamon McAteer***	*Fergus McAteer*	***James P McNulty***	***Patrick Norris***	*Fr Terence*
Cross-Examined?	×	✓	×	*N/A*[3]	×	*N/A*[3]	×	×	×	×	
Positively assert no weapons	✓	✓	✓	✓	✓	✓	✓	✓	×	×	

[1] *Witnesses in **bold** assert positively that the manner in which Kevin McElhinney was crawling precluded the possibility of his carrying a weapon*

[2] *Has not given oral evidence*

[3] *Ibid*

18.6.2.19. Key Witnesses

Civilians in the Area of Rossville Street / Block1 Rossville Flats

Margaret Healy AH51 did not give oral evidence to the Tribunal. This witness was a 37 year-old married woman who along with her sister had joined the march at Bishops Field. She later described how she was making her way southwards along Rossville Street towards Free Derry Corner when the soldiers approached in armoured vehicles. In her panic she ran to a flat at the north eastern end of Glenfada Park North, where she was admitted by the occupant. From this position she

was able to observe a young man who "seemed to be frightened" crawl along the pavement with his hands flat out in front of him **AH51.4 paragraph 20**.

18.6.2.20. She immediately observed two soldiers positioned at the north western end of Block1. One of the soldiers was kneeling holding his rifle as if ready to shoot. The second was standing behind him holding a baton and smoking a cigarette. This soldier appeared to instruct the kneeling soldier to fire at the young man who was crawling southwards towards the entrance of Block1. The soldier rose to his feet and fired at the young man who appeared to jerk. The witness concludes by saying she was horrified by what she saw and cried out to other people in the flat although she could not recollect their response **AH51.4 paragraph 21**.

18.6.2.21. Margaret Healy appears to be suggesting that the fatal shot which killed Kevin McElhinney was fired by a soldier at the north-western end of Block1. Regrettably the Inquiry was prevented from testing the reliability of her account in evidence. The issues of restrictive sight lines, the presence or absence of the injured or deceased within the vicinity of the Barricade and the overall timing of the incident continue to remain uncertain and untested.

18.6.2.22. It is acknowledged that at least one soldier, namely **Soldier U** has admitted to discharging a weapon at this location, around this time, and in the same direction albeit at an allegedly different target. It may well be that given the traumatic impact of the events that she has witnessed that she has somehow transposed her recollection of one incident onto another.

18.6.2.23. Alternatively, her recollection may be entirely accurate albeit in a limited sense because her position within the room prevented her from seeing the Composite Platoon soldiers in the vicinity of the low wall at Kells Walk. The fact that no such description is contained in either of her statements might well support this approach. It is accepted however

that in the absence of an opportunity to question the witness about these matters then her evidence must be approached with caution.

18.6.2.24. **Gerard Grieve** **AG55** gave evidence to the Tribunal on **Day 147**. He alleged that he had been standing at the northern end of the Rubble Barricade on the footpath adjacent to Block1 Rossville Flats. He heard a heavy burst of gunfire coming from the direction of Pilot Row. The witness lay flat on the ground. The shooting continued for some time. After discussions with an unidentified males lying in the same vicinity the witness along with other people took advantage of a lull in the firing and individually made their way to the safety of the entrance of Block1 **Day 147/19/15 to Day 147/20/14**. When Mr Grieve's opportunity to move arose he noticed a number of soldiers at the low wall at Kells Walk, in particular a third soldier who occupied, a position in Rossville Street, and who appeared to be aiming his rifle directly at him **Day 147/20/14 to Day 147/23/25**. The witness ran for the safety of the doorway and as he entered, he heard a thud. He was aware that there was another civilian running behind him although he did not know his identity at the time. It later transpired that this was the deceased Kevin McElhinney **AG55.3 paragraphs 16 to 17**. In his oral evidence before the Inquiry the witness confirmed that he pulled the deceased into the entrance of the doorway and remained with him for some time before going up to the second floor of Block1 where he found a Knight of Malta who attended to Kevin **Day 147/29/5 to 147/30/17**.

18.6.2.25. The witness assumed at all times that Kevin McElhinney was running rather than crawling when he was shot **AG55.4 paragraph 17**; **Day 147/24/2 to Day 147/24/13**. However he did acknowledge that he actually saw Kevin McElhinney crawling towards the entrance calling out to him for help and that he was on his stomach using both hands to drag himself along **Day 147/25/19 to Day 147/26/5**.

18.6.2.26. An element of support for the accuracy of this account can be derived from his 1972 interview with **Kathleen Keville** where the witness said that he saw Kevin McElhinney "creeping into the doorway" **AG55.7**. Significantly this witness was not asked by Counsel to the Tribunal or the Soldiers whether Kevin McElhinney was at any time carrying a weapon.

18.6.2.27. In light of his evidence we respectfully submit the following:

i. It would appear that he was the last person to leave the vicinity of the Barricade and make to it safely, to the entrance to Block1 in front of Kevin McElhinney.

ii. If there is a grain of truth in the evidence of the Composite Platoon soldiers positioned at the Kells Walk low wall and who stated that two men crawled towards the entrance to Block 1, it is respectfully submitted that on the evidence before the Tribunal, Mr Grieve must have been the man in front.

iii. If this is so, then Mr Grieve was also demonstrably unarmed.

18.6.2.28. **Liam Mailey M50** gave oral evidence to the Tribunal on **Day 163**. This witness was an amateur photographer who submitted photographs to the Widgery Inquiry. They can be found at **EP23**. They are also attached to his Eversheds statement **M50.11 to M23**.

18.6.2.29. The series of photographs **EP23.4**, **EP23.5**, **EP23.6**, **EP23.7**, **EP23.8**, **EP23.9**, **EP23.10**, **EP23.11** and **EP24.12** were taken by him. His photographs cover the Rubble Barricade, the deployment of troops on Rossville Street, movement of troops at the low wall at Kells walk and a group tending to Michael Kelly in Glenfada Park North.

18.6.2.30. In 1972 he said that after he took these photographs a number of people ran into the doorway of the flats and the witness went back to the stairwell. He was on the stairs for about a minute when Kevin McElhinney collapsed in the face down on the ground in the doorway. Mr Mailey then assisted in carrying him up to the first landing.

M50.58 In his oral evidence to this Inquiry he said that the reference to "a minute" should perhaps not be taken literally as he would only have to run up and down a short staircase. **Day 163/123/14 to Day 163/124/20**

18.6.2.31. In his statement to this Inquiry he said that he heard a shout that someone had been injured and this caused him to go back down the stairs. The witness pointed out that it was not necessarily in reference to Kevin McEhinney and agreed with the possibility that it might have been someone talking about Hugh Gilmore **Day 163/124/21 to Day 163/125/4**.

18.6.2.32. The witness' recollection is that as he made his way down the stairs he saw Kevin McElhinney fall forwards towards the entrance door and a fresh splinter of wood flew from the doorpost causing a "very slight graze" to the ankle of a man called Paddy O'Hagan **WT7.39.E-F**, **EP23.9A**. The witness pointed out in oral evidence to this Inquiry that he did not know Paddy / Pat O'Hagan and that this was something that he had been told later **Day163/148/11 to Day 163/148/25**.

18.6.2.33. He believed that he saw Kevin McElhinney actually being shot just as he arrived at the door. Kevin McElhinney was "very close to the ground" "or possibly on the ground" as he came down the stairs **Day 163/125/13 to Day 163/125/25**; **Day 163/126/6 to Day 163/128/6**

18.6.2.34. The witness then carried Kevin up the first flight of stairs into the small landing, half way up to the first floor. He sat with his back to the wall with Kevin's head resting on his left hand. There was a lot of blood. He assisted a Knight of Malta who arrived (Jim Norris). Mr Mailey recalled that an old man called **Artie Orr** stayed with him and did not want to leave **M50.4 paragraphs 19 to 27** According to his Widgery testimony, Kevin "died about four minutes after he was shot" **WT7.33 E**.

18.6.2.35. Mr Mailey stayed with the body until the ambulance arrived outside Block1. Although he did not carry Kevin McElhinney, he followed behind the group who were when suddenly there was a burst of further shots which caused everyone to fall to the floor **M50.5 paragraphs 34 to 36**.

18.6.2.36. In respect of the issue of whether Kevin McElhinney was armed the witness said the following in his Eversheds statement:

> "I do not believe that the wounded men was carrying a weapon of any sort. I did not search him but I did not see a weapon around him when I picked him up. There was no-one around him with a gun or who could have moved a gun, and I did not notice one about his person. If he had a gun it was well concealed but my impression was that he did not and that he had been running to get away from the firing." **M50.5 paragraph 28**; See also **WT7.39 G**

18.6.2.37. If this witness is to be believed, and Counsel for the Soldiers did not challenge his honesty in any way, a number of consequences follow:

i. Only one wounded person came into the doorway of the Block1;
ii. This person was Kevin McElhinney;
iii. Kevin McElhinney was shot very close to the doorway and was clearly unarmed;
iv. No Lee Enfield rifle or Thompson SMG was brought into the flats via this entrance;
v. There was no firing from the doorway of Block1 while this witness was there
vi. There was no-one around Kevin McElhinney either with a gun or who could have moved a gun.

18.6.2.38. **Alan Harkens AH8** gave oral evidence on **Day 96**. Whilst not directly concerned with the circumstances surrounding the murder of Kevin McElhinney, he did come across his body in the Rossville Flats

afterwards. Curiously the witness claims to have seen two bodies in the stairwell of Block1, the first on the landing between floors one and two, lying flat on the ground, covered with a coat, with his shoes next to him **AH8.4 paragraph 15**. He alleged that the second body was propped up against a wall with his boots on in the foyer entrance **AH8.4 paragraph 16**.

18.6.2.39. Although it is virtually certain that one of these bodies was that of Hugh Gilmore (given the fact that his shoes were removed), the witness refused to acknowledge that he might be mistaken though he was prepared to concede that he was in a state of shock at the time and broke down when he returned home **Day 96/29/9 to Day 96/29/19**. It is also worth recalling that this witness did not make a statement in 1972 and therefore was denied the assistance of a contemporary document when drafting his statement for this Inquiry. Whilst we do not challenge the witness' honesty in any way we respectfully submit that his recollection is mistaken and should not be relied upon.

Civilians at Glenfada Park South

18.6.2.40. **Robert Devine AD42** in his 1972 account he was one of a group of about six men taking cover behind the ramp leading up to the upper level of the Glenfada Park Flats **AD42.7**. In his Eversheds statement he elaborated on his positioning and confirmed that it was at the bottom of the pram ramp at Glenfada Park South **AD42.2 paragraphs 15 to 16**. He described how he was able to look across to the entrance to Block1:

> "...I saw a youth with dark hair who seemed to have been wounded in his lower body, lying on the ground. He looked distressed as he was pulling himself into the doorway of Block1 of the Rossville Flats and others grabbed him and pulled him to the doorway." **AD42.3 paragraph 18**

18.6.2.41. **Clifford Lancaster AL4** was from Norwich and had been living in Derry since 1956. He did not give oral evidence to the Tribunal. He was positioned under the stairs at the Glenfada Park South pram ramp **AL4.4 paragraphs 14 to 15**, **AL4.12**.

In his 1972 statement he said that at no time was anybody firing from the Rubble Barricade **AL4.8**. He attached a diagram to his 1972 statement at **AL4.11** and described what he saw in the following terms:

> "I saw three young fellows lying alongside the flats hugging the ground for cover.
> I saw A crawl into the flats door, a few moments later B started to crawl to the same door but was struck in the back or lower part of the body while still trying to belly crawl to the door. I saw the bullet strike him and he was unarmed. A second shot splintered the doorway of the flats.
> He managed to crawl nearer the door and I saw A grab his hands and drag him in his white shirt was covered in blood and the blood was running out of the doorway." **AL4.9**

18.6.2.42. His account to this Inquiry in respect of the shooting can be found at AL4.4 paragraphs 16 to 17. In that account the witness remarked:

> "I could see that the man that I had just seen shot had nothing in his hands. He was using his hands to pull himself along the pavement and was also grabbed by his hands by other people inside the doorway." **AL4.4 paragraph 17**

Civilians at the Glenfada Park North Gable

18.6.2.43. **Paul Coyle** **AC105** gave oral evidence on **Day 152**. At the material time this witness occupied a position in the vicinity of the southern gable end of Glenfada Park North. He saw between six and twelve boys on either side of the Rubble Barricade. They appeared to be exchanging abuse with the soldiers who had arrived in Rossville Street. This scene was interrupted by "a sudden hail of SLR shots" **AC105.2 paragraph 10**.

18.6.2.44. The witness then saw a man crawling in a southerly direction along the pavement on the eastern side of Rossville Street towards the entrance to Block1. His first thought at the time was that this man had foolishly given up the cover of the Barricade itself. **AC105.3 paragraph 11**. He could clearly see that he was not carrying anything in his hands and was unarmed. During the course of his evidence he stated that he recalled two men as described in a Praxis interview in 1991 **O5.16**, **Day 152/70/20 to Day 152/71/24**.

18.6.2.45. The witness confirmed that he did not see any civilian with a gun, petrol bomb or nail bomb **AC105.4 paragraph 17**.

18.6.2.46. Even though he had spoken to Kevin McElhinney, who was a close neighbour and friend, at the Creggan roundabout earlier that day he had failed to recognise him as one of the men that he later saw crawling towards the safety of the doorway of Block1. It will be recalled that Counsel for the Soldiers attempted to cast doubt on whether the deceased's possession of a paint bomb earlier that day was not in fact an acid bomb. The witness however remained resolute in his recollection that Kevin McElhinney was unarmed **Day 152/90/7 to Day 152/91/14**.

18.6.2.47. **Patrick Joseph Norris** **AN24** gave oral evidence to the Inquiry on **Day 167**. Whilst looking from the south gable end of Glenfada Park

North he saw another man shot. He said that the man was crawling on his belly for the entrance to Block1. The witness did not hear the shot but saw the man's body jerk and jump off the ground a little. "When he was shot, he had almost reached the door of Block1, and some brave people came out and dragged his body into the doorway." **AN24.4 paragraph 19**.

18.6.2.48. In our submission that this account is consistent with the description of events as provided by him in 1972. When questioned before his Tribunal the witness confirmed that he saw the deceased crawl on his stomach from the Rubble Barricade and no-one else was near him when he was shot **Day 167/123/12 to Day 167125/6**. The witness was not asked in the course of his evidence whether the deceased was carrying a weapon of any sort.

18.6.2.49. **John McLaughlin** provided an interview to the Sunday Times Insight Team **AM340.12**. He is deceased. It records that he witnessed "the youth McElhinney crawling towards the doorway of the flats and I saw him shot." Again the witness made no mention of the deceased having any weapon at all.

18.6.2.50. **Eugene Bradley AB113** gave evidence on **Day 169**. He can be seen in **EP23/12**. He was positioned at the area of the south gable wall at Glenfada Park North. The witness recalled how he looked out east across Rossville Street towards the southwest entrance of Block 1 of the Rossville Flats. He saw a man crawling backwards on his hands and feet towards the entrance. The man was looking towards William Street. There was nothing in the man's hands and he could not have moved in the way that he was moving if he had been carrying anything. As Mr Bradley watched, the man was knocked backwards and stopped. **AB113.2 paragraph 12**

18.6.2.51. **Eamon McAteer AM41** gave oral evidence on **Day 135**. In his Eversheds statement he described what he saw whilst positioned at the Glenfada Park gable:

> "I also saw a man close to the west wall of Block1 of the Rossville Flats crawling south towards the safety of the flats approximately at the position marked "E" (see map **AM41.34**)... He was very close to the edge of the flats. He was making a long painful crawl on his elbows pressing himself low down. He was moving quite slowly and then he stopped. I could see the chips and bullets coming off the pavement around him. I was sure that he was being shot at. It was heart rending to see. I do not know whether he remained there or what happened him. I was caught between what was happening to him, what I had seen on the Rubble Barricade and what was going on in Glenfada Park. I cannot describe this man in detail. I was 17 and he seemed older. I felt he was well dressed in a blazer or jacket, something like that. He was obviously trying to get away. I could not see any weapon, and again, if I had seen one I would say so. These images are like snapshots to me. There are gaps but they are truthful images. There was shooting going on all the time..."
> **AM41.4 paragraph 26**

18.6.2.52. In his oral evidence he conveyed the feeling of helplessness that enveloped the civilians at the Glenfada Park North gable who saw Kevin McElhinney crawling towards the entrance to Block1:

> "Is the recollection that you record in that paragraph 26 of a single man crawling along a clear mental picture that you have today?
> Yes, that is the person I focused in on because of the -- I mean I was at the gable end of -- the gable of Glenfada and he was on the opposite side of Rossville Street and there was that feeling of

helplessness that you could not do anything. People were shouting to other people not to run out because of the -- bullets were still coming down Rossville Street." **Day 135/40/14 to Day 135/40/23**

18.6.2.53. When asked why he did not include this in his statement that he drafted in 1972 **AM41.33** he explained that he did not write it down because he was concerning himself with civilians who he knew were shot dead. As he saw Kevin McElhinney still crawling he did not think that he was actually shot **Day 135/41/14 to Day 135/41/21**.

18.6.2.54. **Fergus McAteer AM42** gave oral evidence to the Tribunal on **Day 168**. He can be seen in photographs **EP2/11**; **EP3/5**; **EP27/11**. This witness stated he arrived at Glenfada Park North just as Michael Kelly's body was carried into that location. He believed that about ten minutes later he had a clear and uninterrupted view of a man crawling south along the footpath next to Block1. The man was approximately ten yards from the entrance when he first saw him **Day 168/54/7 to Day 168/54/14**. In his Eversheds statement he recorded that the man was on his own and was crawling in a painful way **AM42.8 paragraph 25**.

18.6.2.55. In his 1972 statement he recorded that the man had no weapon and that he used both hands to manoeuvre himself through the door of Block1. His impression was that he was shot in the right side or leg **AM42.17**.

Significantly, Mr McAteer was never challenged in respect of his assertion that the deceased was not carrying any weapons.

18.6.2.56. **Helen Johnston AJ11** gave oral evidence to the Inquiry on **Day 228**. She can be seen in photographs **EP23/10** and **EP23/11.** It will be recalled that having run down Rossville Street she took up a position on the south eastern end of Glenfada Park North. From there she could see three young men lying on the Rubble Barricade along with Mr Alex Nash who was waving a white hanky.

18.6.2.57. She described in her contemporaneous account a sustained level of fire coming from a northerly direction towards her position[34]. At this point she saw two boys leaving the relative safety of the Barricade and start to crawl southwards along the western side of Block1. She recorded the incident in the following way:

> "The fire continued. On the opposite side of the street two boys were crawling along the road. The first one made it up to the doorway. The second one appeared to get shot he was jerking and when he got to the door he stopped altogether. We were all screaming to the boy inside the doorway to reach out and pull the other lad in, which he did." **AJ11.1**

18.6.2.58. The witness was not asked about the issue of weapons although it should be noted that she stated that it would have been impossible for either of the men saw to have been carrying anything given the manner in which they were crawling **AJ11.4 paragraphs 13**; **Day 228/42/14 to Day 228/43/24**.

18.6.2.59. The witness however made the following remark:

> "The young lads were scrambling with their hands out in front of them. I not believe there was any possibility of them having a weapon. I certainly saw none. Someone must have been a good shot that day. I do not know how you shoot someone on the ground so effectively." **AJ11.4 paragraph 11**

[34] Although Helen Johnston's 1972 statement bears the names Helen and Margaret Johnston (sister of the witness) she makes clear in her Eversheds statement that the 1972 statement is her own. **AJ11.6 paragraph 27**

What the witness did not know at the material time was that one of the soldiers responsible for firing at Kevin McElhinney was the Regimental marksman and also a Bisley Champion.

18.6.2.60. **Christopher Doherty AD58** gave oral evidence to the Tribunal on **Day 182**. This witness although originally occupying a position in Rossville Street ran for the cover of Glenfada Park North when the Army opened fire AD58.19 paragraph 20. From this location he observed a number of bodies lying dead near the Rubble Barricade along with Mr Alex Nash.

> "I then noticed another fellow, lying beyond Mr Nash and the two fellows near Block1 of Rossville Flats. The fellow was trying to crawl on his back towards Block1. He was moving very slowly. I could see bullets bouncing off the ground around him. He was pushing himself with his feet and was making a lot of effort to move himself while all the time being shot at. I cannot say how many bullets were fired towards him but there were several. I thought he must have been shot because he was on his back and therefore had to be injured. I cannot now recall what he looked like or what he was wearing. He was close to the entrance to the Flats and he managed to pull himself around the pole supporting the canopy at the door of Block1 of the Rossville Flats. I think he may have been on his side as he pulled himself around. My last memory of him is being half inside and half outside the door. I could see the man clearly and could not see any weapon on or close to him." **AD58.19 paragraph 22**

This witness was never questioned about the issue of weapons and gave evidence consistent with the description outlined above which was in turn equally consistent with his evidence in 1972 **AD58.1**.

18.6.2.61. **Father (now Professor) Terence O'Keefe AH21** gave oral evidence to the Tribunal on **Day 127**. After witnessing **Father Bradley** anoint Michael Kelly and then observing Alex Nash on top of the three bodies (Michael McDaid, John Young and William Nash) on the southern side of the Barricade the witness related to the Treasury Solicitor how:

> "During all this time there had been shots and the whine of bullets going past. All the shots seemed to come from the position of the soldiers down Rossville Street. My impression was that they were all single shots.
> Looking across towards Rossville Flats there was a young man pulling himself along the ground towards the doorway at the southern end of the wing closest to Rossville Street. As he got to the doorway he seemed to jerk as though he had been hit by a bullet. He twitched. He nevertheless managed to get inside the doorway." **H21.80**

18.6.2.62. The Tribunal will note that on this account the witness only appears to have seen Kevin McElhinney twitch once as if struck by a bullet. This is completely consistent with what he told Lord Widgery on oath:

> "Q. Going away from the barricade in the line of Rossville Street and in the direction of Derry Corner? A. Yes, but there was a doorway. He was obviously heading for a doorway there which was open – I think a metal doorway.
> Q. Going for a doorway in that westerly flank of the high rise? A. Yes
> Q. What happened? A. I got the impression he was dragging himself on his back and I thought he may have been hit in the leg. When he reached the door he was half way hauling himself in the inside, and he twitched; his body jerked once and he disappeared in the doorway then.
> He got inside? A. He got inside, yes." WT5.8.F-G, WT5.9A-B

18.6.2.63. The witness' impression thirty years later was that Kevin McElhinney was already wounded and was then a second time at the doorway. In our submission this is an honest mistake due to the passage of time but the sentiments expressed in his Eversheds statement appear to sum up the desperate poignancy of Kevin McElhinney's final moments:

> "His movement was very odd and awkward and he was making very slow progress. I and the other people at the gable wall were urging him on, willing him to get into cover. Just as he got to the doorway and seemed to heave himself up over, I assume, a little step, he seemed to twitch and jerk and then lie still. It seemed to me that he had been shot a second time. Some people who were taking cover in the doorway dragged him in. It was a tragic moment. He was almost there, but didn't quite make it." **H21.47 paragraph 17**

Issue of the "Leopard Crawl" and whether Two Males crawled towards the doorway

18.6.2.64. The Tribunal will recall that by the time the members of Composite Platoon came to make their statements to the Treasury Solicitor they were all describing Kevin McElhinney's crawl from the Barricade towards the doorway as being a "leopard crawl" in an obvious attempt to imply that the deceased was employing some type of military technique that he had been trained in to adopt whilst under fire. (This reasoning of course is inherently flawed, insofar as if Kevin McElhinney had received any sort on military training, then it is hard to understand why he would have left the cover of the Barricade at all.)

All of the relevant Composite Platoon soldiers had also told the RMP that two men had crawled from the Barricade.

18.6.2.65. These issues were raised when Mr Gibbens QC at the Widgery Tribunal was examining Father O'Keefe. In our submission the answers to Counsel's questions are very important:

> "Q. You saw a man crawling down from the barricade to a doorway in the block of flats? ***A. Not crawling so much as dragging himself.***
> Q. Do you know what a leopard crawl is? A. No, I do not.
> Q. It is crawling with your posterior rather higher in the air because of being on your hands and using your legs to crawl along, rather in the form of a four-footed animal.
> A. ***No, this is not my impression of the way it was. He was dragging himself rather more on the side and back.***
> Q. Did you not in fact see two men crawling along the way to that doorway? A. ***No, I only saw one man.***
> Q. If that were so, of course, it may have happened while you were giving the last rites to this man down here. A. ***My impression is only of one man very definitely.***
> ....
> Q. At any rate, I am suggesting to you , and there will be evidence, that two men crawled along there dragging guns – I use the word loosely, it may be rifles, an implement of that kind – towards the door in the Rossville Flats.
> ***My impression is one man who was dragging himself, as I say, on his back or side rather.***
> Q. Even allowing that you saw him on his back, did you see him dragging something as it were along with him with his feet or with his hands?
> ***Not with his feet. I could only see one hand clearly, that is the hand towards me. There was certainly nothing in that hand. I got the impression as he was levering himself up from the door he certainly did not seem to have left anything behind. So I would deduce from that that he was not carrying anything.***
> Q. He was the only man you saw crawl along? A. ***He was, yes.***" (emphasis added) **WT5.18 D-F**; **WT5.19 A**

18.6.2.66. This is consistent with what he told this Inquiry namely that it would not be accurate to describe Kevin McElhinney's movements as a "leopard crawl" and that Kevin was on his own when he was shot **Day 127/180/5 to Day 127/184/22**.

We respectfully submit that the Tribunal should draw a number of conclusions from this evidence, *viz*:

i. That Kevin McElhinney was unarmed and obviously so;

ii. That Kevin McElhinney was not crawling in a "leopard crawl" or performing any similar type of military manoeuvre;

iii. That he was isolated, to a degree, from other civilians on the east side of Rossville Street as he crawled for the doorway;

iv. That the "descriptions" of his movements provided by the military witnesses are untruthful;

v. The expression "leopard crawl" as adopted by soldiers when supplying statements to the Treasury Solicitor, raises the issue of collusion between them, and provides a clear indication of the recognition that the justification for firing required enhancement.

Inside the Stairwell of Block 1

18.6.2.67. **Jim Norris** **AN20** gave oral evidence to the Tribunal on **Day 147**. He can be seen in **EP26/10**. Mr Norris had been on the second floor of the Block1 where he had been treating a man who had been hit in the face with a gas canister. His 1972 statement said that when he reached the bottom stair he saw a photographer (who must be **Liam Mailey**) and just at that point a youth fell in the doorway. The boy was bleeding profusely. Both he and Liam Mailey dragged and carried him upstairs where he applied a gunshot wound to side. **AN20.25**.

Mr Norris' current recollection is of a boy crashing through the doors from Rossville Street as though in full flight. Mr Norris caught the boy as he fell. He said that he does not recall the boy being dragged in. Mr Norris said that he is not mistaken in thinking that the boy was wearing a green suit. (Kevin McElhinney was in fact wearing a brown suit with a green pullover.) He searched Kevin and did not find anything in his pockets. **AN20.9 paragraphs 13 to 14**.

The witness' current recollection is that Mr McElhinney's body was in the foyer when he left him. He does not remember anyone carrying Mr McElhinney up the steps **Day 147/101/11 to Day 147/101/18**.

18.6.2.68. Mr Norris's 1972 account states that whilst he was treating Kevin McElhinney, a man told him that someone had been injured in the head **AN20.25**. He does not now know which block he went to in order to treat the man. **Day 147/108/16 to Day 147/109/1**.
By the time he came back to Kevin McElhinney he was dead and a coat or a blanket was placed over him **AN20.10 paragraph 18**, **AN20.25**

As Kevin lay on the stairwell of Block1 **Patrick Friel** searched him at the request of Father Irwin who anointed him. Mr Friel found a rubber bullet in Kevin's pocket. A number of other witnesses saw him there including **Greg Doherty**, **Bernard Feeney**, **Don Carlin** and **John Barrett**.

Susan North and **Fulvio Grimaldi** also passed his body on the stairs and Mr Grimaldi took a photograph which can be found at **P674.001**.

18.6.3. Injuries Sustained

18.6.3.1. Kevin McElhinney was shot from behind as he crawled for his life from the Rubble Barricade towards the relative safety of the entrance to Block1 Rossville Flats.

The post mortem examination was carried out by Doctor Marshall, State Pathologist, at 8pm on 31st January 1972. The report of Dr Shepherd and Mr O'Callaghan appears at **E2.0051 to E2.0055**. The

addendum report appears at **E2.0084**. The morgue and X-ray photographs are in Bundle **P2 TAB7**.

18.6.3.2. Kevin McElhinney sustained one entry wound and four other wounds. The entry wound was in the left buttock and measured 0.3cm in diameter **P111**, **P115**, **P116**. The four other wounds lay above each other on the left side of his trunk **P112**, **P113**, **P114**, **P117**.

18.6.3.3. Gunshot wounds were present as follows on the trunk:

Wound 1: An oval split measuring 7 x 4 cm. No abrasions were recorded. **P110**, **P112**, **P113**, **P114**, **P115**

Wound 2: 2.5 cm above Wound1 was a circular laceration 0.4cm with an area of "abrasion" measuring 1.2 x 0.4cm at its upper border. **P112**, **P113**, **P114**, **P115**

Wound 3: 8 cm above Wound 2 was a circular laceration 0.4cm with an arch of abrasion of the left upper border 0.4cm wide. **P112**, **P113**, **P114**, **P115**

Wound 4: 3.5cm above Wound 3 was a laceration 0.5 x 0.4cm. **P112**, **P113**, **P114**, **P115**

18.6.3.4. In addition to these injuries there also was an abrasion 6 x 1cm on the outer left thigh which was thought to represent the track of the bullet before it struck the buttock. **D0218** This injury was not photographed. The Inquiry's experts were of the view however that as Dr Martin recorded the damage to the left trouser leg as being a "tear" and the drawing indicating a right angled defect, "these features do not indicate that the damage was due to the passage of a bullet, they are more in keeping with contact by or against a point." **E2.0053**

The track of the bullet was upwards and from back to front at 45 and slightly from right to left.**E2.0054**, **D0215**

18.6.3.5. The bullet which killed Kevin McElhinney passed into the left side of the pelvic cavity causing "considerable laceration of muscle, fracturing of bone and a tear in the bladder. It had then divided a segment of large intestine, lacerated the artery supplying the left leg and torn open two segments of small intestine before entering the left side of the abdominal wall." **D0218**

18.6.3.6. Kevin McElhinney's death was precipitated by the bleeding into the abdomen from the lacerated artery. **D0218**

18.6.3.7. Dr Marshall was of the opinion that the bullet fragmented and the four wounds on the left side of the truck were caused by exiting bullet fragments. **D0218**

18.6.3.8. Dr Shepherd and Mr O'Callaghan were of the view for reasons stated in **E2.0054 to E2. 0055** that the bullet did not in fact fragment and that it exited through Wound 2 then re-entered via Wound 3 and finally left via Wound 4. After leaving Wound 4, the bullet did not pass through the jacket or its lining until it exited through the hole near the shoulder.

18.6.3.9. In conclusion, this is the opinion of the Inquiry's experts:
"Dr Marshall formed the opinion that all of the injuries were caused by one bullet and we would concur with that conclusion; we differ only in the behaviour of the bullet at the time of exit and in our opinion that it did not fragment.

Assuming the Normal Anatomical Position it is clear that the track of the bullet was from below upward and from right to left.

The same track could be achieved if Kevin MCELHINNEY was bending over or on all fours and the shot was fired from behind and to his right." (Emphasis added) **E2.0055**

18.6.4. Removal to Hospital

18.6.4.1. Some time after 4.51pm Charlie Downey **AC 133.5 paragraph 26 to 29**; **EP19/2.001**,**EP4/49**, **EP5/23** and Jim Norris of the Knights of Malta **AN 20.3 paragraphs 13 to 15**, **AN 20.4 paragraphs 18 to 19** put Kevin McElhinney in an ambulance VRM 7689 EZ which was parked in Rossville Street near the entrance to the Rossville Flats **P674.3**. Also placed in the same ambulance were Barney McGuigan, Alana Burke and **Patsy Brolly**. The ambulance was manned by **John Rafferty** (driver) and Samuel Hughes (attendant). It arrived in Altnagelvin Hospital at 5.15pm. **ED39.6**; **D500.26**, **D500.27**; **D948**

18.6.5. Forensic Evidence

18.6.5.1. Dr Martin said in 1972 that the lead particle density on the back of Kevin McElhinney's jacket was "significantly above the range normally encountered." **D0201** Two lead particles and a smear were also found on the back of his left hand. Notwithstanding this Dr Martin said in evidence that was not safe to conclude that this was positive evidence of handling firearms as a fragmenting bullet may have been the cause of the lead. **WT9.15B-E**

18.6.5.2. It is further submitted a possible source for the lead on Kevin McElhinney's jacket may have been due to the bullets that according to the witness Christopher Doherty were "bouncing around" him as he crawled towards Block1.

18.6.5.3. The Inquiry's own expert, Dr Lloyd who described Dr Martin's work as "worthless" concluded in his report that "the particles on the hand could have been derived from the clothing and, therefore, are not acceptable evidence of McElhinney's use of a gun." **E1.0046**

18.6.5.4. Dr Lloyd in oral evidence amplified his opinion in this regard. He said that if Kevin McElhinney was crawling on a surface which was

contaminated with fragmentation debris, then this also could account for the presence of lead on his jacket. **Day 227/46/25 to Day 227/47/2**

18.6.5.5. Conclusions

i. It is submitted on behalf of the Family of Kevin McElhinney:

ii. Kevin McElhinney was shot without any weapon or any other item in either of his hands.

iii. Kevin McElhinney never presented as a perceived or real threat to the Parachute Regiment soldiers in Rossville Street or its environs

iv. No other person was shot in the vicinity of Kevin McElhinney at or around the time he was struck.

v. There was no firing from the Rossville Flats at the soldiers.

vi. There was no-one at or around the Rubble Barricade with a firearm, nail-bomb, petrol bomb or any other weapon.

vii. No weapons were taken or carried away from the Rubble Barricade.

viii. Not even stones were thrown at the soldiers in Rossville Street when Kevin McElhinney was shot.

ix. Kevin McElhinney was the victim of a capricious and random act, deliberately committed by an unnamed member of the Parachute Regiment.

x. There is no evidence capable of justifying the circumstances in which Kevin McElhinney was murdered.

xi. The forensic evidence does not support the allegations of the military witnesses.

xii. The civilian evidence overwhelmingly confirms, that Kevin McElhinney was unarmed at the time he was murdered. The inconsistent and contradictory nature of the military evidence could not with reason be relied upon for the purposes of supporting any other conclusion.

xiii. There is no evidence to suggest that the deceased behaved in an unlawful or provocative manner either immediately prior or at the time of his death.

xiv. The likelihood is that Kevin McElhinney was driven from the comparative protection of the barricade by an overwhelming fear for his safety and that this decision almost certainly cost him his life.

xv. Kevin McElhinney was the victim of a military mindset, which, for the purposes of operational considerations on Bloody Sunday, failed to make any proper distinction between politician, civil rights marcher, defiant teenager or perceived gunman.

xvi. Kevin McElhinney was subjected to an ill-disciplined fusillade of sustained gunfire, in circumstances were no perceived or actual risk to the Paratroopers in Rossville Street existed.

xvii. No challenge to the unlawful circumstances surrounding the death of Kevin McElhinney was made on behalf of ***any*** of the interested parties.

18.7 Military Evidence

18.7.1 Introduction

This section deals with the evidence of the soldiers in (i) Mortar Platoon, (ii) Anti-Tank Platoon, (iii) Composite Platoon, (iv) the Observation Posts overlooking the sector and (v) Soldier 028 a 'witness' to events in Sector 3. In each sub-section, we first provide an overview of the soldiers' accounts and then examine the activities of the most relevant soldiers in each category.

Mortar Platoon

18.7.2 The deployment of Mortar Platoon is dealt with in section 17.8 and it is not proposed to re-visit that evidence in detail. The Mortar Platoon Pigs were the first two Pigs from Support Company to enter the Bogside. The second of those Pigs, commanded by Sergeant O stopped briefly on the roadway at the North end of Block 1 of the Rossville Flats, before turning into the waste ground at Pilot's Row. A number of soldiers from Sergeant O's Pig debussed at that point, Soldiers P, U and R armed with SLRs and Soldiers 017 and 006 both armed with baton guns.

18.7.2.1 These soldiers can be seen debussing on **V48/12.14 to 12.30** which shows that prior to debussing a rubber bullet was fired from inside the Pig and that soldiers then debussed to the right and left side of the Pig.

18.7.2.2 Of these soldiers, Soldiers R and 006 joined the rest of their Platoon in the waste-ground and the car park of the Rossville Flats, while Soldiers P, U and 017 moved down Rossville Street. Their actions on the day are relevant to the events in Sector 3, rather than Sector 2 and will be dealt with below.

Individual Soldiers in Mortar Platoon

Soldier P

18.7.2.3 Soldier P was a Corporal on Bloody Sunday and was one of the soldiers in Mortar Platoon who debussed from Sergeant O's Pig at the North end of Block 1 of the Rossville Flats. Accompanied by Soldier 017, Soldier P moved across Rossville Street towards Kells Walk.

18.7.2.4 Soldier P is one of only a small number of soldiers who admit to having fired live rounds over the Rubble Barricade. In the evidence given by soldiers to Lord Widgery in 1972 he is one of only two soldiers, the other being Soldier J, whose firing of live rounds could account for the deaths of John Young, Michael McDaid and William Nash. His firing could also account for the death of Hugh Gilmore.

18.7.2.5 On Soldier P's own account he shot and killed 2 men in Rossville Street, one at a location in front of the Rubble Barricade and the other man behind the Rubble Barricade. While soldiers U, K, L and M admit to having fired rounds over the Rubble Barricade and claim to have hit their targets, the targets they claim to have hit were not <u>at</u> the Rubble Barricade. Other soldiers, such as Soldier J and E claim to have fired live rounds over the Barricade but to have missed their targets. Thus with the exception of Soldier F, who eventually admitted to having shot and killed Michael Kelly, Soldier P is the only soldier who admits to having shot and killed a man at the Rubble Barricade.

18.7.2.6 Soldier P admits to having fired at least 9 live rounds down Rossville Street, although in the first account he gave to the RMP he accounted for firing a total of 11 shots. **<u>B576</u>**, **<u>B577</u>**, **<u>B578</u>**. Of the shots fired by Soldier P, all were fired down Rossville Street and over the Rubble Barricade.

18.7.2.7 With the exception of the account given by Soldier 027, this Tribunal has heard no account from any soldier which explains how Michael

McDaid, John Young, William Nash and Hugh Gilmore came to be shot and killed behind the Rubble Barricade.

18.7.2.8 On the evidence before this Tribunal, Soldier P remains, along with Soldier J, the prime suspect for the murder of Michael McDaid, John Young and William Nash. He is also a possible suspect for having shot and killed Hugh Gilmore, although the evidence would suggest that Soldier U is the most likely person to have killed Hugh Gilmore.

Soldier P's Memory Loss

18.7.2.9 A feature of this soldiers' evidence, and a particular feature of the evidence of soldiers who under grave suspicion of murder is their inability to recollect anything about the events of Bloody Sunday.[1] In both his written and oral evidence to this Tribunal Soldier P claims to have virtually no recollection of the events of the day.

18.7.2.10 In his written statement to this Inquiry Soldier P stated:

> "I have had a look at some statements which are in my name and the evidence I gave to the Widgery Tribunal . . . However, they did not bring anything back to me. It all went in a blur and I do not recall anything else about it. It is like it disappeared. . . .
>
> I have no recollection of firing my weapon or of seeing or hearing others firing weapons. I do not recall hearing any other, non military, types of rifle discharge. I must have been fired at, but I do not remember it at this time."." **B623.002 paragraphs 11 to 12**

18.7.2.11 This despite the fact that, on his own admission, he killed at least two people on Bloody Sunday and this was the only occasion, in a 14 year

[1] See for example, Soldier F who has admitted killing Michael Kelly, William McKinney, Bernard McGuigan and Patrick Doherty, as well as having probably caused the injuries of Joseph Mahon, Patrick Campbell and Danny Magowan and Soldier S who is the main candidate for having shot and killed Jackie Duddy.

career in the army,[2] that he had ever fired live rounds.[3] **Day 353/3/2 to Day 353/3/4**

18.7.2.12 It is submitted that Soldier P suffers not from a failure of memory but a "failure of conscience". Soldier P came to this Tribunal, unprepared to tell the truth about the events of Bloody Sunday because he is guilty of unlawful killing and he took "refuge in a failure of memory as being the easiest way to cope with the difficult situation and questions" that he knew he would have to face. **Day 353/120/1 to Day 353/120/10**

18.7.2.13 By claiming that he had no recollection of the events of Bloody Sunday Soldier P was able to avoid having to deal with:

i) The discrepancies as between the various accounts given by him in 1972.

ii) The discrepancies between the accounts given by him and the objective photographic and video evidence available to this Tribunal.

iii) The fact that his account of the circumstances in which he fired live rounds is uncorroborated by soldiers who were in the perfect position to witness his actions on that day.[4]

iv) The fact that, although positioned close by soldiers who fired live rounds over the Rubble Barricade, he claims neither to have seen nor heard those rounds, nor seen the alleged targets who, on the account of these soldiers, were positioned directly in front of him.

18.7.2.14 Claiming to have no recollection of the events of the day was the most effective way in which Soldier P could obstruct this Tribunal's search for the truth about Bloody Sunday, a truth which would identify Soldier P as being guilty of murder.

---

[2] **B623.001 paragraph 1**

[3] Other than on a range.

[4] The only exception to this is that corroboration is offered by Soldier 017 to Soldier P's shooting of a nail-bomber, although, it is our submission, for reasons developed below, that this corroboration was the result of dishonest collusion.

18.7.2.15 Because of what was in effect, a refusal by Soldier P to co-operate with this Tribunal, the focus of a consideration of Soldier P's evidence relates to the accounts given by Soldier P in 1972, which he has invited this Tribunal to accept as truthful.

18.7.2.16 It is our submission that none of the accounts given by Soldier P in 1972 were truthful. There are significant discrepancies as between these accounts, discrepancies which are explicable by reference to Soldier P's need to provide an explanation of how he came to fire live rounds, without incriminating himself.

Soldier P's deployment into the Bogside

18.7.2.17 The first account given by Soldier P about the events of Bloody Sunday was in a statement made to the RMP at 22.30 hours on the 30 January 1972.

18.7.2.18 According to his RMP statement at the time of his deployment a riot, involving 4,000 people, was taking place at the junction of Rossville Street and William Street. **B576**

18.7.2.19 In his statement to the Treasury Solicitor Soldier P stated that, on crossing Barrier 12, there was a crowd of approximately 2,000 in the area of the open ground between William Street and Prince Arthur's Street and the car park on the other side of Little James Street. This crowd began to run away towards the general area of the Rossville Flats. **B591**

18.7.2.20 When questioned by Counsel for the Inquiry about his estimate of 4,000 Soldier P accepted the explanation offered to him that the number of 4,000 would have been an estimate of "the people that were in the march." **Day 353/15/9**

18.7.2.21 However, Soldier P's RMP statement is unambiguous in its assertion that at 16.10 hours "a riot was taking place at the junction of Rossville

Street and William Street, Londonderry. There were about 4,000 people involved in the riot and comprised both men and women of all ages." **B576**

18.7.2.22 Yet, as Soldier P acknowledged himself, "[m]y vision was very limited at this time owing to the fact that I was at the back of the vehicle." **B591** Soldier P could not on any account have witnessed the scenes of rioting depicted in either his RMP or his Treasury Solicitor statement. Nonetheless in both statements Soldier P willingly provided dishonest accounts tending to depict scenes of thousands of civilians engaged in unlawful and violent behaviour and posing a real threat to the security forces who entered the Bogside.

18.7.2.23 Soldier P's picture of riotous civilians and soldiers under attack was developed in his statement to the Treasury Solicitor wherein he states that, as the vehicles deployed into the Bogside, "we could hear stones bouncing off our vehicles." **B591** No such reference can be found in his RMP statement. Moreover **Video 48** which shows the Pig in which Soldier P entered the Bogside, demonstrates clearly, that contrary to Soldier P's evidence "there was no continuous stream of people throwing bricks or stoning you or your platoon in that vehicle." **Day 353/74/11 to Day 353/74/15**

18.7.2.24 Soldier P then describes what happened upon debussing from the Pig. The descriptions of what happened vary from account to account and are briefly summarised below.

18.7.2.25 According to the account given in his RMP statement:

i) Soldier P accompanied by 2 other soldiers debussed to the right of the vehicle and "immediately came under heavy stoning and bottling from rioters." **B576**, **B577**

ii) 20 rioters then advanced towards Soldier P and his companions, throwing stones and missiles constantly as they approached. **B577**

18.7.2.26 According to the accounts given for the purposes of the Widgery Inquiry:

i) When soldiers debussed there was a crowd of people around the waste ground at Eden Place and Pilot's Row and another crowd across Rossville Street, both sets were rioting, throwing stones, bottles and other missiles. **WT13.45F-G**

ii) The crowd across Rossville Street would appear to have been located at or about the east-facing wall of the Kells Walk pram ramp.[5] This crowd were throwing missiles in the direction of troops on the ground. **B592** In oral evidence to Lord Widgery Soldier P stated that this crowd numbered about 50-70 people throwing stones and bottles. **WT13.46B**

18.7.2.27 Quite apart from the discrepancies as between the accounts it is in our submission quite clear from **Video 48** that the scenes described by Soldier P, simply did not occur. The Tribunal is referred to **V48/12.14 to 13.01** which demonstrates that:

i) While a small number of people threw stones at the outset, there were not two rioting crowds, and certainly nothing like the 50 to 70 people claimed by Soldier P in his evidence to Lord Widgery. **WT13.46B**

ii) When Soldier P de-bussed he encountered, not rioting civilians, as he claimed in each of his statements, nor civilians advancing on soldiers, **B577** but fleeing civilians.

Cocking his Rifle

18.7.2.28 Another issue which arises is the admission contained in Soldier P's RMP statement that his rifle was cocked with a round in the breach and the safety catch on. **B576** This admission was retracted in his

[5] It seems clear from Soldier P's RMP statement, his evidence to Lord Widgery and his clarification of matters to this Tribunal, as well as the photographic evidence that this was the location of the crowd he initially claims to have seen, as well as his location for most of the operation, until he decided to return to his vehicle. **Day 353/55/14 to Day 353/55/22**

statement to the Treasury Solicitor wherein he stated that he did not cock his rifle until after debussing. **B592**

18.7.2.29 While it is our submission that the evidence points to the fact that Soldier P had cocked his rifle prior to debussing, even if he cocked his rifle after debussing, there was no justification for this action. On Soldier P's own account, the first occasion upon which he came under fire was when he reached the east-facing wall of the Kells Walk pram ramp, after he had crossed Rossville Street. **B592** This of course is an account which is not contained in his RMP statement and appears for the first time in his statement to the Treasury Solicitor. In those circumstances, even if Soldier P did not cock his rifle until after debussing, his action was a breach of the Yellow Card which stated:

> "...Unless you are about to open fire no live round is to be carried in the breech and the working parts must be forward. Company Commanders and above may, when circumstances in their opinion warrant such action, order weapons to be cocked, with a round in the breech where appropriate, and the safety catch at safe."[6]

18.7.2.30 In the course of evidence to this Tribunal Soldier P was unable to explain why there was a difference between the two accounts given in 1972. **Day 353/16/5 to Day 353/16/7**

18.7.2.31 Sergeant O gave evidence that he cocked his rifle in the Pig before going through Barrier 12 and that he believes the rest of the men followed suit, **B757.110 paragraph 23**. In our submission Soldier P did cock his rifle while in the Pig and prior to debussing.

18.7.2.32 That Soldier P had cocked his rifle prior to debussing is also consistent with the evidence of Sergeant Major Lewis at **B2111.013 paragraph 86**, albeit the timing is different, in that according to Sergeant Major

[6] Yellow Card (November 1971 Revision) **ED71.1**. See general rules no. 4

Lewis Soldier P had cocked his rifle, even prior to getting into the vehicle.

18.7.2.33 It is our contention that Soldier P cocked his rifle prior to debussing. He retracted that admission in his Treasury Solicitor statement because he realised that the admission was: a breach of the Yellow Card; and given his subsequent discharge of at least 9 live rounds, tended to point to a willingness to use lethal force, in circumstances which were unjustified.

18.7.2.34 However, regardless of which account is accepted, Soldier P's actions in cocking his rifle was a breach of the Yellow Card and did demonstrate his willingness and eagerness to fire live rounds on Bloody Sunday. A willingness which probably resulted in the deaths of one or more of John Young, Michael McDaid and William Nash.

Soldier P's Nail-Bomber

18.7.2.35 While Soldier P has consistently asserted that the first two live rounds fired by him were fired at a man whom he believed to be a nail-bomber. That is probably the height of the consistency as between the different versions given by Soldier P about this issue. In his statement to the RMP, Soldier P stated that:

i) 20 rioters advanced towards Soldier P and his companions, they were throwing stones and missiles constantly as they approached. **B577**

ii) One of the soldiers with Soldier P was armed with a baton gun and fired rubber bullets at the rioters in an attempt to disperse them. Having come under fire from a rubber bullet gun, the rioters split up. **B577**

iii) As the rioters split Soldier P saw a man, aged about 23-25 years, wearing a light coloured jacket behind the crowd. Soldier P saw this man light an object in his hand and saw the object fizzle and saw sparks coming from it. **B577**

iv) Soldier P shouted a warning to the soldiers with him and then fired 2 aimed shots at the man. He saw the first round strike the ground near the man's feet and the second struck the man on the chest and he fell to the ground. **B577**

v) The crowd pulled back, the nail bomb failed to explode and the crowd moved forward again removing the man's body. **B577**

18.7.2.36 In his statement to the Treasury Solicitor, Soldier P dealt with the incident as follows:

i) After debussing Soldier P signalled to Soldier 017 to advance towards the crowd at the east-facing wall at the Kells Walk pram-ramp in order to make arrests. **B592**

ii) As Soldier P and Soldier 017 moved across Rossville Street the crowd dispersed up an alleyway into Columbcille Court and another alleyway to the left of Columbcille Court. Upon reaching the wall the crowd had dispersed. Soldier P and 017 then came under fire from the direction of the Rubble Barricade. Soldier P could not see who was firing at them, but he heard 2 shots which he believed to be high velocity and which appeared to go over the soldiers' heads. **B592**

iii) Soldiers P and 017 took cover along-side the wall, and noticed a group of people coming along the alleyway throwing stones and bottles at them. Soldier 017 fired a number of baton rounds into the crowd, splitting them up and Soldier P noticed a man taking cover behind the crowd lighting an object which "I would describe as an explosive missile and which seemed to me to be a nail bomb which began to fizz." **B592**

iv) Soldier P told Soldier 017 to watch out and fired 2 aimed shots at the man. The man fell, dropping the object which did not explode. **B592**

v) Soldier P's direction was diverted but when he looked again, the body had been removed and he could not see the object on the ground. **B592**

18.7.2.37 Soldier P also gave evidence to Lord Widgery about this incident, in the following terms:

i) Soldier P and 017 advanced across the road towards Kells Wall and as the crowd was stoning them Soldier 017 fired 1/2 baton rounds and dispersed the crowd. **WT13.46D**

ii) Shortly after Soldiers P and 017 reached the wall they came under fire from the direction of the Rubble Barricade. **WT13.46E** Soldier P could see people behind the Barricade who were either throwing stones or moving towards Free Derry Corner. **WT13.47A**

iii) Then a group of people came out from the Columbcille Court alleyway and began throwing stones and bottles at the soldiers. Soldier 017 again fired baton rounds and dispersed the crowd. When they split up Soldier P noticed a man standing behind the crowd and attempting to light an explosive missile, which Soldier P identified as a nail bomb. **WT13.47C**

iv) Soldier P shouted a warning to his companion and fired 2 aimed shots. **WT13.47E** Soldier P then identified himself in **EP23.7** as the soldier looking up the alleyway and explained he was looking up the alleyway because a person had come out from the alleyway at Kells Walk. **WT13.48D** It appears from Soldier P's evidence that **EP23.7** was taken almost immediately after he had fired the 2 live rounds.[7] **WT13.48B**

18.7.2.38 There are significant discrepancies as between these accounts.

i) In his RMP statement Soldier P describes a crowd of rioters coming from the Kells Walk direction advancing towards himself and Soldier 017. **B577** By way of contrast in both his Treasury Solicitor statement and his evidence to Lord Widgery, it was P's decision that Soldier 017 and P should move towards the rioters in order to make arrests. **B592**, **WT13.46C-D** This is significant because in the face of advancing rioters in the

[7] This is consistent with the evidence of the photographer Liam Mailey as will be seen below.

RMP statement, Soldier 017 fires a baton round which disperses the crowd, exposing the nail bomber to Soldier P. **B577** In his Treasury Solicitor statement it is the decision of Soldier P and Soldier 017 to move towards the crowd in order to make arrests which results in the crowd dispersing and there is no reference to Soldier 017 firing baton rounds. **B592** While, in the version given to Lord Widgery Soldier 017 does fire baton rounds which disperse the crowd, albeit the nail bomber does not appear at this juncture. **WT13.46D-E**

ii) This discrepancy is the result of a significant change as between Soldier P's RMP account and the statement and evidence given to Lord Widgery. In the account given by Soldier P to both the Treasury Solicitors and Lord Widgery, after crossing Rossville Street, Soldiers P and 017 came under fire from the direction of the Rubble Barricade, prior to any incident involving a nail bomber. **B592**, **WT13.46E-F** Soldier P's RMP statement contains no reference to coming under fire from the direction of the Rubble Barricade as Soldiers P and 017 reached Kells Walk. It was because of the inclusion of this incident, apparently forgotten when Soldier P made his RMP statement later that night, and when he made his second RMP statement on the 1st February, that other aspects of Soldier P's accounts had to be adapted to accommodate this change.

iii) In both his Treasury Solicitor statement, and his evidence to Lord Widgery, it was as Soldier P and 017 took cover from this live fire, that a second group of rioters advanced on them. Soldier 017 fired his baton round in response, splitting up the crowd, and exposing the nail bomber to Soldier P. **B592**, **WT13.47C-D**

iv) In an attempt to blend the two accounts, Soldier P's evidence to Lord Widgery contains references to Soldier 017 firing baton rounds on two occasions, prior to the arrival of the nail bomber, while the RMP statement and the Treasury Solicitor statement, each contain only one such reference, albeit at different times

and locations. In Soldier P's evidence to Lord Widgery the first account of Soldier 017's shooting of baton rounds, occurs, as it does in his RMP statement, **B577** as Soldier P and 017 cross Rossville Street, albeit the nail-bomber does not appear. **WT13.46D-E** The second shooting by Soldier 017 occurs, as it does in Soldier P's Treasury Solicitor statement, **B592** when a second group of rioters attack the soldiers and Soldier 017 shoots down Rossville Street. **WT13.47C-D**

v) That the two accounts are significantly different in terms of location is demonstrated by the Plan appended to Soldier P's RMP statement and the Trajectory Photograph prepared for the Widgery Tribunal. The Plan appended to Soldier P's RMP statement places Soldier P at a location on the footpath beside Glenfada Park North with the nail-bomber positioned further down Rossville Street on the Rossville Flats side of the road. **B623.008** By way of contrast the aerial photograph marked by Soldier P, **P22** places Soldier P at the east facing wall of the Kells Walk pram ramp and places the nail bomber on the same side of the road, on the footpath adjacent to the alleyway leading to Glenfada Park North. The trajectory of these shots is quite different. On Soldier P's RMP account he would have fired down and across Rossville Street in the direction of the Rossville Flats, while on his Treasury Solicitor's account he fired straight down Rossville Street in the direction of the Rubble Barricade.

18.7.2.39 There are in consequence very significant differences in the accounts given by Soldier P of shooting a nail bomber. Soldier P's location changes, that of the nail bomber changes, the trajectory of the shot changes, and in his later accounts he suddenly recollects an incident of coming under fire, which he apparently forgot, not once but twice, when being interviewed by the RMP.

18.7.2.40 It is submitted that the discrepancies, render his account both unreliable and incredible.

18.7.2.41 Soldier P was questioned in some detail about his shooting of the nail bomber by Mr. Hill acting on behalf of the Families of the Deceased and the Wounded in the course of the Widgery Inquiry:

> "Q. This nail bomb, was it fizzing at the time when the man had it in his hand? A. Yes sir.
>
> Q. **How did he light it? A. Well, he just held it down, struck a match.**
>
> Q. Did he have it in his left hand or right? A. Left.
>
> Q. Did he have the match in his right hand? A. I believe so.
>
> Q. Did he strike it on a box. A. I couldn't be certain.
>
> Q. If he did not strike it on a box, what did he strike it on? A. I could not be certain, sir.
>
> Q. Could you show me know how you think the man with the nail bomb in his left hand lit it with his right? A. Well, he had the nail bomb and, as I say, I don't know how he struck the match. He just lit the fuse.
>
> Q. Would you just go back? Two seconds before you see a lighted match in this right hand. Can you tell me how that match materialised in his right hand? A. No, I couldn't say, sir.
>
> Q. Did it appear as if by magic? A. I shouldn't think so, sir." **WT13.58C-F**

18.7.2.42 Although Soldier P then appeared to suggest that the nail bomber may have struck the match off a wall, he accepted under further questioning that, given the location at which he had placed the nail bomber, apparently some remove from any wall, the nail bomber could not have struck the match off a wall. **WT13.58F-G**

18.7.2.43 Significantly, Soldier P was re-examined by Mr. Gibbens, acting on the Army's behalf on this very issue, he told Mr. Gibbens that:

> "I did not see the match being lit. I just seen the object spluttering and a certain amount of smoke coming from it." **WT13.71A-B**

18.7.2.44 As is clear from the exchange between Soldier P and Mr. Hill, Soldier P gave evidence that he had witnessed the nail bomber actually light the fuse of the nail bomb before he fired his two rounds. However, when pushed about the matter Soldier P was unable to explain how he could have seen this. When re-examined by Counsel for the Army, Soldier P changed his evidence. In the course of his evidence to this Tribunal it was pointed out to Soldier P that: "You appear both to have said that you did see the match being lit and that you did not see the match being lit . . ." **Day 353/42/22 to Day 353/42/24** Soldier P was unable to assist the Tribunal as to this discrepancy.

18.7.2.45 In our submission, Soldier P's account of shooting a nail bomber is a complete fabrication. When Soldier P's account was subject to scrutiny by Mr. Hill the account fell apart, because the incident had never happened. Then realising the mess he had gotten himself into, when given the opportunity by Mr. Gibbens, Soldier P simply changed his evidence.

18.7.2.46 Another aspect of Soldier P's testimony in relation to the shooting of the nail bomber which fails to stand up to scrutiny is his account of what happened the body of the nail bomber and the nail bomb itself, after he had shot and killed the man. In his statement to the RMP, Soldier P describes a scene in which he witnessed the crowd of rioters removing the man's body. **B577** By way of contrast, neither his statement to the Treasury Solicitors, nor his evidence to Lord Widgery, provide an account of the crowd removing the man's body. Rather Soldier P claimed that his attention was diverted by the actions of persons at Kells Walk, and that when he looked back both the body and the object had been removed. **B592**

18.7.2.47 However, the discrepancies between these accounts are not the only matters which undermine Soldier P's account. As Mr. Hill, pointed out to Soldier P in 1972, despite the fact that the nail bomb, which he had seen fizzing had fallen to the ground, Soldiers P and 017 did not withdraw. **WT13.59G to WT13.60A**

18.7.2.48 Moreover, if Soldier P's account were to be believed it would mean that:

> "people who had witnessed you kill a man at a distance of approximately 12 to 15 yards . . just came back out and took the body and nail bomb away without [Soldier P] doing anything about it . . . Without [Soldier P] advancing, firing another shot over their head, and retrieving the nail bomb."
> **Day 353/102/2 to Day 353/102/13**

18.7.2.49 The evidence given by Liam Mailey who took photographs **EP23.6**, **EP23.7**, **EP23.8**, **EP23.9**, to the Widgery Tribunal is relevant in this respect. Liam Mailey was asked about **EP23.7** and the conduct of Soldier P. He described him as having fired two shots from the hip towards the Rubble Barricade, from the location at which he is seen in **EP23.7**, Soldier P then turned around immediately after those shots had been fired. **WT7.36A-F** There is other civilian evidence that lends support to this testimony and it is our submission that the first two shots fired by Soldier P were fired from his hip at the Rubble Barricade and did not in fact claim any casualties.

18.7.2.50 Soldier P's account of his shooting of a nail bomber does not bear scrutiny of any kind because it is a complete fabrication. It is moreover submitted that the evidence of Soldier 017 about Soldier P's shooting of a nail bomber tends to further undermine, rather than corroborate in anyway, Soldier P's testimony on this issue.

Soldier 017

18.7.2.51 Soldier 017 made a statement to the RMP in the early hours of the 31st January at 1.30am. **B1472, B1473** During the course of that statement, he makes no reference to Soldier P having shot a nail bomber, in circumstances where when this incident occurred, according to Soldier P, Soldier 017 was 5 metres ahead of him. **WT13.58B-E** In fact Soldier 017's first statement makes no reference to Soldier P having fired any live rounds. This in circumstances where we know that **EP23.7**, which shows both soldiers, was taken almost immediately after Soldier P had fired live rounds. **WT13.49B** Moreover, a whole series of photographs, show Soldiers P and 017 as they accompanied each other on the Kells Walk side of Rossville Street, demonstrating that they were in each other's company for a substantial period. **P1118**, **P1119**, **P1120**, **P1121** and **EP24.6**

18.7.2.52 Soldier 017 made his second RMP statement on the 4 February 1972. We would refer the Tribunal to **Sections 5** of these submissions wherein we make the case that a significant number of soldiers made statements on that date which were expressly designed to corroborate and justify the use of lethal force by other soldiers.

18.7.2.53 In our submission that was precisely the purpose of Soldier 017's second statement. In his second RMP statement Soldier 017 inserted a completely new incident, not referred to at all in his previous statement, that of Soldier P shooting a nail bomber. **B1479**, **B1480**

18.7.2.54 The discrepancies, as between the various accounts of this incident given by Soldier 017 will be dealt with in more detail when dealing with the evidence of Soldier 017.

18.7.2.55 It is our submission at this stage that the reason Soldier 017 did not give an account of Soldier P firing at a nail bomber on the 31st January 1972 was because he never witnessed any such incident. According to Soldier P the nail bomber appeared as a direct result of Soldier 017

having fired baton rounds at a rioting crowd. This man, who had been exposed by the crowd, was positioned only a short distance from Soldier 017, closer to him than he was to Soldier P and was about to throw a nail bomb. The only thing which prevented the man from throwing the nail bomb, with potentially fatal consequences for Soldier 017, was Soldier P's swift action in shooting and killing the man. The suggestion by Soldier 017 that he neglected to account for Soldier P shooting at a nail bomber because he "thought seeing the gunman was more important so that is what I mentioned", **B1484.008 paragraph 47.5** is in our submission, both ludicrous and untrue.

18.7.2.56 It should also be noted at this juncture that Soldier 017's accounts in relation to Bloody Sunday are also significant in terms of what has been left out with regard to Soldier P. According to the accounts Soldier P has given, he was accompanied by Soldier 017 at all significant events, and specifically, when he came under fire from the Rubble Barricade, resulting in his firing live rounds, **B592**, **B593**, and when he came under attack from people coming from the Rubble Barricade, resulting in his firing live rounds over the heads of the crowd. **B593** Yet neither of these incidents was apparently witnessed by Soldier 017, the soldier to whom he was giving cover and the soldier with whom he was paired throughout this part of the incident. Specifically:

i) Soldier 017 has no recollection of hearing any shots fired from the Rubble Barricade, and never gave any account of shots fired from the Rubble Barricade in any statement made by him. **Day 358/165/18 to Day 358/165/21**

ii) Soldier 017 has no recollection of any bullets striking a wall just above his head and P's head, nor did he ever make any reference to any such incident in any of the statements he gave about Bloody Sunday. **Day 358/166/3 to Day 358/166/5**

iii) Soldier 017 never saw a man fire shots from the Rubble Barricade, nor did he see Soldier P fire shots in the direction of the Rubble Barricade. **Day 358/166/9 to Day 358/166/13**

iv) Soldier 017 has no recollection of being attacked by a crowd who advanced upon himself and Soldier P as they made their way across Rossville Street towards their Pig, nor did he ever give an account of any such incident in any of the statements he has made about Bloody Sunday. **Day 358/167/12 to Day 358/167/17**

18.7.2.57 It is our allegation that, whether with the active assistance of the RMP or not, Soldier 017 colluded with Soldier P in trying to justify at least some of the rounds fired by Soldier P and by failing to account for Soldier P's other live rounds, knowing as he did that they had resulted in the deaths of innocent civilians.

Soldier P's Shooting at the Rubble Barricade

18.7.2.58 Soldier P claims that he fired 4 further shots at a gunman behind the Rubble Barricade. He claims that one shot hit the Barricade and that the other three shots hit the gunman.

18.7.2.59 These shots are arguably the most significant shots fired by soldier P given his admission that he shot and killed a man behind the Rubble Barricade. Moreover, in the course of his evidence to this Inquiry about this incident, Soldier P came close to accepting responsibility for the killing of John Young, Michael McDaid and William Nash.

18.7.2.60 In his statement to the RMP Soldier P gave this account:

i) Soldier P and the 2 soldiers accompanying him advanced towards the Rubble Barricade.[8] As they advanced they came under fire, Soldier P believes the fire came from a pistol but could not be certain. 2 bullets struck the wall just above the soldiers' heads. **B577**, **B578**

[8] In his RMP statement Soldier P constantly refers to having been accompanied by two soldiers. This is changed in his Treasury Solicitor statement and his evidence to Lord Widgery to one soldier, who has been identified as Soldier 017.

ii) The soldiers then went to ground and while lying down Soldier P saw a man get up from behind the Rubble Barricade with "**what** appeared to be a pistol in his hand. He held it like a pistol and he pointed it in our general direction." **B578**

iii) Soldier P fired 4 aimed shots at this man, he saw 1 shot strike the barricade and the following 3 shots hit the man with the pistol, who fall backwards behind the Rubble Barricade. **B578**

iv) Soldier P then saw a group of people run to where the man had fallen and some of them bent down and picked something up. Soldier P assumed that they picked up the weapon. **B578**

v) Soldier P and the soldiers accompanying him stayed at that location until the rioters dispersed.

18.7.2.61 In his statement to the Treasury Solicitor Soldier P stated as follows:

i) Several shots came close to Soldiers P and 017 from the direction of the Rubble Barricade. Soldier P observed a man crouching behind the barricade. "He was holding something which I took to be a pistol. He then stood up and pointed the region (sic) down Rossville Street and fired a number of shots, although I cannot say how many." **B592**, **B593**

ii) Soldier P knelt down and fired 4 shots at the gunman, one of which hit the Rubble Barricade. The man fell to the ground. **B593**

iii) Soldier P claims that at the time he fired the shot there were no other people in his line of fire. **B593**

iv) A group of people then came from Glenfada Park and ran across Rossville Street. One of them bent down and Soldier P saw him pick something up, although he could not be sure what he picked up, and saw him run across the road. **B593**

18.7.2.62 Soldier P gave evidence to Lord Widgery about this incident in the following terms:

i) Soldier P and 017 came under fire from the Rubble Barricade and several shots passed them. **WT13.50A**

ii) Soldier P saw the gunman who was crouched down and aiming a pistol at the soldiers. **WT13.50A-C** "He stood up before [I fired my 4 rounds] and pointed the pistol again and fired another couple of shots, not particularly in my direction, but I believe in the direction of Guinness Force." **WT13.50D-E**

iii) There were 5/6 people at the barricade at the time, positioned on either side of him, who were throwing stones. **WT13.50A-C**

iv) Soldier P fired 4 live rounds, 1 hit the Rubble Barricade and the others hit the man who fell back. **WT13.50E**

v) Then a crowd of people came out from Glenfada Park and ran across the road towards the Rossville Flats, as they crossed they picked something up, which P believes to have been the pistol and carried it towards the Rossville Flats. **WT13.51A**

18.7.2.63 There are significant discrepancies as between the various accounts given by Soldier P about the circumstances in which he fired 4 live rounds at the Rubble Barricade.

i) In his RMP statement two shots hit the wall above the soldiers' head. **B577**, **B578** In the accounts given to the Treasury Solicitor and the Widgery Inquiry, while the soldiers came under fire, the suggestion that the shots hit a wall above the soldiers' heads did not appear. **B592**, **WT13.50A-C** When questioned about that discrepancy by Counsel to this Inquiry, Soldier P was unable to provide any explanation. **Day 353/47/13 to Day 353/47/19**

ii) In Soldier P's RMP statement Soldier P saw a man with what appeared to be a pistol which he pointed in the direction of the 2 soldiers. It was based upon this sighting that Soldier P fired 4 live rounds, killing the man. **B578** When he came to give an account to the Treasury Solicitor and to Lord Widgery the gunman stood up and fired a number of rounds down Rossville Street, and it was in response to coming under fire from the gunman that Soldier P fired live rounds. **B592**, **B593**, **WT13.50D-E** Again when questioned about this discrepancy,

in the course of his evidence to this Tribunal, Soldier P was unable to provide any explanation. **Day 353/47/20 to Day 353/47/23**

iii) In Soldier P's RMP statement, as a result of coming under fire, Soldiers P and 017 "went to ground" and Soldier P was lying down when he saw the gunman and fired his 4 rounds. **B578** In his statement to the Treasury Solicitors and Lord Widgery, it is apparent that Soldier P was initially standing and it was only after Soldier P saw the man fire live rounds that Soldier P knelt down and fired 4 shots at the gunman. **B592**, **B593**, **WT13.50F**

iv) In both his statement to the Treasury Solicitor and in his evidence to Lord Widgery, Soldier P was anxious to assert that there were no other people in his line of fire. **B593**, **WT13.50F-G** There is no such assertion in his RMP statement. It is submitted that this is because by the time he came to make his statement to the Treasury Solicitor and to Lord Widgery Soldier P was aware that he was the prime candidate for having shot and killed the people behind the Rubble Barricade and was anxious to distance himself from the unjustified shooting of unarmed men.

18.7.2.64 Thus there are discrepancies as to the shots fired before Soldier P saw the gunman, the gunman's actions, and Soldier P's position when firing at the gunman. Of most significance is the discrepancy as between Soldier P's RMP statement where he sees what "appears" to be a pistol and his subsequent accounts where he saw the gunman fire live rounds. In our submission this progression in his evidence was a firming up of his evidence, in order to justify his firing of live rounds.

18.7.2.65 While Soldier P asserted throughout his evidence that he had no recollection of any of the shooting incidents he was involved in on Bloody Sunday, it is alleged that he lied about this in order to avoid any effective scrutiny by this Tribunal of the truthfulness of his version of events. It is further submitted that Soldier P does have a clear and

vivid recollection of the events of Bloody Sunday and that he specifically remembers the shots he fired over the Rubble Barricade, shots which killed one or more of Michael McDaid, John Young and William Nash.

18.7.2.66 Soldier P was questioned by Counsel for Michael McDaid and John Young about the fact that given that he had fired at least 9 shots across the Rubble Barricade he could not have failed to hit a target:

"Q. You are a good enough shot, if someone was crouching behind the barricade, you are a good enough shot to pick them out and hit the target; are you not?

A. Yes.

Q. Even if the target was just the head?

A. Not necessarily, no.

Q. But not necessarily, but you believe you could; do you not?

A. Yes.

Q. What happened in fact was that three young boys were crouching behind this barricade and they were, two of them, hit in the face. You are a good enough shot to have done that; are you not?

A. Um, no, I – well, yes.

Q. That is what you did do; is it not?

A. No, it was not." **Day 353/117/14 to Day 353/117/20**

18.7.2.67 What the transcript fails to capture, but what in our submission, anyone present at the testimony of Soldier P could not have failed to capture, was that in answering "Um, no, I – well, yes." Soldier P came as close to facing up to his responsibility for the murder of John Young and Michael McDaid as he was capable of doing.

18.7.2.68 In his statement to the RMP Soldier P stated that after he had shot and killed a man at the Rubble Barricade, he fired a further 5 rounds over the heads of rioters in an attempt to disperse them. **B578**

18.7.2.69 Soldier P then went on to make a second RMP statement on the 1st February 1972. He now claimed that instead of having fired 5 rounds over the heads of rioters he had in fact only fired 3, because he had only fired 9 rounds in total. **B588**

18.7.2.70 When he made a statement to the Treasury Solicitor about this issue he gave a fuller account of this incident. Soldier P maintained that he had noticed that his vehicle was on the waste ground in front of the North end of the Rossville Flats and told Soldier 017 to move back across the road to cover the vehicle. Soldier P followed Soldier 017. When he was halfway across a group of people came out from Glenfada Park and started coming down the road towards the Rubble Barricade. They were throwing missiles at Soldiers P, 017 and the vehicle. Soldier P took the view that the crowd was too close and fired 3 shots over the heads of the crowd in an attempt to disperse them. Again he asserts that there was no one in his line of fire. **B593**

18.7.2.71 Soldier P's account to Lord Widgery was in broadly similar terms. He stated that the group which came from Glenfada Park were attempting to cross the Rubble Barricade **WT13.51G** and that they numbered 50-60. **WT13.52D** He stated that he was justified in firing at them because he believed their actions were "endangering a lot of life", specifically his life and the lives of the soldiers at the vehicle. **WT13.50C-D**

18.7.2.72 However when questioned by Mr. Hill on behalf of the Deceased and Wounded about this incident, Soldier P's account of events appeared to fall apart. Soldier P accepted that when he fired shots over the head of the crowd that there were soldiers positioned on the west side of

Rossville Street and that this was a "Heaven-sent opportunity for those men to arrest rioters if this was an arrest operation?" **WT13.66C-D**

18.7.2.73 Mr. Hill went on:

"Q. So between you and the hostile crowd, although slightly to your side, there was a group of soldiers? A. Yes.

Q. So when you fired three rounds at this hostile crowd you were not in fact alone and unprotected, but between you and them there was a group of soldiers? A. I was on my own, so I count that as being alone and unprotected.

Q. With nothing between you and this hostile crowd but a group of armed soldiers? A. That is possible.

Q. Some of whom would have had baton guns? A. That is possible.

Q. All of whom would have had batons? A. No, sir.

Q. All of whom could have used their rifles as batons?

A. Yes.

Q. Those soldiers, according to your evidence, were there for the specific purpose of arresting rioters? A. In the beginning, yes, sir." **WT13.67F to WT13.68B**

18.7.2.74 Our primary submission is that this incident is a fabrication, designed to account for the firing of live rounds without giving a true account of the circumstances in which they were fired. As it was put to Soldier P in the course of his evidence to this Inquiry:

"can you account for the fact that if anyone was behind that barricade . . . they would have witnessed you killing two people using your SLR rifle and up to this point, according to you, having discharged six shots. Why do you think they would come forward throwing bottles and stones at you. Knowing what you were capable of?

A. I do not know

Q. It would be a form of communal insanity, would it not?

A. Yes." **Day 353/112/16 to Day 353/113/1**

18.7.2.75 Nonetheless the incident is significant in a number of different respects. Firstly, because if true, it is a further example of a breach of the Yellow Card. Secondly because of the issues it raises about ammunition checks and the availability of extra ammunition. Thirdly because if true, as Mr. Hill's questioning demonstrates, the account raises serious questions about the genuineness of the arrest operation. The alternative, is of course that the incident is, like so much of Soldier P's evidence a complete fabrication, and simply another attempt to explain away the firing of live rounds and to avoid having to make an admission of murder.

18.7.2.76 In relation to the first issue it is our submission that Soldier P's account, true or otherwise, evidences a complete disregard by soldiers within Support Company of 1 Para for the Yellow Card. We state true or otherwise, because, even if Soldier P fabricated this account in order to explain away 3/5 of the rounds fired by him, the fact that Soldier P would advance a breach of the Yellow Card, as an explanation to the RMP demonstrates that this was not a matter in respect of which he expected censure.

18.7.2.77 It is not without significance that Soldier P was a Corporal on Bloody Sunday. Given the reliance which has been placed by more senior officers on the Yellow Card as controlling the circumstances in which lethal force would be used by soldiers on the ground, Corporal P's disregard for the Yellow Card, on two separate occasions raises major issues. On the evidence before this Tribunal Corporal P had already interpreted the Yellow Card as authorising him to cock his rifle in circumstances where he was not so authorised, possibly following the lead given by his Sergeant, Sergeant O. He also claims to have fired shots over the heads of unarmed civilians, in circumstances which were unjustified, yet which are analogous to the circumstances in that his

Lieutenant, Lieutenant N fired 2 live rounds. Clearly, the Yellow Card, carried little weight within Mortar Platoon, and as will become clear, carried as little, if not less weight in Anti-Tank Platoon.

18.7.2.78 If ranked soldiers within a Regiment blatantly disregard the Yellow Card it is rendered ineffective as a method of preventing the unlawful use of force. Moreover, as became apparent during the questioning of Soldier P by Mr. Hill in 1972 Soldier P's claim that his life, and the lives of other soldiers, were endangered by the crowd, was entirely without substance.

18.7.2.79 The second reason why this issue is of importance is because of the discrepancy between Soldier P's first RMP statement in which he claims to have fired 5 rounds and his second RMP statement in which he claims to have fired only 3, reducing the total number of rounds fired from 11 to 9.

18.7.2.80 While Soldier P claimed that this was simply a mistake in the total, the mistake is more fundamental than that. Soldier P, not only claimed to have fired a total of 11 rounds, after he had conducted his own ammunition check, he also accounted for firing 5 rounds in circumstances where he now claims to have fired only 3. If proper ammunition checks had in fact been carried out, as has been claimed by Company Sergeant Major Lewis, then it is submitted that this error could not have occurred.

18.7.2.81 The issue raises questions about whether Soldier P had access to excess ammunition and in fact fired 2/more rounds in excess of the 9 eventually claimed. It also raises a real query about the accuracy of the ammunitions checks conducted by Company Sergeant Major Lewis.

18.7.2.82 Thirdly, as demonstrated by Mr. Hill's questioning of Soldier P in 1972, if this was a genuine arrest operation, then the incident raises questions about the failure of the soldiers to carry out arrests of

unarmed civilians, as opposed to resorting to the use of lethal force to control the crowd.

18.7.2.83 It should also be noted in relation to Soldier P's account of shooting over the heads of the crowd that as with the rest of his evidence (with the exception of Soldier 017 and the nail bomber) Soldier P's account is uncorroborated by any other soldier.

Actions of Anti-Tank Platoon

18.7.2.84 The final issue in respect of which Soldier P's evidence is relevant is in terms of how his evidence completely undermines the accounts of soldiers from Anti-Tank Platoon and also Soldier U of Mortar Platoon about civilian gunmen or bombers, at either the Rubble Barricade or the Rossville Flats.

18.7.2.85 Soldier P arrived at the Kells Walk side of Rossville Street before Anti-Tank Platoon arrived at the Kells Walk Wall and was positioned in front of that wall. It would appear that he remained at this location for some considerable time, at least until his vehicle moved position.

18.7.2.86 On the account given to the Widgery Tribunal by Liam Mailey, soldier P just after photograph **EP23.7** was taken Soldier P signalled to the group of soldiers who were behind him, but were not visible in that photograph. Then:

> "Q. As a result of that did a number of soldiers come round the wall towards him, and have you shown them in photograph No. 8 (**EP23.8**) A. Yes.
>
> . . .
>
> Q. In photograph No. 9 (**EP23.9**) is it clear that the soldiers who have come forward in apparent order and have failed to gain entry to the back of Kells Walk have gone back again and between the two walls in order to go up the ramp towards the back of Kells Walk? A. Yes.

Q. Did some of the second group of soldiers appear already to have taken up a firing position at the back of the wall? A. That is right." **WT7.36C-G**

18.7.2.87 Soldier P fails in any account given by him to explain his contact with Anti-Tank Platoon or to deal with their actions in any way.

18.7.2.88 On his own account he was observing the Rubble Barricade located directly in front of him. Soldier P accepted that if a shot was fired at a target behind the Rubble Barricade that target would have been in his view and that he would have been completely exposed to anyone with a weapon behind the barricade. **WT13.63A-B** As it was pointed out to Soldier P, the people who were in the greatest danger from any threat posed by persons behind the Rubble Barricade were Soldiers 017 and P. **WT13.63B** Yet Soldier P never saw any of the targets identified by soldiers from Anti-Tank Platoon at the Rubble Barricade, nor did he experience any threat from those targets. He never saw the nail bombers identified by Soldiers F or J, nor did he witness any of the exploding nail bombs described by Soldiers J and E.

18.7.2.89 Despite the fact that Soldier P appears to have been observing the Rubble Barricade, as opposed to the Rossville Flats, Soldier P's evidence also completely undermines the suggestions that there was civilian fire directed at soldiers from the Rossville Flats at the time he was located at the Kells Walk side of Rossville Street.

18.7.2.90 Soldier P accepted in his evidence to the Widgery Inquiry that in **EP23.9** he is not looking at either the Rubble Barricade or the Rossville Flats. Although he asserted that the Rossville Flats were "always a source of danger" he accepted that that they were not sufficiently dangerous to warrant either himself or his colleagues either looking up at the Flats or taking cover. **WT13.61D-F**

18.7.2.91 Soldier P was then questioned further about the Rossville Flats as a source of danger:

> "Q. From this part of Rossville Flats that is the part which looks west – you were in an extremely exposed area as you stood there at that time? A. Yes.
>
> Q. And you had no reason to take cover? A. No, sir.
>
> Q. So nothing was happening in that block of flats at that time which presented any danger to you? A. I am not saying nothing was happening, but I could not be certain.
>
> LORD WIDGERY: Was there cover available? A. Not from that side of the wall, no, sir.
>
> Mr. HILL: Would there not have been cover if you were to go about two or three yards back to [the Kells Walk Wall] . . . A. Yes.
>
> Q. Would that not have presented cover to you, that small wall? A. Yes." **WT13.61F to WT13.62C**

18.7.2.92 For the entire period when he was positioned at the Kells Walk side of Rossville Street Soldier P was completely exposed to any hostile fire from the Rossville Flats. In our submission this demonstrates, without more, that the accounts given by soldiers of civilian fire directed from the Rossville Flats towards soldiers on Rossville Street are completely untrue. Not only did Soldier P and Soldier 017, not take cover, nor feel the need to take cover, they neither of them, give any account of any fire or threat coming from that location.

18.7.2.93 Soldier P also fails to give any account of having heard firing from soldiers located right behind him, at the Kells Walk Wall, despite the fact that we know soldiers from Anti-Tank Platoon fired from that location.

18.7.2.94 While Soldier P sought refuge in the device of memory loss in 2003 when he gave evidence to this Tribunal, even in 1972, Soldier P never gave:

"evidence as to any other deaths at that barricade or any other soldier firing at that barricade. . " **Day 353/68/12 to Day 353/68/16**

18.7.2.95 In 1972, Soldier P had no choice but to account for his firing of live rounds, the option of memory loss was not available to him in such close proximity to the incident. However, even in 1972, Soldier P recognised, that in respect of the actions of soldiers other than himself, whose actions he could not have failed to witness, silence was preferable to telling the truth about what happened on Bloody Sunday.

18.7.2.96 In 1972, Soldier P lied about his actions on Bloody Sunday in order to justify his use of lethal force in circumstances which were unjustified and unlawful. He was also part of a conspiracy of silence designed to prevent the Widgery Inquiry from establishing the truth about the deaths of 6 young men murdered by soldiers from his Platoon, Anti-Tank Platoon and Composite Platoon behind the Rubble Barricade.

18.7.2.97 In 2003 Soldier P, went one step further, in refusing to give this Tribunal any assistance in establishing the truth about the events of Bloody Sunday. Nonetheless it is submitted the evidence available to this Tribunal is more than sufficient to justify a finding of murder in respect of one or more of John Young, Michael McDaid and William Nash.

Soldier 017

18.7.2.98 Soldier 017 is one of the members of Mortar Platoon armed with a rubber bullet gun on Bloody Sunday. Although Soldier 017 did fire his rubber bullet gun on Bloody Sunday, his primary importance is as a witness to the actions of Soldier P who appears to have accompanied him throughout his deployment on Rossville Street.

18.7.2.99 In relation to Soldier 017 it is our submission that when reading the written statements made by Soldier 017 one witnesses a process of

evolution. As he progresses through the statements, new incidents are added and earlier ones embellished. The ultimate outcome of this evolution is a statement and testimony which bear only a passing resemblance to the truth. Soldier 017's testimony is dishonest both by reference to what is included and what is omitted.

18.7.2.100 Soldier 017's willingness to lie is in our submission motivated by a desire to lend credibility to the soldiers' case that their use of lethal force was justified, coupled with an unwillingness to testify to the killings he must have witnessed from his vantage point on Rossville Street. This willingness is particularly evident in relation to his attempts to bolster the evidence of Soldier P as to his use of lethal force against an alleged nail bomber. An issue which is dealt with in more detail below.

18.7.2.101 It is alleged that Soldier 017 was involved in collusion with Soldier P and/or members of the RMP and/or members of the Treasury Solicitors to provide an account of events consistent with that of Soldier P, particularly with regard to his evidence about Soldier P's having shot a nail bomber. It is noteworthy that while the first accounts given by these two witnesses bear little, if any resemblance to one another, as further statements and accounts are taken from them, the parallels in their evidence increase, demonstrating a continuing attempt on the part of Soldier 017 to lend support to the actions of his colleague. It is submitted that the ever-increasing correlation between their two accounts could not have been achieved without the active assistance of members of the RMP and personnel within the Treasury Solicitors.

18.7.2.102 Leaving that issue aside it is our contention that it can be demonstrated that Soldier 017's evidence progressed from his first statement to the RMP through to his statement to the Treasury Solicitor and then to the account given to Eversheds. Each statement witnessed a further embellishment of his evidence and further lies, all aimed at supporting the military case. When Soldier 017 came to give oral evidence to this

Tribunal, there was some retraction of what were demonstrable inaccuracies, albeit, not very many.

18.7.2.103 Soldier 017 made three statements in 1972, two statements to the RMP and a statement to the Treasury Solicitor. He was not called to give evidence at the Widgery Inquiry.

18.7.2.104 Soldier 017 made his first RMP statement in the early hours of the 31 January 1972 in which he stated as follows:

i) Soldier 017 armed only with a rubber bullet gun, debussed from his vehicle near the Rossville Flats and took up a position to the North-West of a block of flats near a low wall. **B1472**

ii) He could see the Rubble Barricade some 60 yards in front of him and there were rioters behind the Rubble Barricade who were stoning troops "deployed around the flats." **B1472**

iii) Soldier 017 fired a number of rubber bullet rounds at the crowd behind the Rubble Barricade who stoned him in response. **B1472**

iv) A group of 4/5 rioters came close to Soldier 017 from around the corner of a wall to his right and stoned him. Soldier 017 decided he could make an arrest from this group and prepared to advance. As he did so he saw a man walking around the corner, who had "a black object I recognised as a hand weapon; either a pistol or a revolver." **B1472**

v) Soldier 017 fired a baton round at the man but did not hit him and he then turned and ran away. He heard 2 small calibre weapon shots behind him as if the man had fired his weapon twice. **B1472, B1473**

18.7.2.105 Soldier 017 made a further statement on the 4 February 1972. This statement refers to an entirely new incident not dealt with in his first RMP statement. Specifically Soldier 017 states:

i) He was positioned behind a brick wall about 10 metres from 2 Columbcille Court. There was a crowd of about 50 people

milling around in front of the Rubble Barricade and they rushed towards Soldier 017 so he fired 1 round which split them up. **B1479**

ii) A man appeared from behind the crowd and was "carrying in his hand what I took to be a nail bomb. It was lit as I could see the smoke coming from the fuse. As he raised his arm to throw the bomb towards us 'P' who was located" behind Soldier 017 fired 1 round. The man fell and was surrounded by the crowd, the nail bomb did not go off and "the crowd carried away the injured man." **B1479**

18.7.2.106 Soldier 017 then made a statement to the Treasury Solicitor in which he deals with both incidents, Soldier 017 stated:

i) His Platoon debussed at the north end of Block 1 of the Rossville Flats. **B1482 paragraph 2**

ii) While they were in the vehicles "we could hear stones continuously hitting our armoured vehicle and on leaving the vehicle we were surrounded by a large crowd who were milling about the area of the front of the flats and in Rossville Street." **B1482 paragraph 2**

iii) On debussing Soldier 017, along with Soldier P, crossed Rossville Street and took up position by the side of a wall in front of Columbcille Court. Shortly after taking up position he heard 2 high velocity shots which he believed came from around the area of Rossville Flats, he could not tell the direction of fire. **B1482 paragraph 3**

iv) There was a crowd of about 50 people in front of the Rubble Barricade, they rushed towards Soldier 017 so he fired 1 round which split them up. **B1482 paragraph 3**

v) Soldier P then warned Soldier 017 to look out as he had seen a man come from behind the crowd, Soldier 017 saw a man "carrying in his hand an object which I could see had a smoking fuse which I took to be a nail bomb." He was raising his arm to throw the object, Soldier P fired at the man and he fell. The

crowd then surrounded the man and Soldier 017 was unsure as to whether or not the man had been hit. The object did not explode and he did not see the man again. **B1482 paragraph 3**

vi) The crowd then went behind the Rubble Barricade and continued to throw bottles and stones in the direction of the soldiers. **B1482 paragraph 4**

vii) People were also running in and out of an alleyway which led to Columbcille Court, throwing bricks, bottles and stones at the soldiers. Soldier 017 decided that he could arrest one of these rioters and went to move towards the alleyway. A man walked around the corner towards Soldier 017 and was holding either a pistol or a revolver. Soldier 017 fired one round and then ran back to where he had come from. He heard 2 small calibre shots behind him as if the man had fired. **B1482 paragraph 4**

18.7.2.107 Soldier 017 gave a statement to this Inquiry in which he states as follows:

i) He heard the drain-pipe shot while at the Presbyterian Church. **B1484.002 paragraph 9**

ii) He heard the sound of bricks and bottles hitting the sides of his Pig as they entered the Bogside. **B1484.002 paragraph 12**

iii) He was in Lieutenant N's Pig, although he identifies Soldier 013 and Soldier P as being in that Pig. **B1484.002 paragraph 14**

iv) He was positioned by the back door of the Pig facing Soldier P. **B1484.003 paragraph 15**

v) There were thousands of people in the waste ground and when they debussed they saw rioters all over the place. **B1484.003 paragraph 18**

vi) Soldier 017 fired a rubber bullet and chased the crowd. **B1484.003 paragraph 20**

vii) He made his way across Rossville Street towards the Rubble Barricade, initially he found himself isolated and then he moved

to a position near Columbcille Court. **B1484.003**, **B1484.004 paragraph 21**

viii) There were thousands behind the Rubble Barricade and he was showered with bricks and stones from there. **B1484.004 paragraph 22**

ix) A group broke away from the crowd behind the Rubble Barricade and made approaches towards Soldier 017, he stated that the "would have ripped me to pieces if they had got me. Crowds had killed soldiers before. I felt very vulnerable there on my own." **B1484.004 paragraph 23**

x) Soldier 017 fired 2/3 rubber bullets at the crowd and was then joined by Soldier P. **B1484.004 paragraph 24**

xi) 40 – 50 people came out from an alleyway leading to Columbcille Court, they ran south to join the main group of rioters and Soldier 017 fired rubber bullets at them.

xii) Soldier P then shouted a warning about a nail bomber, who was in the midst of a crowd just north of the Rubble Barricade. He was crouched down "with a dark object in his hand, which I took to be a nail bomb, He had his arm back as if he was ready to throw." Soldier 017 heard a shot and saw the man fall, "he was engulfed by the crowd and that was the last I saw of him. When the crowd went back he had gone. The device did not go off." **B1484.004 paragraph 27**

xiii) Shortly after that Soldier 017 looked down an alleyway immediately to his right, he could see rubble, 4/5 youths were throwing bottles or bricks towards Soldier 017 and he went forward to arrest someone, when he saw a man with a pistol. Soldier 017 fired a rubber bullet at the man and he "shied away. Soldier 017 was not sure whether the man actually fired at him. He states that he told Soldier P about the incident. **B1484.005 paragraph 29** and **B1484.005 paragraph 31**

xiv) Soldier 017 did not see Soldier P fire any shots other than the shot at the nail bomber. **B1484.004 paragraph 32**

xv) Soldier 017 returned to his Pig to get his rifle and then stayed in that area. **B1484.005 paragraph 33-34**

18.7.2.108 Soldier 017 also gave an interview to Max Arthur in the mid/late 1980's the results of which can be found in the second paragraph of an extract from a book published by Max Arthur at **B1484.027**. While Soldier 017, accepts that he was interviewed, he does not accept that the account is entirely accurate and stated in oral testimony that Max Arthur had made various aspects of the account up. **Day 358/108/8**

18.7.2.109 Soldier 017 gave a Supplementary Statement dealing with this interview, which can be found at **B1484.023** and gave a further Supplementary Statement dealing with photographs which he took on Bloody Sunday at **B1484.029**

18.7.2.110 At this juncture it is only proposed to refer to one aspect of his interview with Max Arthur in which he describes "odd little riots in the side streets". **B1484.027** In his Supplementary Statement he stated that "whilst I do not recall the words I used, I do not believe this can be accurate. I had been facing a very violent riot on the rubble barricade . . . it was life threatening, if the rioters had caught me they would have killed me. As I watched the surge of the crowd back and forward towards me from the rubble barricade and they surged six or so times, I was genuinely in fear for my life." **B1484.0124 paragraph 4.2**

Soldier 017's Embellishment of his Evidence

18.7.2.111 Soldier 017's statement to the Treasury Solicitor can to some extent be regarded as an amalgam of his 2 earlier statements to the RMP, combining as it does his account of witnessing a civilian gunman with his account of witnessing a nail bomber. Soldier 017's account to this Inquiry is more detailed again.

18.7.2.112 Nonetheless Soldier 017's Treasury Solicitor statement departs significantly from the earlier statements made by Soldier 017 to the RMP. The same can be said of his Eversheds statement.

18.7.2.113 It is proposed to deal below with some of the discrepancies as between his various accounts, which it is submitted, demonstrate Soldier 017's tendency to exaggerate aspects of his evidence in a manner which grossly exaggerates the level of threat posed by civilians and encountered by soldiers.

18.7.2.114 The first time Soldier 017 ever gave an account of the drain-pipe shot was in the statement he prepared for this Inquiry. **B1484.002 paragraph 9** While the fact of the drain-pipe shot is not in dispute, the manner in which it makes its appearance in the statement of so many soldiers from 1 Para is. Very few of the original RMP statements contain references to the drain-pipe shot, as further RMP statements were taken and statements were prepared for the Treasury Solicitors the incident appeared in the statements of more and more soldiers. It is our contention that this occurred, not because soldiers had witnessed this incident, but rather because either: having learnt of the shot subsequently, soldiers decided dishonestly to insert it into their evidence; or, it was suggested to soldiers by the RMP that they should insert this into their statements. Evidence about the shot had the advantage of being incontrovertible, because unlike virtually all of the other allegations of coming under live fire made by soldiers, it was in fact true. It is also not without significance that few of the soldiers who refer to it refer to the 5 shots fired by members of Machine-Gun Platoon in Sector 1.

18.7.2.115 Soldier 017 gives an account, for the first time, in his statement to the Treasury Solicitor, of stones continuously hitting the vehicle as it entered the Bogside. **B1482 paragraph 2** This account is not contained in either of his 2 RMP statements. Moreover, no other soldier in Sergeant O's Pig gives any account consistent with Soldier

017's evidence on that issue, with the exception of Soldier P. In our submission this account is a gross exaggeration, as was suggested to Soldier 017 in the course of his oral evidence, **Day 358/137/1 to Day 358/138/25** and is demonstrative of a willingness to embellish his evidence in order to create the impression of soldiers being under fierce attack from the moment they entered the Bogside.

18.7.2.116 The insertion of this detail into his Treasury Solicitor account is not without significance in terms of the allegation which is being made that Soldier 017 colluded with Soldier P to justify at least some of his live rounds. We say this because Soldier P, also for the first time in his statement to the Treasury Solicitor states that as the vehicles deployed into the Bogside "we could hear stones bouncing off our vehicles." **B591**

18.7.2.117 In our submission this is just one of a number of parallels which can be found between the development of Soldier 017's testimony and that of Soldier P, from Soldier 017's second RMP statement through to his statement to the Treasury Solicitor.

18.7.2.118 In his statement to the Treasury Solicitor Soldier 017 also refers to being surrounded by a large crowd as they debussed, again this is not referred to in either of his statements to the RMP. **B1482 paragraph 2** This account is also contained in his statement to Eversheds wherein he states that there were thousands of people in the waste ground and when they debussed they saw rioters all over the place. **B1484.003 paragraph 18** This account is contradicted by the Video evidence which shows Soldier 017 debussing from the second Mortar Platoon Pig. **V48/12.14 to 13.01** The video clip shows that rather than surrounding the soldiers, the people near the Pig ran away from the soldiers, as they debussed. While Soldier 017 in oral testimony reduced his thousands to a 100 or so people, **Day 358/46/15** the video evidence would tend to suggest that there were only a handful of

people near the Pigs **Day 358/135/16 to Day 358/135/17** and that they were running away. **Day 358/136/6 to Day 358/136/10**

18.7.2.119 The video clip also shows a soldier firing his rubber bullet gun as he de-busses. Only two soldiers in Soldier O's Pig, Soldier 017 and Soldier 013 carried rubber bullet guns. Soldier 017 accepted that he was the soldier who fired the rubber bullet gun immediately on debussing. **Day 358/135/20 to Day 358/136/1** This was a fact he neglected to mention in any of the statements made by him in 1972. Although it is mentioned in his Eversheds statement it is mentioned in the context of the thousands of people in the waste ground. In fact, as the Video demonstrates Soldier 017 fired his baton round at people who posed no discernible threat to soldiers and who were rapidly dispersing. **Day 358/136/6 to Day 358/136/10**

18.7.2.120 Soldier 017's depiction, in his statements to Eversheds, of the riot encountered behind the Rubble Barricade is blood-curdling stuff. According to his Eversheds statement there were also "thousands" behind the Rubble Barricade, **B1484.004 paragraph 22** this was reduced to a 100 or so in oral testimony. **Day 358/53/13 to Day 358/53/20** He maintained that on arrival he was "showered" with bricks and stones thrown by the rioters at the Rubble Barricade. **B1484.004 paragraph 22** While he accepted he had not been hit by any of the bricks and stones thrown at him from the Rubble Barricade he nonetheless maintained that they came within 2-3 feet of him. **Day 358/59/15 to Day 358/59/24** He also described groups of youths from this crowd who were repeatedly advancing on his position, and according to Soldier 017 who "would have ripped me to pieces if they had got to me". **B1484.004 paragraph 23** To like effect in his Supplementary Statement the riot behind the Rubble Barricade was described as "life threatening, if the rioters had caught me they would have killed me." **B1484.014 paragraph 4.2**

18.7.2.121 Soldier 017's description of the rioting, depicts a scene of mayhem, in which soldiers lives were threatened, even by unarmed rioters. In our submission Soldier 017's description is grossly hyperbolic and is contradicted by the photographic evidence depicting people at the Rubble Barricade, at the time soldiers arrived, **EP27.6**, **EP27.7**, **EP27.8**, **EP27.9**. In relation to his suggestion that bricks and stones were falling within 2-3 feet of his location it is submitted that unless Soldier 017 was far in advance of the locations in which he is seen in photographs, for example **EP23.7**, persons throwing bricks and stones from the Rubble Barricade could not come within 2-3 feet. These descriptions are in our submission further examples of Soldier 017's propensity to exaggerate matters out of all proportion.

18.7.2.122 Probably most significantly, in terms of providing a justification for the use of lethal force by soldiers, Soldier 017 refers, for the first time in his Treasury Solicitor's statement, to hearing high velocity fire from the area of the Rossville Flats, after he had crossed Rossville Street. **B1482 paragraph 3** If Soldier 017 is telling the truth then this was the first significant incident to occur, yet he completely neglected to mention it in either of his RMP statements.

18.7.2.123 This incident does however have clear parallels with the statement of Soldier P to the Treasury Solicitor where he for the first time gives an account of 2 high velocity shots being fired. In Soldier P's statement however the shots were fired from the Rubble Barricade and went over his head. **B592**

18.7.2.124 It is our submission that the discrepancies identified above, some of which are demonstrably false, demonstrate a tendency to gross hyperbole on the part of Soldier 017. An incident which involves isolated youths throwing stones from behind a Rubble Barricade, in circumstances where those stones posed no threat to soldiers, becomes, in Soldier 017's testimony a life-threatening situation. Soldier 017's flights of fantasy are not however the results of a hyperactive

imagination, Soldier 017's evidence is given with a clear agenda, that of exculpating the actions of his colleagues on Bloody Sunday who used lethal force. In our submission little, if any weight can be attached to evidence given by Soldier 017 of attacks on soldiers by civilians, given his demonstrable willingness to lie.

18.7.2.125 There are also some parallels between the lies told by Soldier 017 and those told by Soldier P, and the changes made by the soldiers when they come to give their Treasury Solicitor statements. These parallels are significant in view of the allegation made about the circumstances which gave rise to Soldier 017's second RMP statement.

Soldier 017's RMP Statement of the 4 February

18.7.2.126 In relation to this statement it is our allegation that Soldier 017 was guilty of collusion, whether directly with Soldier P or with the assistance of the RMP, in order to provide some corroboration for Soldier P of the circumstances in which he fired live rounds.

18.7.2.127 The most manifest discrepancy as between the various accounts given by Soldier 017, and the most crucial, in that it seeks to justify the use of lethal force on Bloody Sunday, is the inclusion by Soldier 017 in his second RMP statement, of an incident which involved witnessing Soldier P firing a live round at a nail bomber.

18.7.2.128 If Soldier 017's second RMP statement is to be believed then in the early hours of the 31 January 1972 he neglected to mention an incident in which:

i) 50 rioters advanced from the Rubble Barricade towards the two soldiers.

ii) This resulted in Soldier 017 firing his rubber bullet gun for the first time.

iii) His action in firing his rubber bullet gun resulted in the crowd splitting up and a man emerged with a nail bomb.

iv) This man who was about to throw a nail bomb at Soldier 017 and Soldier P was shot by Soldier P as he raised his arm to throw the nail bomb.

v) This man was subsequently removed by the crowd. **B1479**

18.7.2.129 The explanation advanced by Soldier 017 for failing to mention this in this first RMP statement is because "I thought seeing the gunman was more important so that is what I mentioned seeing. I think that was what I was specifically asked about." **B1484.008 paragraph 47.5**

18.7.2.130 His explanation became more contradictory when giving oral evidence:

"Q. Was that [the incident with the nail-bomber] not something sufficiently important to be included in your first statement to the Military Police?

A. Maybe, but they were not interested in it.

Q. How do you know they were not interested in it?

A. They were only interested on the gunman.

. . . .

Q. How could you tell whether [the RMP were] interested in the nail bomber if you had not told them that there was a nail bomber?

A. I took it that Corporal P was dealing with that."

Day 358/65/12 to Day 358/66/25

18.7.2.131 Soldier 017 does not seek to suggest that he had forgotten the incident with the nail bomber when he spoke to the RMP on the first occasion, simply that he decided, not to mention it. **Day 358/67/7 to Day 358/67/9** Thus Soldier 017 now advances two contradictory explanations for his failure to tell the RMP. Firstly, that he determined that the incident with the gunman was insufficiently important to tell the RMP and secondly that the RMP were not interested in hearing about the nail bomb. As was pointed out to him the RMP could not show disinterest unless he actually told them, and he accepted that he never told them.

18.7.2.132 It is our submission that neither explanation stands up to scrutiny. There can be no reason for regarding a gunman as more important than a nail bomber where both apparently threatened Soldier 017's life, particularly when the first incident involved the use of lethal force by one of Soldier 017's colleagues. In relation to the explanation advanced for the first time to Mr. Roxburgh in oral testimony, **Day 358/65/12 to Day 358/65/16** for the reasons set out above, the RMP could not express disinterest about that of which they were unaware.

18.7.2.133 On Soldier 017's own account the purpose of his second statement "was to back up what Soldier P had said". **Day 358/68/11 to Day 358/68/13** It is our submission that Soldier 017's second RMP statement was a complete fabrication, designed exclusively to lend support to the justification advanced by Soldier P for his use of lethal force.

18.7.2.134 It is noteworthy in this respect that there are discrepancies as between Soldier 017's first account of this incident and his statement to the Treasury Solicitor.

i) In the account given by Soldier 017 to the RMP he claims to have seen the object in the man's hand as he appeared behind the crowd. **B1479** However in his account to the Treasury Solicitor he states that he saw the nail bomber after Soldier P shouted a warning. **B1482** This change is significant in that it means that Soldier 017's statement to the Treasury Solicitor is now more consistent with the accounts given by Soldier P about the incident. **B577**, **B592**, **WT13.47E-F** In our submission producing a statement consistent with Soldier P's statement was the whole purpose of the exercise.

ii) In his RMP statement he was unable to state that the man was hit, merely that he fell, while in his statement to the Treasury Solicitor he refers to the man being hit. **B1479** and **B1482 paragraph 3** There are also differences in Soldier P's accounts

as to whether or not the man was hit. In his RMP statement he stated that the man was hit **B577**. While his statement to the Treasury Solicitor he simply stated that the man fell. **B592**

iii) Also in his RMP statement Soldier 017 claims that "the crowd carried away the injured man." **B1479** This is the same account as that given by Soldier P in his RMP statement. **B577** However in Soldier 017's statement to the Treasury Solicitor he states that "the crowd surrounded the man and I am not sure where he was hit . . . I did not see the man who had been hit again or what happened in him." **B1482 paragraph 3** Again this is paralleled in Soldier P's statements, in that he changes from a position in which the man was removed by the crowd to a position in which his attention was diverted as a result of which he did not see what happened the man. **B592**, **WT13.48D**

18.7.2.135 It is our submission that the discrepancies between Soldier 017's second RMP statement and his Treasury Solicitor statement are part of the process of trying to produce an account consistent with that of Soldier P.

18.7.2.136 However, the major difficulty with Soldier 017's account as corroboration is the fact that in terms of location, his account on the 4 February 1972 and subsequently, consistently describes a crowd advancing upon him from the Rubble Barricade and a nail bomber positioned just north of the Rubble Barricade on Rossville Street. **B1479**, **B1482 paragraph 3**, **B1484.004 paragraph 27**, **Day 358/123/1 to Day 358/123/2** As Soldier 017 himself acknowledges that is totally at variance with the account given by Soldier P in his Treasury Solicitor statement and evidence to Lord Widgery. **Day 358/122/24 to Day 358/123/2**, **P22**

18.7.2.137 Significantly however it is not at variance with Soldier P's original account to the RMP, as **B579** attached to his first RMP statement

demonstrates. In Soldier P's original account to the RMP, as with Soldier 017's account to the RMP, the nail bomber came from the direction of the Rubble Barricade in front of Soldier P on Rossville Street. Soldier P changed the location of the nail-bomber in all of his subsequent statements, Soldier 017, however failed to do so.

18.7.2.138 The fact that Soldier 017's second RMP statement was taken on the 4 February 1972 is not without significance. We have previously submitted that a significant number of soldiers, of whom Soldier 017 is one, made statements on the 4 February 1972 for the express purpose of corroborating and justifying the use of lethal force by other soldiers. Those statements, whether manufactured by the RMP, the individual soldiers, or a combination of both, were untrue. We would refer the Tribunal to **Section 5** of these submissions wherein we make that case.

18.7.2.139 In our submission Soldier 017's statement of the 4 February:

> "was not made recording a proper or genuine recollection, but it was made to corroborate the evidence that Soldier P had already given to the Royal Military Police." **Day 358/128/20 to Day 358/128/23**

18.7.2.140 It is our submission that this was precisely the purpose of Soldier 017's second statement and that the statement was a fabrication is the only logical explanation for:

i) His failure to mention the incident in his first RMP statement;

ii) The discrepancies between his RMP statement and the Treasury Solicitor statement and the nature of those discrepancies.

iii) The discrepancies between Soldier 017's account and the accounts given by Soldier P.

Soldier 017's Civilian Gunman

18.7.2.141 In the first statement made by Soldier 017 he gives an account of having seen a civilian gunman, who fired 2 rounds at Soldier 017. From the first description given of this incident it appears that this

incident occurred on Rossville Street with the man emerging from "round the corner towards me." **B1472**, **Day 358/81/22 to Day 358/81/25**

18.7.2.142 That also appears to be the case with his statement to the Treasury Solicitor. He describes a situation in which rioters are emerging from an alleyway to throw stones at the soldiers, Soldier 017 decided to go forward to make arrests. "As I did so I saw a man walk around the corner towards me." **B1483**

18.7.2.143 Of relevance to this issue is the fact that in the mid/late 1980's, Soldier 017 was interviewed by Max Arthur. Soldier 017 accepts that the second paragraph entitled 'Private, 1 Para' on **B1484.027** relates to this interview. He does not accept that the account is entirely accurate and stated in oral testimony that Max Arthur had made various aspects of the account up. **Day 358/108/8**

18.7.2.144 The interview is difficult to decipher because there are no references to street names, and it is not proposed to deal with every aspect of the interview. The interview is however relevant to the incident in which Soldier 017 claims to have seen a gunman. Reading the interview, in conjunction with the Supplementary Statement made by Soldier 017 to address this interview, **B1484.023**, **B1484.024** it appears to state as follows:

i) Contrary to what appears in his earlier statements, he suggests that he actually went into the alleyway, in order to arrest rioters, when the gunman appeared. **B1484.027**, **B1484.0123 paragraph 4.2**

ii) He also suggests that the gunman fired a shot which hit the wall above him and that then, both himself and Corporal P, chased the gunman. **B1484.027** He now disputes this stating that "I ran out of the alleyway having I believe been fired at and told Corporal P who then went back to the alleyway buy when the man with the pistol had gone." **B1484.0124 paragraph 4.2**

18.7.2.145 Thus in both his interview with Max Arthur and his evidence to this Tribunal, and contrary to what is contained in his 1972 accounts, Soldier 017 is adamant that the gunman was down the alleyway which led to Columbcille Court, rather than as appears from his earlier accounts on Rossville Street. **B1484.027**, **B1484.005 paragraph 29**

18.7.2.146 Also of significance is the fact that in both his interview with Max Arthur and his testimony to this Tribunal Soldier 017 makes it clear that that he told Soldier P about the incident at the time, to the extent that Soldier P went to look down the alleyway to investigate whether the gunman was still there. **B1484.005 paragraph 31**. Yet in all the statements Soldier P has made about Bloody Sunday, he has never referred to this incident, nor corroborated Soldier 017's account in anyway.

18.7.2.147 In our submission the lack of corroboration by Soldier P, or any other soldier, of this incident, completely undermines the credibility of Soldier 017 in this regard. It is submitted that the moving of the gunman from Rossville Street to the alleyway was because Soldier 017 recognised that the incident he described could not have occurred on Rossville Street without other soldiers having witnessed the incident, given the proximity of soldiers from Anti-Tank Platoon.

18.7.2.148 The account is also undermined by Soldier 017's lack of credibility as a witness, his propensity for exaggeration and his willingness to fabricate accounts. In those circumstances no weight can be attached to Soldier 017's testimony on this issue.

18.7.2.149 It should also be noted at this juncture that on Soldier 017's own account no other soldier witnessed this gunman. **Day 358/79/22 to Day 358/79/24** Moreover no soldier corroborates this incident. Thus even if the Tribunal were to conclude that in relation to this aspect of his evidence Soldier 017 were telling the truth, the actions of this

gunman played no part in the use of lethal force by the soldiers of Mortar Platoon or Anti-Tank Platoon on Rossville Street on Bloody Sunday.

Anti-Tank Platoon & Fatalities behind the Rubble Barricade

18.7.2.150 In our submission photographs **EP23.7**, **EP23.8**, **P1119**, **EP23.9**, **EP33.6** and **EP33.7** all show Soldiers P and 017 in various positions alongside against the east facing wall of the Kells Walk pram ramp. Soldier 017 accepted that he could identify himself in **EP23.7** and **EP23.8**. In relation to **P1119** and **EP23.9** he did not confirm his identity but accepted that it was possible that he was the man with the riot gun. **Day 358/150/12 to Day 358/152/17** It is our contention that each of the photographs identified above shows the same two soldiers, (in some cases alongside other soldiers) one armed with a rifle and one with a rubber bullet gun and that the soldier with the riot gun can be none other than Soldier 017.

18.7.2.151 It is thus evident from the photographic evidence that, within a short time of the arrival of Soldier P and 017 at the Kells Walk side of Rossville Street:

> "there is a very substantial group of soldiers who appear to have joined you very quickly" **Day 358/150/24 to Day 358/150/25**

18.7.2.152 Yet Soldier 017 now claims to have no recollection at all of Anti-Tank Platoon on the day. **Day 358/59/9 to Day 358/59/14**

18.7.2.153 It is our submission that the assertion that he was unaware of the soldiers of Anti-Tank Platoon on Bloody Sunday is undermined, in the first instance by his first statement to the RMP. **B1472** His RMP statement refers to the rioting crowd at the Rubble Barricade "stoning troops who deployed around the flats." In our submission this is a direct reference to the soldiers from Anti-Tank Platoon who were located at the Kells Walk Wall behind Soldier 017 virtually from the

outset of his positioning himself on the west side of Rossville Street. His assertion that he was unaware of Anti-Tank Platoon is also contradicted by **P1120** and **P1121** which show the soldiers from Anti-Tank Platoon speaking directly with Soldiers P and 017 and demonstrate conclusively that Soldiers P and 017 were aware of their presence.

18.7.2.154 Despite this Soldier 017 gives no evidence about the actions or conduct of soldiers from Anti-Tank Platoon on Bloody Sunday. We know that soldiers from Anti-Tank Platoon fired live rounds over the Rubble Barricade on Bloody Sunday, yet we are invited to believe that these live rounds went unnoticed by Soldier 017, as with Soldier P. To like effect, none of the targets identified by soldiers in Anti-Tank Platoon were seen by Soldier 017 despite his proximity to the Rubble Barricade. Soldier 017 claims to have seen nothing of the movement of soldiers from Anti-Tank Platoon into Glenfada Park North, despite the fact that this would inevitably have occurred before he returned to his Pig.

18.7.2.155 Ever more extraordinary than his failure to witness the actions of soldiers from Anti-Tank Platoon was his failure to witness the actions of Soldier P. Taken at its height Soldier 017 witnessed Soldier P fire 1 shot, when we know Soldier P fired at least 9 and that he claims to have done so while accompanying Soldier 017.

18.7.2.156 Finally, and of most significance, Soldier 017 failed to witness the shooting and killing of Michael Kelly, Michael McDaid, John Young, William Nash and Hugh Gilmore who were undoubtedly shot and killed while he was on Rossville Street looking over the Rubble Barricade. As has been alleged, one or more of Michael McDaid, John Young and William Nash were shot and killed by Soldier P with whom Soldier 017 was paired during the time he killed one or more of those young men. Moreover if any of them were not killed by Soldier P, they

were killed by soldiers from Anti-Tank Platoon, while Soldier 017 was positioned on Rossville Street.

18.7.2.157 As was put to Soldier 017 in the course of his evidence:

> "basically what you suffer from is wilful blindness; you have made a determined effort to see nothing in relation to the deaths that you must have witnessed of at least five people at that barricade and the movements of Anti-Tank Platoon into Glenfada Park where they carried out further murders" **Day 358/169/9 to Day 358/169/16**

18.7.2.158 Soldier 017 as with the other soldiers positioned on Rossville Street on Bloody Sunday, claims to have seen nothing of the shooting from the Kells Walk Wall, missed virtually all of Soldier P's shots over the Rubble Barricade and failed to see even one of those shot and killed behind the Rubble Barricade as they fell. More than any other aspect of his evidence, this shows Soldier 017 to be a liar, unwilling to give true testimony to the murder of innocent civilians by his colleagues. In those circumstances no credibility can be attached to any aspect of Soldier 017's evidence.

Private U

18.7.2.159 Whilst Private U was a member of Mortar Platoon, his actions relate mainly to the events in Sector 3 and in the area of the Rubble Barricade. He provided statements to the RMP, one to the Treasury Solicitor, gave evidence to Lord Widgery and gave oral evidence to this Tribunal on **Day 369**.

18.7.2.160 When asked by Eversheds how he felt about Bloody Sunday when it was over he said the following:

> "Frankly I felt elated. Everyone was on a high. We had been in, had engaged gunmen and had shot them. That is how we honestly felt and I still believe, hand on heart, that we did a good job. When we got back to barracks, people all around were saying "well done". It was like a mutual appreciation society... I believe one of the main reasons why I am having to give a statement today for this new Inquiry is that no paras were shot and killed that day. I have described how we came under fire. After the day, we were puffing out chests out and congratulating each other on our terrific fire and movement but, really, it was pure luck that none of us were shot. I now feel that we are being punished for not remembering all the details." **B787.009 paragraphs 47 to 48**

18.7.2.161 The witness confirmed that he has always been clear in his mind that he killed someone on Bloody Sunday **Day 369/121/16**, **B787.006 paragraphs 31 to 33**. When examined by Counsel for the Families, the following exchange ensued:

> "Q. Perhaps you are prepared to assist me in trying to establish at least who it is likely that you shot dead on that day?
> A. (Pause). Could you repeat the question?
> Q. Are you prepared to assist in trying to establish who the person was you shot dead that day?
> A. I have to be honest?
> Q. Yes, be honest.
> A. I am not interested." **Day 369/124/9 to Day 369/124/17**

In our submission it is against this background that this witness' evidence should be viewed.

Briefing

18.7.2.162 Private U's recollection of the briefing he received from Lieutenant N before going to Derry was that although the Mortar Platoon were to conduct an arrest operation, this time there would be no "safety valve" i.e. where persons who were innocently caught up in the riot would be able to escape. No such tactic was to be employed in Derry so that everyone could be arrested. **B787.001 paragraph 2**. It is difficult to reconcile this soldier's understanding of the plan with the emphasis Senior officers have made on the need for "separation" between innocent bystanders, marchers and rioters.

Like many of his colleagues, his understanding and knowledge about the No-Go area in Derry and reports of gunmen being able to walk freely appears to have come mainly from news reports that he saw on television **B787.001 paragraph 5**.

Presbyterian Church

18.7.2.163 In relation to the events which took place at the Presbyterian Church, Soldier U maintains a consistent pattern of recollection in keeping with all military witnesses, namely, that he has no recollection of hearing any SLR weapons being fired in that vicinity.

18.7.2.164 The witness however, provides a detailed recollection of hearing a single high velocity shot ring out and strike the building, which he occupied at the time. In fact at **B787.003 paragraph 13** of his Eversheds statement:

> "I was not aware of any of the boys having shot at anyone in that area. I heard no SLR fire whilst I was around in this area."

By way of comment, Soldier U makes no reference to hearing any nail bombs explode in this area. The witness points out that the single high

velocity shot enabled all the soldiers to make a decision that they would go in with SLRs. The significance of this event at the time however was not regarded by Soldier U or any of his colleagues in the Mortar Platoon as important enough to include in their statements made to the RMP on the evening of 30th January or early hours of 31st January 1972.

Going in / Level of Fire

18.7.2.165 The witness records that the original plan of entry i.e. driving a pig through a brick wall had to be significantly altered because of difficulties on the ground **B787.003 paragraph 15**. He entered the Bogside under the command of Sergeant O.

The inconsistent nature of U's recollection of event is particularly highlighted through the provision of various accounts concerning the level of fire which he experienced and was subjected to as he made his way into Rossville Street. It is worthwhile summarising his recollections in the following way:

18.7.2.166 First RMP statement 0:00 31st January 1972:

i) In his first RMP statement he describes hearing automatic gunfire as the vehicles advanced down Rossville Street.

ii) When he reached the vicinity of Eden Place and Rossville Street he cocked his SLR and put a round into the breech. He then arrested a man who was throwing stones, ascertained his identity and handed him over to the RMP.

iii) When he returned to the corner of the Rossville Flats he came under fire from the waste ground at the far end of Rossville Street. He estimated that he heard approximately thirty gunshots at this point. He identified a man with a pistol firing two shots and he returns one shot, which he claimed, struck the target **B748**.

18.7.2.167 Treasury Solicitor Statement dated 5th March 1972:

i) As the pigs drove down Rossville Street he heard a long burst of automatic fire. U debussed from the vehicle and ran forward towards the Rossville Flats being struck several times by stones.

ii) As he faced the flats he heard the sound of four or five low velocity automatic shots. At this point he was struck by a bottle by a man whom he later arrested. During the arrest, three or four low velocity automatic shots struck the ground in his vicinity.

iii) The witness then said that having handed his arrestee over to other soldiers, he returned back along Rossville Street where he observed a number of soldiers at the entrance to the Rossville Flats Courtyard firing at a gunman. It was only at this point that U cocked his rifle.

iv) The witness requested cover from a colleague and made his way in the direction of the flats. As he ran he saw four or five automatic shots land near the Company Commander's vehicle which was directly ahead of him in the direction of the flats.

v) Private U eventually took up a position at the northwest end of the north end of the Rossville Flats and it was from here that he shot the man who was firing a pistol. The witness then related the event that he omitted completely from his initial RMP statement, *viz*, the circumstances in which Alex Nash was shot **B767**.

18.7.2.168 Private U's oral evidence to Lord Widgery can be summarised as follows:

i) During his sworn evidence before Lord Widgery the witness confirmed that he heard a long burst of automatic fire as the pig drove along Rossville Street **WT13.94 F**.

ii) According to him as he debussed from the vehicle he was struck by two bottles and several stones **WT13.95 B**.

iii) He described how he arrested one man and when asked by Counsel whether he heard any firing at this point he replied that he could not remember although he did recall hearing and seeing the fall of shots **WT13.96 C**.

iv) When asked directly if he cocked his rifle at this stage the witness replied that he did not **WT13.96 E**.

v) He went on to describe a second fall of shots on the waste ground in the vicinity of Eden Place **WT13.96 F**.

vi) He was asked directly if he could see other soldiers firing at this point and he replied that he could not **WT13.97 A**.

vii) He made his way forward and saw three or four shots fall in the vicinity of the Command Vehicle. The witness then went on to relate the circumstances in which he discharged his single round. When asked by Mr Hill BL whether the man who discharged the two shots with the pistol was his first experience of pistol shots that day the witness replied "No". He went on to allege that he saw a man firing a pistol in the Rossville Flats Courtyard although he never mentioned this before. He did claim to have mentioned this however in an earlier statement **WT14.2 F-G**. If this is so, then Counsel for the Families have not been provided with it, unless of course this intended to be a reference to the incident related in his Treasury Solicitor statement at **B767**.

18.7.2.169 It is difficult to conceive of a situation that arises and is then later described in such inconsistent and contradictory terms:

i) We ask rhetorically how a witness who has apparently experienced direct gunfire forget to mention that experience when providing his account before Lord Widgery.

ii) Secondly how could someone who on one account, claims to have heard thirty gunshots never mention this again.

iii) Thirdly how could a truthful witness allegedly see his colleagues engage a pistol-waving gunman in the Courtyard of Rossville Flats with sustained fire and yet fail to mention this at the first opportunity of telling.

The most likely explanation is that this individual has woven a variety of accounts and experiences picked up by him in the aftermath of

events around a central but heroic role, which he has identified for himself. His evidence in respect of these matters amounts to an unreliable tissue of misinformation, fiction and falsehood. Rarely on the face of this evidence does this witness provide an account that is consistent in respect of any particular event he describes.

Arrests

18.7.2.170 One matter of which the witness does provide some measure of consistency concerns the fact that he appears to have arrested someone who slipped on ice. In his RMP statement he alleges that this individual was called "Charles Collins" **B749**. In his Treasury statement the name of the arrestee has been deliberately deleted however it is clear that U mistook the surname "Collins" for "Canning". Unsurprisingly, Mr Canning's account of his arrest is somewhat different. He claimed to have been arrested by a Paratrooper who he had observed firing his SLR toward the Barricade. He was ordered to the ground where he was kicked repeatedly. He was then taken to an APC and further assaulted. He was struck in the face with a rifle and at least one Paratrooper kept threatening to shoot him **AC25.5**. It is submitted however that Private U did not arrest Mr Canning but is more likely to have arrested Mr James Charles Doherty **Day 369/134/1 to Day 369/136/15**. It will be recalled that this witness gave evidence to the effect that he slipped and fell on ice **Day 104/110/5 to Day 104/110/7** and that whilst on the ground he was struck by what he assumed was a rifle butt, lost consciousness briefly, and was subjected to a stream of anti-Irish racist abuse. At one point he was told "You're dealing with the fucking Paras now" **AD69.2 paragraphs 13 to 19**.

Did Private U shoot Hugh Gilmore?

18.7.2.171 One of the principal difficulties confronted by the Tribunal, is attempting to determine whether a direct relationship between soldiers who have allegedly fired and the deceased and wounded can be established.

Private U provides two different accounts in respect of the circumstances in which he allegedly, fatally shoots one person and potentially wounds another.

He described the incident in the following terms to the RMP at 0:00hours on 31st January 1972:

i) "As the rioters thinned out I saw a man on the waste ground behind the Barricade, he was about 150 metres from my position. He was standing in the middle of about five other men at GR43321678 and he was wearing a light coloured anorak." **B749**

ii) "In his right hand he had a pistol and I saw him fire two shots at other members of my unit who were on the opposite side of the road from me. From the standing aiming position I fired one aimed shot at this man. I saw that the shot struck him in the stomach and he jerked and fell. I also saw a man behind the one I fired at clutch his head with his hands and also fall to the ground." **B750**

18.7.2.172 Yet when describing the same incident to the Treasury Solicitor the witness stated the following:

i) "I was in this position about two minutes when I saw five or six men walking across from Glenfada Park towards Rossville Flats behind the Barricade. I saw one of these men had a pistol. He had a light blue jacket on." **B768**

ii) "The other men moved away from him as though they were surprised he had a pistol. He fired two shots in quick succession in the direction of the opposite side of Rossville Street from where I was standing where there were soldiers. Then I was in a standing aiming position, I took off my safety catch and aimed

for the centre of his body. I fired one round. He fell backwards and the man behind him clutched his own head." **B768**

18.7.2.173 During his evidence on oath to Lord Widgery the witness repeated an account largely consistent with his Treasury Solicitor statement. Interestingly, no other member of the Parachute Regiment (including those positioned at Kells Walk) corroborates either of these versions as an event that actually occurred.

The trajectory line as identified on the trajectory map **B754** and trajectory photograph **B787** provides a line of fire along which Hugh Gilmore had travelled in an attempt to gain the safety of the southern end of Block1. None of the other soldiers who admit to firing provide a similar trajectory line.

However at least one other military witness describes a soldier firing from this location although in somewhat different circumstances.

The Soldiers in the Peter England Shirt Factory

Soldier 015

18.7.2.174 Soldier 015 was a Bombardier in the 22Light Air Defence Regiment and was positioned in the Peter England shirt factory on Little James Street. See photographs **P415**, **P417**, **P427**. He had an SLR, binoculars and a radio. In providing an initial statement to the RMP, he described a soldier at the same location as U discharging his weapon in the following circumstances:

i) "Suddenly all the troops in the area seemed to dive for cover and take up firing positions. One soldier I noticed was observing two men behind a Rubble Barricade that stretched from Block No1 Rossville Flats across Rossville Street to Glenfada Park." **B1434.011**

ii) "The soldier was positioned at the corner of Block No1 Rossville Flats. The men were continually throwing missiles in his

direction. The two men suddenly jumped up and started running towards an open door half way down Block No1. The rear man stopped suddenly and turned to look at the soldier, as the soldier brought his SLR into the aim position. The man turned and started running faster towards the open door. I then saw the soldier fire one round in the direction of the fleeing man. The man dropped to the ground. He fell in the doorway, I then saw hands come from the doorway and drag the body in." **B1434.011**, **B1434.012**

18.7.2.175 It could be suggested that what is described in this account relates to the death of Kevin McElhinney, in that he potentially left the Barricade with one other person and that he eventually ended up inside Block1. The point however that this account does serve to highlight is that U fired on someone on the east side of Rossville Street who was both unarmed and presented no risk to himself or any of his colleagues. Certain aspects of the description however support the assertion that the most likely focus of U's attention was Hugh Gilmore as opposed to Kevin McElhinney. This conclusion is to be preferred for the following reasons:

i) The target was clearly seen to be throwing stones. It is accepted that Hugh Gilmore threw stones shortly before he was killed.

ii) No such allegation could be made against Kevin McElhinney at the time he was shot.

iii) It is clear from this description that the target is running as opposed to crawling and is shot at an early stage.

iv) A body of civilian and paramilitary evidence suggests that Hugh Gilmore had not only been throwing a stone (s) but was also taunting the soldiers and encouraging others to participate in his defiant behaviour.

v) A further consideration is linked to the fact that sequentially, Kevin McElhinney left the safety of the Barricade as at least three others lay dying or dead on its southern side.

vi) In conclusion, the most compelling reason for concluding that this incident almost certainly described the final moments of Hugh Gilmore is to be found in the concession by Soldier 015 to the effect that the individual be saw shot could have been dragged around the southern gable end of Block1 as opposed to the entrance doors to Block1 **Day 360/202/25 to Day 360/203/18**.

18.7.2.176 However when interviewed by Lt Colonel Overbury at Lisburn barracks on 16th February 1972 the witness was shown a photograph of the area. He changed his account in the following material respects:

i) The man he saw shot was running towards an open door as opposed to half way down the Block itself. **B1422**

ii) The man stopped, turned and faced the soldier. He raised his right arm to shoulder height and pointed towards the soldier. **B1422**

iii) He was unable to say whether he had anything in his hand. **B1422**

18.7.2.176 This is by the standards of any Inquiry a truly remarkable document. It is respectfully submitted that its content highlights the priority of necessity over the moral imperative of truth. It strains the thread of credibility, that a witness in providing an account of how a human being is gunned down on the street chooses to deliberately ignore, the very features of the account itself which might possibly justify it. The disturbing nature of this document and what it is clearly intended to achieve is further highlighted by the fact that the witness described the same event to the Treasury Solicitor in precisely the same terms as he had related it to the RMP **B1425**. It should be noted however that someone has seen fit to amend the typed copy in manuscript for the purposes of including the justification, which was set out the statement dated 16th February and recorded by Colonel Overbury. When Mr Heritage recorded 015's statement on 9th March 1972, 015 repeated, what in our submission was his truthful recollection of what he saw.

Colonel Overbury does not appear to have attended with him on this occasion. However when 015 gave evidence on oath to Lord Widgery, he provided the version set out in his statement to Colonel Overbury, namely that the man in Rossville Street turned, faced the soldier and brought up his right hand **WT16.37 A**.

18.7.2.177 It is respectfully submitted that this witness, more than any other, highlights the collective disregard for the truth, which many of the military witnesses have demonstrated. Notwithstanding the nature of the earlier accounts as provided by him, 015 for the purposes of this Inquiry goes so far as to express the assumption that the unarmed civilian that he initially described to the RMP must have had a pistol **B1434.004 paragraph 29**. When asked about this assumption by Counsel to the Tribunal, it was suggested that it arose from a belief that a soldier in the British Army would not fire without a reason, the witness agreed with this explanation **Day 360/181/2 to Day 360/181/5**.

To suggest that these differences are best explained by someone who was feeling "tired and confused" is tantamount to treating both the role and purpose of this Tribunal with an astonishing level of indifference and at worst, contempt **Day 360/185/8 to Day 360/191/11**.

Soldier 023

18.7.2.178 The description of events surrounding this incident take on an even more perplexing dimension, through the provision of a seemingly corroborative statement by Soldier 023 who was a trained sniper in the same unit. He was with 015 on the top floor of the Peter England shirt factory. He also had a pair of binoculars and an SLR with a telescopic sight. He describes the following scene in his Treasury Solicitor statement:

i) "I then saw a man appear from the southern end of Block1 of Rossville Flats. This man had a rifle which he aimed up towards the soldiers deployed in Rossville Street. I heard the sound of

shots as he fired. The man then went back behind the wall and reappeared a couple of minutes later." **B1522**

ii) "I then took aim with my rifle. I heard the sound of a shot from his rifle. Before I could shoot I heard the sound of a high velocity shot and the man jumped back in the air and fell. A crowd gathered around this man and carried him away." **B1522**

Significantly, no other soldier claims to have shot anyone this far south in Rossville Street. Moreover the engagement has not been recorded on the "Shot Plot" as prepared by Captain Jackson.

It will be recalled that the first and only occasion during which 015 allegedly pointed out his observations to Soldier 023 was in the statement taken by Lt Colonel Overbury on 16th February 1972. 023 had no recollection of this exchange **Day 360/40/5 to Day 360/40/22**.

It would seem therefore that 015 and 023 although conducting observations along the same axis of activity see different things and experience different events. By way of example, after describing the man with the rifle being shot above, 023 went on to describe a man at a window at 57 William Street take aim with a rifle and discharge at least one round. He then described how the man reappeared a few minutes later and how a high velocity shot rang out from a position directly below his and the man fell backwards. He then described bodies being removed from Glenfada Park and Block1 to waiting ambulances **B1519**, **B1520**. 015 on the other hand, relates how he heard a bullet strike the building somewhere beneath his position and how he heard a high velocity round being fired from the same location. He recalls nothing of the drama outlined by 023 although both witnesses generally share in their description of the dead and the dying being removed in ambulances.

18.7.2.179 The variations provided by these accounts appear to derive from the following:

i) They are the result of a poorly contrived attempt to justify the circumstances in which Private U cut down an unarmed individual.

ii) That the accounts provide a number of accurate descriptions of not one but several shooting incidents in which both victims and soldiers have failed to come forward.

It could of course be suggested that any evidence linking Private U to the death of Hugh Gilmore has been undermined by the evidence of PIRA14 and PIRA 26 who testified that the soldier they believed to have shot Hugh Gilmore was on the west side of Rossville Street. However, such a suggestion fails to make proper account of the expert conclusions drawn by Messrs Shepherd and O'Callaghan, namely that Hugh Gilmore was likely to have been shot twice.

Further Observations by Private U

18.7.2.180 In concluding his initial account to the RMP, Private U outlined how he reported his "hit" to the CSM who was standing nearby. As they were about to move forward "to recover the body and weapon" a priest accompanied by approximately ten other people came upon the scene and appeared to remove the body **B750**.

Having provided a detailed statement on 31st January 1972 concerning Bloody Sunday, Private U provided a further statement on 4th February detailing a highly dramatic and moving event which he alleges occurred after he had shot the individual in the vicinity of Block1. That statement records how he saw two bodies lying behind the Barricade and how observed a man aged approximately 45 emerge from the Rossville Flats. (It will be recalled that the unchallenged testimony before Lord Widgery was that Mr Nash (senior) emerged from Glenfada Park North.)

18.7.2.181 Private U alleged that this man propped up the body of a youth who appeared to have a stomach wound. At or about this point an arm

extended from the entrance of Block1 holding a pistol he observed the weapon jerk and a ricochet bullet strike five metres short on the southern side of the Barricade and then hit the middle-aged man in the right arm. Another shot was then discharged which appeared to strike the youth. The middle-aged man wandered off in a daze. A short time after this event an APC moved forward and removed three bodies from the Barricade. U believed that one of the deceased was the youth whom he had seen being shot earlier **B759**, **B760**.

18.7.2.182 The horrific nature of these events and the fearless actions of a father who in the face of overwhelming risk to his own life ran to the assistance of his dying son and whilst under sustained fire continued to provide what comfort he could during his final moments. It is beyond belief that Private U could witness such an incident and then neglect to include it in his initial description of the events witnessed by him that day. It is beyond all understanding that the event could be misrepresented in the manner described by U for no other apparent purpose other than to suggest that at least one of the deceased on the Barricade was killed by a civilian gunman.

Events not observed by Private U

18.7.2.183 Private U claimed not to have observed Kevin McElhinney shot as he crawled to towards the doorway of Block1. He was unable to explain how he could have failed to witness this despite the fact he must have been present when this happen **Day 369/163/11 to Day 369/164/1**. Similarly he claimed not to witness the shooting by Soldiers C and D from the pram ramp. He was unable to explain how he failed to see or hear this **Day 369/164/2 to Day 369/164/11**. He also was unable to explain how he failed to see the heated argument with Father Mulvey and Lieutenant N concerning the inhuman treatment of the denial of access to the bodies in the Mortar Platoon pig **Day 369/166/18 to Day 369/167/12**.

Missing Casualties

18.7.2.184 It is submitted that Private U never believed for one moment that the person he killed was not one of the thirteen bodies that were recovered. It is further contended that at no time did he inform any of his officers that "the person that I shot does not fit any of the known circumstances as to how people died that day", or that "the body that I killed was spirited away and, therefore, we will never know the truth of what happened". The witness confirmed that this was never a notion that struck him **Day 369/175/18 to Day 369/176/6**.

Loden Shot List

18.7.2.185 The witness said in evidence that he did not remember sitting in Major Loden's pig at Clarence Avenue telling him about the "gunman" he shot. He was asked whether he had seen the shot list before (**B2283.020**) and the witness said that he had only seen it recently when consulting with the Treasury Solicitors. Counsel pointed out to him that his allegations of shooting the pistol man do not appear on the list and the witness said that he accepted that he had not told Major Loden about the circumstances in which he opened fire **Day 369/179/25 to Day 369/183/10**.

18.7.2.186 A final example of the inconsistent character of the evidence provided by U concerns the experiences described by him after these events. In both his statements to the RMP, U makes no reference to the fact that shooting allegedly continued for some time after the events described by him were over however in his statements to the Treasury Solicitor, U provides the following account:

> "All this time I could hear sporadic firing from behind me in the direction of the forecourt of Rossville Flats. The firing was low velocity and high velocity. I heard no explosions." **B769**

In his oral evidence in 1972, U stated that the shots heard by him were between twenty and thirty in number **WT13.100 E**.

18.7.2.187 It is submitted that this serves to demonstrate this witness' willingness to adapt and expand upon evidence that he believes will serve to provide an impression of consistency among the soldiers. The willingness to lie in order to secure this objective is not only confined to U but represents a disregard for the truth which is shared by every soldier materially involved in the events of this day.

18.7.3 Anti-Tank Platoon

18.7.3.1 Anti-tank platoon were an 17 man platoon. They were deployed into Rossville Street in the last 2 Pigs to enter the Bogside, positioned behind the soft-skinned lorries occupied by Composite Platoon. The soldiers in Anti-Tank Platoon were under the command of Lieutenant 119, who was in the first of the Anti–Tank Platoon Pigs, the Platoon Sergeant INQ 1694 was in the second of these Pigs.

18.7.3.2 It has proved virtually impossible to identify which Anti-Tank Platoon soldiers were present in which pig. If the evidence of each soldier on this issue was to be accepted, virtually every soldier was in the second pig with only a tiny minority identifying themselves as having been in the first Pig.

18.7.3.3 We do know that the first Anti-Tank Platoon Pig to enter the Bogside was commanded by Lieutenant 119 and driven by INQ 1581. The second Pig was commanded by Platoon Sergeant 1694 and appears to have been driven by L/Cpl 036.

18.7.3.4 **Table 1** at **Appendix 1** shows the occupants of each pig with their designated roles and their movements after debussing, as far as we can tell from their own evidence.

18.7.3.5 None of the evidence given by soldiers of Anti-Tank Platoon sheds any light on the question of whether a proper order was given to go through Barrier 12. However, the evidence from a number of soldiers from Anti-Tank Platoon does shed light on the approach of Support Company to the arrest operation which was to be conducted.

18.7.3.6 Lieutenant 119 when asked about the operation "to control" rioters **B1435** acknowledged that in reality by the time the Pigs entered Rossville Street there was little prospect of arresting anybody:

"Q. You agree with me, that there was little chance of arresting people?

A. I think by that time – at that stage, yes, sir."

Day 364/101/6 to Day 364/101/14

18.7.3.7 As appears from the Video and Photographic evidence by the time Anti-Tank Platoon debussed, rioters had dispersed from Barriers 12 and 14 and civil rights marchers were also running away from the Pigs down Rossville Street. If the objective was to prevent the march reaching the Guildhall and put a stop to rioting at the Barriers, the objective had been achieved before a single member of Support Company debussed.

18.7.3.8 Despite this the approach of Anti-Tank Platoon was to advance – advance – advance. As appears from Soldier J's RMP statement Anti-Tank Platoon's objective were in a continuous state of advance up Rossville Street. **Day 370/111/23**

B265 "We were tasked to advance along Rossville Street towards the Lecky Road. . . . As we advanced along Rossville Street . . . I was positioned on the right hand side of Rossville Street advancing near to Columbcille Court . . ." **B266** ". . . my rifle which was cocked at the start of the advance . . . I then, accompanied by other members of my unit, advanced further along Rossville Street towards the barricade. . . . The advance

was continued and the crowds from the barricade were dispersed."

18.7.3.9 Or as Soldier J articulated in his statement to this Inquiry "The only way to clear an area is to move forward. You can't stand still; you have to move on." **B289.004 paragraph 24**

18.7.3.10 It is submitted that Anti-Tank Platoon's approach to the arrest operation, demonstrates that by the time the Pigs halted in Rossville Street, if not before, the operation was not a genuine 'arrest' operation but was rather an organised attack or assault on the crowd of unarmed marchers. Which, in the case of Anti-Tank Platoon, involved shooting at fleeing civilians.

18.7.3.11 Anti-Tank Platoon soldiers have suffered an unusually high degree of collective amnesia about the events of Bloody Sunday, and most of these soldiers are unable now to state when and where their vehicles stopped. However the available evidence suggests that Anti-Tank Platoon "leapfrogged" Composite Platoon and were the first soldiers to take up position at the low wall at Kells Walk.

18.7.3.12 That this is the case is demonstrated by **EP2.8** a photograph which shows Col. Wilford at Kells Walk. The evidence before the Tribunal is that the soldiers in that photograph are soldiers from Composite Platoon and that the photograph is taken at a point in time at which soldiers from Anti-Tank Platoon have gone through to Glenfada Park. (See for example, **B1752.016 paragraph 27** Lt. 119)

18.7.3.13 Given that Anti-Tank Platoon arrived at the Kells Walk Wall first the group of soldiers at the lee of derelict buildings at the top of Rossville Street in **P1116** would appear to be the soldiers from Anti-Tank Platoon. **P1120** and **P1121** show the arrival of soldiers from Anti-Tank Platoon at Kells Walk. As appears from these photographs soldiers from Anti-Tank Platoon passed in front of Kells Walk and appeared to

speak with Soldiers P and 017 before returning behind Kells Walk. Neither Soldiers P, nor 017, nor any of the soldiers of Anti-Tank Platoon has advanced an explanation for what occurred at that point.

18.7.3.14 Another major issue which arises in relation to the deployment of Anti-Tank Platoon is the segment of Video 48 **V48/11.35 to 11.55** which shows what appears to be a full platoon of soldiers passing around the front of the Kells Walk Wall and deploying down Rossville Street in front of Kells Walk Wall.

18.7.3.15 The majority of soldiers from Anti-Tank Platoon claim not to have entered Glenfada Park North. By the time **EP2.8** has been taken there would appear to be no Anti-Tank Platoon soldiers on Rossville Street, in line with the evidence from the photograph and the evidence of the soldiers who identify themselves in that photograph. There is moreover no evidence from photographs, actuality footage or evidence from witnesses before the Inquiry of any retreat by soldiers from Anti-Tank Platoon back up Rossville Street prior to the arrival of Composite Platoon at the Kells Walk Wall.

18.7.3.16 No soldier from Anti-Tank Platoon has ever provided an explanation for the actions portrayed in this video whether in 1972 or subsequently.

18.7.3.17 What the video demonstrates beyond doubt is that:

i) More soldiers from Anti-Tank Platoon than have ever acknowledged the fact, left the low wall at Kells Walk and advanced down Rossville Street.

ii) They did so as a full Platoon, and not with a small group comprising 4 or slightly more soldiers leading the way.

iii) In advancing down Rossville Street they were totally exposed to the Rubble Barricade and clearly did not regard themselves as under any threat from persons behind the Rubble Barricade.

iv) Soldiers from Anti-Tank Platoon as a body failed to give an account of their actions in this respect in 1972. It is submitted

that this collective failure demonstrates that soldiers were involved in collusion designed to mask the truth of the actions of Anti-Tank Platoon on Bloody Sunday, particularly with regard to their deployment into Glenfada Park North. Of course **Video 48** was not available to the Widgery Inquiry and soldiers did not envisage that video evidence would subsequently demonstrate the dishonesty of their accounts.

v) Soldiers from Anti-Tank Platoon, without exception, have failed to give this Inquiry an explanation as to what was happening, demonstrating that soldiers are continuing to try to prevent the Inquiry from establishing the truth of the actions of Anti-Tank Platoon in either Sector 3 or Sector 4.

18.7.3.18 The accounts given by the soldiers as to how, where and when they fired their shots, when they gave evidence to Lord Widgery, are summarised in a table appended to Inquiry Counsel Report No. 1. As we have previously noted it is unwise to place any reliance on these accounts. Firstly, because soldiers gave different accounts when they were first asked to account for their shooting to Major Loden and subsequently the Royal Military Police, and also because some of their accounts have changed further in their evidence to this Inquiry. For what they are worth, they are summarised below. This summary is confined to the shots claimed to have been fired by soldiers from Anti-Tank Platoon within Sector 3 and does not deal with shots fired by these soldiers in other Sectors.

18.7.3.19 Anti-Tank Platoon admit to having fired 44 shots[9] in total in sectors 3, 4, and 5. Of those shots it is claimed that a total of 13 were fired in Sector 3, 15 if Soldier G's shots fired down the alleyway towards Glenfada Park North are included. However, if the account of soldiers of Anti-Tank Platoon was to be accepted the majority of these shots

[9] This is based upon the premise that Soldier G's shots down the alleyway are regarded as having taken place in Sector 3. The total number of shots include the shots claimed by David Longstaff, INQ 023

were fired at a point in time after all of the civilian casualties in Sector 3 had been killed or injured.

18.7.3.20 Of the shots he claims to have fired in Sector 3 **L/Corporal F** claims to have fired only 1 of those shots over the Rubble Barricade, which shot accounted for the death of Michael Kelly. He claims to have fired a further 8 shots at 3 separate windows in Block 1 of the Rossville Flats at a point in time after Anti-Tank Platoon had returned to Rossville Street from Glenfada Park North and by which time all of the casualties in Sector 3 had been killed. **Soldier G** also claims to have fired 1 shot at window in Block 1 of the Rossville Flats at this time. In consequence 9 of the shots which soldiers from Anti-Tank Platoon claim to have fired in Sector 3 were not, on their evidence fired over the Rubble Barricade and were, in any event, fired at a stage in the day when they could not account for the deaths or injuries sustained by civilian casualties at the Rubble Barricade.

18.7.3.21 Thus the shots claimed by soldiers from Anti-Tank Platoon which are capable of accounting for the deaths behind the Rubble Barricade total 6.[10] **L/Corporal F** eventually admitted to having fired a shot from behind the low wall at Kells Walk at a man behind the Rubble Barricade, who he claims was attempting to throw what he believed to be a nail bomb. We know that **L/Corporal F** killed Michael Kelly. **Corporal G** fired 2 shots at a gunman in the alleyway between Glenfada Park and Columbcille Court. **Corporal E** fired 1 shot from the low wall at Kells Walk at an alleged sniper in Block 1 of the Rossville Flats. **L/Corporal J** fired 1 shot from the low wall at Kells Walk at someone he claimed to have believed to be throwing a nail bomb, however he claims to have missed his target. **L/Corporal J** fired a further shot from the alleyway between Glenfada Park North

---

who was not one of the soldiers who gave evidence at the Widgery Inquiry and who now claims to have fired a shot in Glenfada Park.

[10] In addition we have the 2 shots fired by Soldier G which while included in this paragraph, cannot account for the deaths behind the Rubble Barricade.

and Columbcille Court at someone throwing a fizzing object from the s-w corner of Block 1.

18.7.3.22 **Table 2** at **Appendix 1** shows the soldiers who fired and their claims as to where they fired from, what and where they fired at, the number of shots they fired, by whom they were seen to fire, whether they struck their targets and the most likely victims. It will be submitted that it is evident from the inability of soldiers to account for the number of persons killed behind the Rubble Barricade that their accounts of the circumstances in which they fired cannot be accepted. . What is noteworthy with regard to this Table is the fact that no soldier apparently is capable of identifying any soldier from Anti-Tank Platoon shooting over the Rubble Barricade at the time when civilians were shot and killed, with the sole exception of Soldier 027 whose account provides no justification for the shooting by Soldier F of Michael Kelly.

18.7.3.23 **Table 3 Appendix 1** shows the accounts of the soldiers as to when they first heard shots.

18.7.3.24 **Table 4 Appendix 1** suggests a possible order in which shots were fired by soldiers. Relying, as it does, on admittedly unreliable soldiers' evidence, the contents of this table are highly speculative.

18.7.3.25 **Table 5 Appendix 1** represents an attempt to provide a quick-reference tool which allows ready comparison of the accounts given by all the soldiers in Anti-Tank Platoon about certain material matters, such as whether they saw any civilians with weapons or heard any nail bombs. It will be remembered that, in Counsel Report No.2, Jacob Grierson prepared a comprehensive table identifying the apparent discrepancies and inconsistencies between the different statements made by each soldier and in Counsel Report No.3 there is an attempt to compare the accounts offered by the different soldiers.

18.7.3.26 Finally, while it is proposed to deal with the individual soldiers considered most relevant, this section will be confined to dealing with Sector 3. The conduct of the soldiers of Anti-Tank Platoon in Glenfada Park North and Abbey Park will be addressed in Sector 4.

Individual Soldiers in Anti-Tank Platoon

Lieutenant 119

18.7.3.27 Lt 119 was the commanding officer of Anti-Tank Platoon. As such he is the commanding officer of the Platoon which on any account is responsible for the majority of the deaths and injuries which occurred on Bloody Sunday. Anti-Tank Platoon account for all of the deaths and injuries in Glenfada Park North and Abbey Park, as well as for the deaths of Mickey Kelly, Bernard McGuigan and Patrick Doherty[11]. In addition, although they deny responsibility it is evident that, along with Soldier P, soldiers from Anti-Tank Platoon were responsible for the deaths of John Young, Michael McDaid and William Nash.

18.7.3.28 Even Lord Widgery found the conduct of soldiers from Anti-Tank Platoon to have "bordered on the reckless" and that their shooting in Glenfada Park was "without justification".

18.7.3.29 In these circumstances serious questions arise for the commanding officer whose responsibility it was to exercise command and control over the conduct of the soldiers of Anti-Tank Platoon in the course of the operation.

1972 Statements

18.7.3.30 In 1972 Lieutenant 119 made 3 statements about the events of Bloody Sunday, as well as giving evidence to the Widgery Inquiry. In his statement to this Inquiry he has stated that he wishes to:

> "reiterate the difficulty that I now have between determining what I now remember and what I have subsequently learnt about Bloody Sunday, particularly given the period that has

[11] Admitted by Soldier F

passed. Having said which I am confident that what I said in my various witness statements at the time and what I said to the Widgery Tribunal was accurate." **B1752.020 paragraph 47**

18.7.3.31 The difficulty is that there are significant discrepancies between the various accounts given by Lt. 119 about the events of Bloody Sunday in the statements made by him in 1972.

18.7.3.32 Lt. 119's first RMP statement was made on the 31st January 1972. As Lt. 119 acknowledged in the course of his evidence to this Inquiry, it was made at a time when he had received reports about the actions of his troops and had made a report to Major Loden. **Day 364/17/12 to Day 364/17/25** Inasmuch as it refers to Sector 3 he states that:

i) "We had been travelling down Rossville Street in the direction of Lecky Rd when the vehicles came under fire from the Rossville Flats and Glenfadda Flats. It was decided to debus and continue the advance on foot." **B1435**

ii) "As we were advancing along the right hand side of Rossville Street my Pl came under fire from snipers concealed in the Glenfadda Flats." **B1435** The grid reference supplied GR 43201683 represents a position inside and to the south of the Glenfada Park North courtyard.

iii) "Under the command of 'E' and 'F' a number of my platoon entered a square, Columbcille Court ." **B1435**

18.7.3.33 Lt. 119 acknowledged in the course of his evidence to this Inquiry that, when making his first RMP statement, he would have understood the importance of providing any information to the RMP which would have justified the decisions made by his soldiers in opening fire. **Day 374/19/9 to Day 374/19/22**

18.7.3.34 Yet by the time he goes to make his second RMP statement on the 4th February 1972 he adds some significant matters not mentioned at all in the first account he gave to the RMP, specifically:

i) Anti-Tank Platoon were advancing towards "the mob of rioters with the object of arresting as many as possible." **B1752.036**

ii) As they advanced they "came under fire from at least two different directions". **B1752.036**

iii) On reaching the Kells Walk Wall he "heard a number of shots, from what sounded like a pistol, and also from an M1 rifle." He estimated that 7-10 rounds were fired in total and that they had "passed very close over our heads." **B1752.036**

iv) He stated that the pistol was "located at ground level at the corner of Glenfada Park Flats" about 30 metres ahead and to his right and that he saw "muzzle flashes" although not the weapon. He speculated that the gunman was "aiming quickly around the corner of this building without exposing himself." **B1752.036**

v) The M1 rifle was "located at one of the windows of Rossville Flats towards the Southern end and, probably on the top floor, and almost at the end of the building." Again he was unable to see either the weapon or the person holding it but based his conclusion on his "experience and the noise of the report and rounds passing overhead." **B1752.037**

vi) He then states that he "sent 'E' and 'F', together with a party of men around the right of Glenfada Park and sending for my vehicles at the same time for cover. When I had satisfied myself that the men in the open were now in cover I myself moved into Glenfada Park." **B1752.037**

18.7.3.35 Thus as between Lt. 119's RMP statement, inasmuch as they relate to Sector 3, there are the following discrepancies:

i) His first RMP statement describes coming under fire from a location within Glenfada Park North from which he could not have come under fire.

ii) In his first RMP statement he describes snipers (plural) firing from Glenfada Park North.

iii) He fails to describe a pistol man behind the Rubble Barricade and makes no reference to anyone firing from the Rossville Flats, in particular there is no reference to the use of an M1 carbine.

18.7.3.36 Lt. 119 then goes on to give a statement to the Treasury Solicitors in which he provides further information, which differs in material respects from his earlier accounts:

i) "I saw that the leading Platoon had come under fire. . . I was carrying an SLR and cocked it. I assume my men did the same. The sound of cocking is clearly audible and when the Commander cocks his weapon, his men will do the same." **B1752.043 paragraph 5**

ii) The reason for sending men to Glenfada Park North was with the objective of cutting "off the gunmen by the Barricade." **B1752.044 paragraph 7**

iii) "As soon as my vehicles were in a position to give us satisfactory cover from the fire from Block 1 I moved forward myself into Glenfada Park courtyard." **B1752.044 paragraph 7**

18.7.3.37 Finally Lt. 119 gave evidence at the Widgery Tribunal in the course of which he stated as follows:

i) That he saw 3/4 strikes land close to the right-hand side of the Mortar Platoon's vehicles. **WT14.10E-F**

ii) That 3/4 rounds passed overhead from the pistol located at the south east corner of Glenfada Park. **WT14.12D-E**

iii) That 8/9 shots were fired from the M1 carbine. **WT14.13A**

iv) That one soldier returned fire and that he was unable to identify that soldier. **WT14.13C**

v) That after they returned from Glenfada Park Soldiers F and G both left the vehicle with F at the front and G at the left hand side in response to the radio operator pointing out fire from Block 1 and that he saw F fire 2 shots. **WT14.15D-E**

18.7.3.38 There are significant and material discrepancies as between the various accounts given by Lt 119 in 1972. Specifically:

i) In his first statement he states in clear terms that the Pigs from his Platoon came under fire. When he deals with this subsequently he states that it was the lead Pig from Mortar Platoon which came under fire and that he saw 3/4 shots hit the ground on the right hand side of this Pig.

ii) In his first statement he states that once his Platoon began to advance up Rossville Street on foot they came under fire from snipers inside Glenfada Park. Aside from the fact that he could not have come under fire in Rossville Street from anyone located at the Grid reference which he provided, in his subsequent statement these snipers become, a pistol man at the mouth of Glenfada Park North and someone with an M1 carbine shooting from the top floor of Block 1 of the Rossville Flats. There is no explanation for the fact that in his first statement the snipers can be found at the same location, while in his second they are coming under fire from "two different directions". Moreover there is no explanation for the omission of the detail about the types of weapon being used in the first statement.

iii) The first occasion in which he describes a soldier as having fired a shot from the Kells Walk Wall is during the course of his oral testimony to Lord Widgery, he does not refer to this in any of his written statements.

18.7.3.39 Given that Lt 119 now contends that he has no real memory of what occurred and relies upon his 1972 account as accurate the question is which of the varying accounts he has given, if any, should be accepted by the Tribunal.

18.7.3.40 The second difficulty which arises from Lt. 119's reliance on his 1972 accounts is that some of the accounts are patently and demonstrably

untrue as was clearly established in the course of his evidence to this Inquiry.

Pigs Coming under Fire

18.7.3.41 The first example of Lt. 119's evidence being untrue relates to his contention that the Mortar Platoon Pigs came under fire. As dealt with previously, in Lt. 119's original account it was the Pigs from his own Platoon which came under fire, significantly, no other member of Anti-Tank Platoon, apart from Soldier H has ever contended that their Pigs came under fire as they entered Rossville Street.

18.7.3.42 Since making his statement to the Treasury Solicitor Lt. 119 has consistently made the case that it was the lead Pig in Mortar Platoon which came under fire and that he saw 3/4 shots hit the ground on the right hand side of the lead Pig. In his evidence to this Inquiry he has stated that "I still have a snapshot of one of those rounds". **Day 363/121/19 to Day 353/121/20**

18.7.3.43 The difficulty for Lt. 119 is that **EP29.3** which is a still from the heli-tele shows clearly that while the second pig of Mortar Platoon was quite close to the first pig "there was a sizeable gap between the second Pig and the next following vehicle which would have been Major Loden's command vehicle." **Day 363/122/8 to Day 363/122/12**

18.7.3.44 Video 48 also demonstrates that "the command vehicle is some way behind the second Mortar Platoon Pig and the Ferret is some way behind the command vehicle, apparently at a time when the fist Pig of Mortar Platoon has turned off and then behind the Ferret car are the two Pigs of the Machine-Gun Platoon and then there is the two lorries and then there is the two Pigs of your own Platoon." **Day 363/122/24 to Day 363/123/6**

18.7.3.45 It was thus clearly demonstrated, through the photographic evidence, and the actuality footage, that Lt. 119 could not have seen the Mortar

Platoon Pig come under fire from his location in the first of the Anti-Tank Platoon Pigs. The only conclusion can be that he lied about this in order to provide some justification for the subsequent actions of soldiers in his Platoon involved in the use of lethal force. It is not without significance that he made the case that the fire came from the Rossville Flats in circumstances where soldiers from his Platoon apparently fired a large number of rounds at persons in the Rossville Flats whom they alleged were using weapons against military personnel.

18.7.3.46 The issue is significant not merely because it demonstrates that Lt. 119 was lying about what occurred on Bloody Sunday from the very outset of the engagement, but also because it provided the justification for Lt. 119 and the other soldiers in Anti-Tank Platoon to cock their rifles.

18.7.3.47 It is submitted that even had his evidence been truthful in relation to witnessing Mortar Platoon come under fire, the decision to cock rifles was in breach of the Yellow Card.

Cocking Rifles

18.7.3.48 Lt 119's evidence in his TSOL statement was

> "As we passed through . . . I saw that the leading Platoon had come under fire. When hostile fire is observed it is the practice to cock weapons without further order. I was carrying an SLR and cocked it. I assume my men did the same. The sound of cocking is clearly audible and when the commander cocks his weapon his men will do the same."
> **B1752.043 Paragraph 5**

18.7.3.49 Giving evidence to Lord Widgery, he said

> "A. Having observed that they were under fire I cocked my weapon as I de-bussed. I had an SLR, sir."

"Q. Of course, when the Platoon Commander cocks his weapon, is it right that the others do as well? A. Yes sir, that is right.

Q. Or should do, at any rate? A. Yes, sir." **B1752.048**

18.7.3.50 The Yellow Card, as it was in force at that time stated as follows

"...Unless you are about to open fire no live round is to be carried in the breech and the working parts must be forward. Company Commanders and above may, when circumstances in their opinion warrant such action, order weapons to be cocked, with a round in the breech where appropriate, and the safety catch at safe."[12]

18.7.3.51 The action taken by Lt 119 and the soldiers in his Pig in cocking their weapons was therefore contrary to the yellow card, even had Lt. 119 seen the Mortar Platoon Pigs come under fire. He was not of sufficient rank to authorise his men to cock their rifles and his men were not entitled to cock their rifles simply because their Platoon Commander did so. In reality of course Lt. 119 could not see any gunmen and was not "about to open fire".

18.7.3.52 It is unclear whether Lieutenant 119 failed to understand the limitations placed by the Yellow Card or simply disregarded it. The fact that he defended his actions by reference to the Yellow Card suggests the former rather than the latter. However, given the reliance placed by more senior officers on the Yellow Card as controlling the circumstances in which lethal force would be used by soldiers on the ground, Lt 119's apparent confusion as to what was permitted raises major issues. If a Platoon commander and the men of his Platoon were interpreting the Yellow Card as authorising them to cock their rifles in circumstances where they were not so authorised it undermines the effectiveness of the Yellow Card as a method of preventing unlawful

[12] Yellow Card (November 1971 Revision) **ED 71.1**. See general rules no. 4

use of force. It also raises the question of the extent to which more senior officers, at least within 1 Para, and apparently throughout Northern Ireland, failed to take steps to ensure that soldiers did not use lethal force except as permitted by law.

18.7.3.53 The decision of Lt 119 and the men of his Platoon to cock their rifles, even prior to debussing is also significant in that it illustrates the mindset of Anti-Tank Platoon on Bloody Sunday. A mindset in which there was a total disregard for the limitations placed on the use of lethal force by the Yellow Card and a willingness and eagerness to engage in the use of lethal force should the opportunity arise. An eagerness which went far beyond the use of lethal force in circumstances where soldiers believed themselves to be justified and which ended with the killing and wounding of unarmed civilians fleeing from the soldiers.

Kells Walk Wall

18.7.3.54 Lt. 119's evidence is that after they debussed and as they advanced up the right hand side of Rossville Street they came under fire. We have already addressed the discrepancies between Lt. 119's various accounts as to where they came under fire and from and by what weapons.

18.7.3.55 According to Lt. 119 it was the fact of being under fire which resulted in the decision to seek cover at the Kells Walk Wall. However Lt. 119 is unable to provide any explanation for the scene shown in photograph **EP27.6** which shows "an obvious and substantial gap with nothing going on, between the convoy of vehicles at the north of Rossville Street and a group of 40 or 50 people standing up behind the rubble barricade". **Day 363/126/1 to Day 363/126/6**

18.7.3.56 Lt. 119 states that he was one of the first to debus and one of the first to arrive at the low wall at Kells Walk. **B1752.015 paragraph 27** Thus on his own evidence Lt. 119 would have been among the first, if not the first, soldier from his Platoon to arrive at this location. He was also the officer in charge, and thus responsible for decisions with regard to

deployment. At the time he arrived Soldiers P and 017 were already positioned in front of the Kells Walk Wall on Rossville Street. Despite this Lt. 119 has never given an account, either in 1972 or subsequently, to explain what was happening in photographs **P1119** and **P1120** where members of his Platoon advanced forward of the Kells Walk Wall and were involved in communication with Soldiers P and 017.

18.7.3.57 The photographs are significant in a number of respects:.

i) They demonstrate that there was communication between Anti-Tank Platoon and Soldiers P and 017, in circumstances where a reading of their statements would suggest that they were not even aware of each other.[13]

ii) The photographs contradict the evidence of Lt. 119 to the effect that Anti-Tank Platoon were coming under fire as they advanced down Rossville Street in that soldiers were able to move forward of the low wall without cover.

iii) At no stage does it appear that Soldiers P and 017 required cover from the Kells Walk Wall, moreover their location provided no cover from any fire directed from the Rossville Flats, undermining entirely Lt. 119's suggestion of a gunman with an M1 carbine.

18.7.3.58 Lt. 119 has moreover never provided an account of the actions of P and 017 in circumstances where we know that Soldier P fired at least 9 shots down Rossville Street and 017 discharged a number of baton rounds.

18.7.3.59 Lt. 119 also failed to see any of the targets whom his soldiers claim to have fired at, nor any of the nail bombs apparently thrown down Rossville Street and seen by Soldier J.[14]

[13] Soldier P does in the course of his Widgery evidence acknowledge that there were soldiers behind him, although he states that he believed that they were members of Composite Platoon.

18.7.3.60 According to Lt. 119 he was aware of only one soldier from his platoon firing a shot from the Kells Walk Wall and that shot was fired in the direction of the pistol man behind the Rubble Barricade. He has never identified the soldier in question.

18.7.3.61 His explanation for having been aware of only one shot, in circumstances where even on the account of Anti-Tank Platoon there were 3 shots, was that there were "A lot of other things going on at the same time." When asked what other things he replied "just the general situation". **Day 363/137/6 to Day 363/137/14** That general situation was one in which Soldier P fired 9 shots, Soldier 017 was firing baton rounds, and at least 3, and probably more live rounds were fired by Anti-Tank Platoon and 4 young men were shot and killed behind the Rubble Barricade. Yet Lt. 119 missed all of those events, and cannot state beyond a reference to the "general situation", what it was that would have prevented him from seeing or hearing what was occurring around him, in circumstances where his platoon were in his immediate vicinity and he was ostensibly in control of their actions.

18.7.3.62 Of the 3 soldiers from his platoon who admit an involvement in shooting from behind the Kells Walk Wall, none of them claims to have fired at a man with a pistol. Soldiers F and J who admit shooting over the Rubble Barricade claim that their targets were nail-bombers, while Soldier E who shot in the direction of the Rossville Flats claims to have shot a gunman with a Luger machine pistol.

18.7.3.63 While Soldier P does claim to have fired at a man with a pistol behind the Rubble Barricade, there are a number of discrepancies between his account and that of Lt 119:

i) Soldier P fired 4 shots and was positioned in front of the Kells Walk Wall when he fired his shots, whereas Lt 119 claims that

[14] Lt. 119 did not see the nail-bomber at whom Soldier F fired, nor the nail-bomber at whom Soldier J fired, nor the man with a Luger machine pistol at whom Soldier E fired.

it was a soldier from his Platoon who fired 1 shot and was positioned behind the Kells Walk Wall.

ii) Soldier P's pistol man was crouching behind the Rubble Barricade while Lt. 119's target was apparently firing from the south-east corner of Glenfada Park North and "aiming quickly around the corner of this building without exposing himself." **B1752.036**

iii) Most significantly however Soldier P claims to have hit his target while the pistol man identified by Lt. 119 could not have been killed because it is the existence of that pistol man which provides the justification for the movement of Anti-Tank Platoon into Glenfada Park North.

Decision to Move into Glenfada Park

18.7.3.64 According to Lieutenant 119 the decision to advance into Glenfada Park North was in order to cut off the pistol man behind the Rubble Barricade. **B1252.044 paragraph 7**

18.7.3.65 His evidence is that he initially sent 'some' of his men, including Soldiers E and F into Glenfada Park North, while at the same time sending a runner back to the Anti-Tank Platoon vehicles to bring them forward to provide cover to allow the remainder of his platoon to advance.

> "To cover us from fire from Block 1 I sent a runner to order up our vehicles to give us cover on the road. I then ordered some men forward into the courtyard of Glenfadda Park, hoping to cut off the gunmen by the barricade. As soon as my vehicles were in a position to give us satisfactory cover from the fire from Block 1 I moved forward myself into Glenfada Park courtyard." **B1752.044 paragraph 7** See also **B1752.037**

18.7.3.66 However photographs and actuality footage demonstrate that this account is patently untrue.

18.7.3.67 In the first instance **V48/11.35 to 11.55** demonstrates that virtually every member of Anti-Tank Platoon advances forward of the Kells Walk Wall as a unit, the numbers advancing are approximately 17, the number of men in Anti-Tank Platoon, and it is clear that there is not at that time, nor has there been, any advance party. Whether or not they all eventually entered Glenfada Park North, all of Anti-Tank Platoon moved forward down Rossville Street together.

18.7.3.68 It is also clear that members of Anti-Tank Platoon did not wait to be provided with cover from vehicles prior to advancing up Rossville Street. **V48/11.35 to 11.55** not only demonstrates that Anti-Tank Platoon moved as a unit, but they did so in the absence of cover and no vehicles had been brought forward when they moved. **EP2.8** moreover demonstrates that, at a point in time after Anti-Tank Platoon had left the Kells Walk Wall their vehicles had still not been brought forward.

18.7.3.69 The evidence is also inconsistent with the evidence of Soldier 147. According to Soldier 147 the reason he remained with the vehicle was in order to take messages or to move the armoured vehicle to another position if ordered to do so. **B1889** If Soldier 147 is correct, Lieutenant 119 had no need to send a runner back to the vehicles, he could simply have radioed Soldier 147 who was waiting in the vehicle for that very order.

18.7.3.70 It is contended that the evidence given by Lt. 119 that he had to wait for cover before advancing into Glenfada Park North is patently untrue and was advanced for the following reasons:

i) To perpetuate the suggestion that his soldiers were under fire from the Rubble Barricade and Rossville Flats and thus in need of cover. In this way Lt 119 sought to provide some justification for the decisions made by soldiers in his platoon to open fire.

ii) At the same time Lt 119 sought to distance himself from the movement by Soldiers E, F, G and H into Glenfada Park North and thus to distance himself from the murders carried out by his Platoon in that courtyard. Or as it was put by Counsel acting on behalf of the families what he was "looking for was an explanation as to how you as the commander of a platoon had failed to see the actions of that platoon and their conduct in Glenfada Park" **Day 364/38/1 to Day 364/38/5**

Soldier 027

18.7.3.71 Soldier 027, Anti-Tank Platoon's radio operator, has made a number of serious allegations against Lt. 119 and other members of Anti-Tank Platoon.

18.7.3.72 He contends that at a briefing held the night before they went to Derry Lt. 119 said to his platoon "lets teach those buggers a lesson – we want some kills tomorrow". Lt. 119 denies that suggestion.

18.7.3.73 In relation to the events at the Kells Walk Wall he alleges that soldiers from Anti-Tank Platoon, and specifically F, G and INQ 635, opened fire in the direction of the Rubble Barricade and fired a substantial number of rounds, killing people behind the Rubble Barricade. He maintains that he could not see targets behind the Rubble Barricade. This allegation is also denied by Lt 119.

18.7.3.74 It is accepted that Soldier 027 was a witness prone to hyperbole and that he has since qualified the allegations contained in the document prepared by him in 1975. Nonetheless it is the case that the account given by Lt 119 is riddled with inconsistencies and lies. The same is true of the accounts given by other soldiers of Anti-Tank Platoon and the Mortar Platoon soldiers on Rossville Street. These accounts fail entirely to explain how John Young, Michael McDaid or William Nash met their deaths, in circumstances where they were killed by soldiers

firing down Rossville Street at the time Anti-Tank Platoon and Soldiers P and U were positioned on Rossville Street.

18.7.3.75 Moreover the account of how Michael Kelly met his death was advanced at an extremely late stage in proceedings and at a time after it had been established that a bullet from Soldier F's gun had killed Michael Kelly.

18.7.3.76 In neither the evidence presented to the Widgery Inquiry, nor the evidence presented to this Tribunal have soldiers from Anti-Tank Platoon told the truth about the extent of the shooting from Kells Walk to the Rubble Barricade. In reality while the account given by Soldier 027 has undoubtedly been exaggerated it is probably as close to the truth as this Tribunal has heard.

18.7.3.77 Certainly soldiers from Anti-Tank Platoon fired more rounds from the Rubble Barricade than they have admitted, they fired them at unarmed civilians and they fired them in circumstances in which they feel unable to justify their use of lethal force.

Command and Control

18.7.3.78 Lt 119 gave evidence to this Inquiry that in circumstances where Anti-Tank Platoon could have been responsible for the deaths of 11 people and seriously wounding 7 others, people who it is accepted were unarmed, his "command and control on [Bloody Sunday] was . . . as it should be". **Day 364/11/8 to Day 364/11/11**

18.7.3.79 There is some evidence before the Tribunal that Lt 119 did not in fact command the respect of his troops and did not have sufficient authority to exercise command and control over soldiers in his Platoon and in particular some of the more senior NCOs such as Soldiers F.

18.7.3.80 INQ 1253 gave evidence to this Inquiry that he had spoken to Lt 119 shortly after Bloody Sunday and that as a result of that conversation he

had got "the impression that it was troops whom he had commanded who were described as "out of control" and running ahead of him and being frightened?" **Day 304/6/20 to Day 304/6/29** Or as he stated under questioning from Lt 119's counsel

> "I think he was concerned that he had been responsible for these soldiers and had found it difficult to control them and everything else because of the circumstances on the day. He felt that it -- I am not going to say that he felt it was unmanageable; he just felt that -- that there was something wrong on that day." **Day 304/13/4 to Day 304/13/9**

18.7.3.81 There is some confusion in INQ 1253's account as to whether the troops being referred to by Lt 119 were soldiers from Anti-Tank Platoon or soldiers from Composite Platoon, in that INQ 1253's impression was that the soldiers being referred to were soldiers from Headquarters but that they were under the command of Lt 119.

18.7.3.82 Another possible explanation for the confusion may be the fact that at least one of the soldiers from Anti-Tank Platoon and a soldier in respect of whom Lt 119 has been expressly critical, had only recently come from Headquarters, Soldier H.

18.7.3.83 Soldier 018, a member of Anti-Tank Platoon has also made a statement which would again suggest that Lt 119 was unable to exert the level of control required of a Platoon commander, or at least the Platoon commander of Anti-Tank Platoon of 1 Para which appears to have been somewhat dominated by figures such as F and G. Soldier 018 describes Lt. 119 as a

> "young chap who had not long passed his officer training course. It may have been his first command of a platoon. He came with his own ideas and vision of what he wanted and, initially, he did not gel with the other men in the Platoon. However, he did mellow after a while, this may

have been because the NCO's in other platoons had a word with him." **B1489 paragraph 6**

18.7.3.84 On the evidence before this Tribunal about the conduct of Anti-Tank Platoon on Bloody Sunday, it is clear that those soldiers were either: operating completely beyond the control of Lt 119, or that Lt 119 was in fact in control and that soldiers from Anti-Tank Platoon were out to "get some kills" on Bloody Sunday.

18.7.3.85 What is clear is that the photographic and actuality footage demonstrates that:

i) Lt 119 must have witnessed the killings at the Rubble Barricade, whether they were carried out by Anti-Tank Platoon, or a combination of Anti-Tank Platoon and soldiers from Mortar Platoon.

ii) Lt 119 has been demonstrably dishonest in his account of what happened on Bloody Sunday and that dishonesty has had as its objective the provision of some justification for the actions of his soldiers in using lethal force, while distancing Lt 119 from the use of lethal force.

18.7.3.86 It is contended that Lt 119, was at the very minimum a witness to the use of unjustified lethal force against unarmed civilians behind the Rubble Barricade. That he witnessed the murder of Michael Kelly, John Young, Michael McDaid and William Nash by soldiers of 1 Para, some of whom were members of his own Platoon, and that he has since that time participated in a criminal conspiracy to cover up the events of that day and the murder of innocent civilians by soldiers under his command.

18.7.3.87 Significantly, despite the fact that soldiers from his Platoon were expressly criticised by Lord Widgery for firing without justification, neither Lieutenant 119, nor any of the soldiers identified as being

involved in that shooting, suffered any detriment to their career within the military.

Soldier F

18.7.3.88 Soldier F made a number of statements to the RMP which he confirmed that he had signed. His statements to the RMP appear at **B121 to B133** and **ARR46.5** and **ARR46.6**.

Soldier F's first statement to the Royal Military police was recorded at 2.04 hours on 31 January 1972. In summary he stated as follows:

(i) They deployed in pairs with himself working with "G". They advanced along Rossville Street towards the Rossville Flats where numerous rioters were located. He was armed with an SLR loaded with a magazine of 20 rounds. When they deployed he started to advance, he cocked his weapon with one round in the breech. The safety catch was on safe. **B121**.

(ii) They advanced about 30 yards and came under sniper fire which sounded like rifle fire. These shots came from the direction of Rossville flats. They were too far from the flats to pinpoint the gunmen at this stage. **B121**.

(iii) They continued to advance and got nearer the flats and he could see that there was a barricade across the street at the far end of the flats. He estimated that there were about 200 rioters in the area at that time. These rioters were throwing stones, bottles and other missiles at them and other troops as they advanced. He saw at least 2 nail bombs explode as they advanced. **B121**.

(iv) They took up position behind a wall on the right hand side of Rossville Street about 40 yards short of the Rossville Flats. They again came under sniper fire from the flats. He estimated that this gunfire was coming from the second floor of the flats and the third window along. He fired three aimed shots at this window and saw all three shots strike the windows. **B121**, **B122**.

(v) After these shots the sniper fire stopped and he saw about 30 – 40 rioters leave the barricade and go to the right behind the block of flats out of their sight. **B122**.

(vi) They then moved right to Glenfada Park where he saw a man light something. He saw it fizzle and spark and realised it was some form of bomb. The man raised his arm as if to throw the bomb. He fired two aimed shots at the man. The first shot struck him in the shoulder and the second struck him in the stomach. The bomb did not explode. By this time other members of his unit had joined them and they had advanced towards the rioters. The rioters dispersed. **B122**.

(vii) The remainder of his team gave him cover and he checked around the corner of the building. Around this corner he saw huddled against the wall about 20 people including 19 men and 1 woman. He called the remainder of his team and they arrested the 20 people. They then escorted these prisoners back towards Rossville Street covering each other as they moved back. By this time they were ordered to join their vehicles which were now near the Rossville Flats. They had handed the prisoners they had arrested over to the Military Police. **B122**.

(viii) They got into their vehicles and stayed in that position for a couple of minutes when the Radio Operator said, "There's a

sniper up on the flats ". Soldier F jumped out of the vehicle and took up a firing position beside the vehicle. The Radio Operator told him where he had seen the gunman and he saw something move in the window. He fired approximately four aimed shots into the window and saw all four shots strike the area of the window. He changed position to near the vehicle parked in front of theirs. At this time a man appeared in a window in the second from the top floor of the flats. He had a rifle and fired two shots at them. Soldier F then fired four aimed shots at this man and saw the four shots strike the area of the window. He did not know if he hit the gunman or not. After about 10 minutes they withdrew from the area. **B122**, **B123**.

18.7.3.89 Soldier F's second statement to the Royal Military Police appears at **B126**. This statement was made at 14.10 hours on 31st January 1972.

(i) This statement described being shown a collection of photographs by Corporal Brobson of the SIB. He selected two photographs marked Donaghy showing two positions of a male dressed in a denim jacket and trousers with a wound to his left side. He stated that he was reasonably sure that he shot this man at a full-scale riot in the Glenfada Flats on 30th January 1972 for being in possession of nail bombs. **B126**.

18.7.3.90 Soldier F's third statement to the Royal Military Police appears at **B129**. This statement is undated but confirmed by Soldier F as having been made on 4 February 1972. In summary he stated that:

(i) At about 1610 hours he was positioned near the junction of Rossville Street and William Street where they had debussed. They deployed to the west of Rossville Street and moved southwards on some waste ground. They came under fire from a

gunman who was south of his position but he was unable to locate him. He saw three men move from the barricade north-west into the area of Glenfada Park Flats. One of the men was carrying what looked like a rifle. **B129**.

(ii) Himself and Soldier G ran down an alleyway and came into a square formed by three blocks of flats and a block of garages. They were positioned at the end of the garages at about 50 metres west of the northwest corner of block 1 of Rossville Flats. He saw three men on the other side of the square about 30 metres away near to 24 Glenfada Park, south west of their position. He shot and hit one man as he attempted to throw an object which looked like a nail bomb. He saw Soldier G fire and hit another of the men who was carrying what appeared to be a rifle. The third man ran off but he believed he was engaged by another soldier. He did not see this engagement. **B129**.

(iii) They were ordered to remount their vehicles and withdrew. The vehicles were positioned level with the northeast wall of block 1 of Rossville Flats facing south down Rossville Street. As they entered the vehicles three shots were fired at them from a window on the second floor of block 1. The window was about the fifth from the southern end of the flats. The shots passed high over their vehicles. He returned two rounds at the gunman and he saw Soldier G return one shot. He saw all three bullets strike the windows. He could not say if the gunman was hit. **B130**.

(iv) He did not search the dead, wounded or arrested persons. The orders for firing were to fire when ordered or if the situation was covered by the yellow card issued to troops on IS duties in Northern Ireland. **B130**.

18.7.3.91 Soldier F's fourth statement to the Royal Military Police appears at **B132** and was taken on 15 February 1972 at 1600 hours. A version of this statement is to be found at **B167.034**. In summary he dealt with arrests and stated as follows:

(i) During the course of the afternoon of 30th January 1972 he observed a group of rioters in Rossville Street in the vicinity of the barricade. He particularly observed four of this crowd and made a mental note of them. They were throwing stones and bottles at Soldier F and his colleagues. **B132**.

(ii) At about 1900 hours on 30th January 1972 he went to Fort George to try and identify some of the rioters he had previously seen. On his arrival he saw a large group of about 20 persons sitting or standing in a wire enclosure. He observed them and picked out four men as the ones he had previously seen attacking them with missiles in Rossville Street. He was photographed with these men for identification and their names were Bradley, Norrice, O'Keefe and McAllion. **B132**.

(iii) When he spoke to O'Keefe at Fort George O'Keefe told him he was a priest or part time priest. He was not wearing a clerical collar, which Soldier F thought odd. He did not address any remarks to O'Keefe concerning the clothing and he emphatically denied asking him "where is your fucking collar" as had been alleged by certain newspapers. **B132**.

(iv) After he identified the four persons mentioned above he took them to one side and waited for his turn to be photographed and documented. He allowed them to stand at ease one behind the other and to keep their hands behind their backs. They were not placed against a wall at any stage. **B132**.

(v) At about 1910 hours approximately he was processed with his four prisoners. Other members of the regiment were also with their prisoners waiting to be processed. **B132**.

(vi) He then dealt with allegations in connection with his treatment of two prisoners, namely McLoughlin and Liddy which he stated appeared in an article he had been shown in the Sunday Independent dated 6th February 1972. **B167.034**. He did not know either of these men, neither did he arrest them. He emphatically denied that he made these men expose themselves at the heat of a stove for half an hour. In fact he did not see any stoves at the detention centre. He did not strike any prisoner at any stage and he certainly did not use a rail and rubber hose pipe to assault any witnesses. The allegation that he spat into Mr McLaughlin's mouth was completely unfounded and without a shred of truth. **B133**.

(vii) At no time did he ill-treat any of the prisoners. Neither did he see any ill- treatment of any prisoners at this time. The senior NCO of the Coldstream Guards was at the detention centre, as was a Warrant Officer II. He did not speak to him concerning ill treatment of prisoners, neither did anyone warn Soldier F that one of his prisoners could have a heart attack as a result of any such alleged treatment. This was a completely untrue allegation. **B133**.

(viii) He made two further statements concerning arrests which are at **ARR46.5** and **ARR46.6**.

18.7.3.92 It is submitted that the actions of soldiers, including Soldier F, towards persons in their custody at Glenfada Park North and later Soldier F at

Fort George, showed a propensity for physical and verbal abuse towards civilians. Soldier F also demonstrated himself to be capable of gratuitous violence and torture.[15] In addition he was prepared to sign statements and forms concerning arrests which were completely untrue and he continued to lie about his activities in his fourth RMP statement.

18.7.3.93 It is submitted that Soldier F participated in no less than four false identifications of alleged rioters at Fort George picking people out as rioters and falsifying the reasons for their arrest. These matters were put to him at **Day 375/152/11 to Day 375/164/16**. He relied on a stock answer of not recollecting events described in the documentation he had appended his signature to. However his activity at Fort George demonstrated his personal capacity for sustained lying both orally and in writing. Soldier F must have been told to attend Fort George to make identifications by his army superiors since it is clear that Soldier F not only lied about making a mental note of the four people rioting earlier on Rossville Street, but hadn't actually arrested anybody. Those in charge of Anti-Tank Platoon and Support Company must have been aware at a later stage that Soldier F did not make the arrests he claimed to have done given the nature of the deployment on the day. It was put to him at **Day 376/42/7 to Day 376/42/13** that the four statements[16] he made regarding the relevant arrestees which he had signed and declared to be true were, in fact, completely false. He replied:

" If you say so."

In examination at this Inquiry when he was not relying on failing to remember events described in arrest documents and statements he showed himself to be an unreliable and utterly untruthful witness. When Counsel for the families questioned him on an article from a

[15] See the evidence of Father Terence O'Keefe **H21.51 paragraphs 29 to 31**.
[16] Thomas Bradley **ARR 5.2** and **ARR 5.3**, Patrick Norris **ARR 46.1** and **ARR 46.2**, also **ARR 46.5**,Terence O'Keefe **ARR 50.2** and **ARR 50.3**,Michael McCallion **ARR 32.2** and **ARR 32.3**.

newspaper[17] which included mention of him as a Paratrooper responsible for brutality towards prisoners he denied that any article in which his name appeared had been drawn to his attention at any stage. He declared himself "positive" about this. **Day 376/36/6 to Day 376/36/11**. It was then pointed out to him that in his fourth RMP statement in 1972 he had mentioned at **167.034** that he had been shown a newspaper article about his treatment of prisoners. It may also be illustrative to point out that at **167.033** he also mentioned allegations against him "by certain newspapers". When Counsel pointed out to him that his previous answer was thus clearly untrue he replied:
" If you put it in that context, it probably was, yes." **Day 376/37/16 to Day 376/37/19**.

18.7.3.94 Following Soldier F's four statements to the Royal Military Police he made a statement on 19th February 1972 to Lieutenant Colonel H Overbury at Lisburn Barracks. This statement appears at **B135** and can be summarised as follows:

(i) After they first left their vehicles in the Rossville Flats area they did not, as he said earlier, fire at a window in the Rossville Flats. He fired these shots later.

(ii) He did however fire. He aimed a round at a man he saw behind the barricade about 40 yards from him who was about to throw a bomb. This was a large object and he saw sparks coming from it. As he said earlier, two nail bombs had earlier exploded near them as they moved towards the Rossville flats. **B135**.

(iii) When he moved with Soldier G into Glenfada Park he fired two rounds as he said earlier at another man who was about to throw a bomb. The object in the man's hand was definitely a bomb

[17] **L193**

because it was fizzing. Immediately after this Soldier F ran along the eastern wall of Glenfada Park to the corner. As he did so he heard pistol shots coming from the area of the wall at the far end of the Rossville Flats. He shouted "there's a gunman" and he dropped to one knee and took an aim position. He saw a man near the wall facing his direction who turned as if to run. He saw he had an object in his hand. This man was the only person in the area from which gunfire had come. The object in his hand was large and black like an automatic pistol. He fired two rounds at this man and he fell to the ground. **B135**.

(iv) He then saw 20 people, 19 men and 1 woman standing near him huddled together at the end of the flats at Glenfada Park. He arrested these people with others including Soldier G who came up. **B135**.

(v) After he had returned to his vehicle and come under fire again as he described earlier, he fired three shots at the second floor window of the Rossville Flats. He also fired a further five rounds at men firing in his direction from the windows of Rossville Flats. He said he could work out the number of rounds he fired on the last two occasions from the ammunition check he made very shortly afterwards when he counted seven rounds left in his magazine. He was certain that he fired one round at the nail bomber at the barricade, two rounds at the nail bomber in Glenfada Park, two rounds at the gunman at the end of Rossville Flats and three rounds at the window of the second floor of the Rossville Flats. The remaining five rounds he fired on two separate occasions at different windows at the Rossville Flats. On each occasion he saw a man with a rifle who had on each occasion fired in their direction. At no time did he fire except aimed shots at the person who was attacking them. **B135**.

18.7.3.95 Soldier F gave a statement to the Treasury Solicitors which appears at **B137** and can be summarised as follows:

(i) He claimed to be armed with an SLR and 20 rounds. (This suggestion may be contrasted with what he later came to tell Lord Widgery at **WT14.45 B-C**.) As soon as they left the vehicles on the junction of William Street, Little James Street and Rossville Street he heard shots coming from the direction of Rossville Flats. He then cocked his rifle which is the normal procedure on hearing firing. They then took cover in front of a wall at the north west side of Rossville Street near the William Street junction to weigh up the position. He saw explosions in Rossville Street near the north end of Rossville Flats. **B137**.

(ii) Together with Soldier G they moved off in the direction of the barricade in Rossville Street in order to make arrests. They worked in pairs to cover each other. There was a big crowd of about 200 people running away from them, some towards the barricade. Firing was taking place from the Rossville Flats and he was reasonably sure this was small, automatic fire. This fire was directed to his left. They took cover behind the wall at the south end of the low rise flats on the west side of Rossville Street in front of Columbcille Court. **B137**. It is notable that it is only in his Treasury Solicitor's statement that Soldier F mentioned "automatic" fire for the first time. He could not explain this when asked why it did not appear in his RMP statements. **Day 375/169/15 to Day 375/169/19**. It may be the case that it was suggested to Soldier F that Soldier G had talked of automatic fire in his statements and that Soldier F simply agreed with this proposition.

(iii) He then observed a number of people behind the barricade. One of them was attempting to throw what looked like a bomb which

was in his hand. It was fizzing. Soldier F had seen nail bombs before and he was in no doubt that this was one. He fired one aimed shot and the person fell. The bomb did not explode. He did not see what happened to it. Then he saw three men leave the barricade. One was carrying a rifle and they moved to the right in the direction of Glenfada Park. **B137.**

(iv) Himself and Soldier G moved around the side wall to the right and into Glenfada Park in order to cut their retreat off. As they entered Glenfada Park the three men were directly in front of them on the far side. One of them turned and was about to throw what appeared to be a bomb (because it was fizzing) in their direction. Himself and Soldier G dropped down on one knee. He took an aimed shot. The first shot seemed to hit the man at the bottom of his shoulder, the second in the chest. The man fell to the ground. **B137**.

(v) He then asked Soldier G to cover him as he heard pistol shots in the direction of Rossville Flats. He approached the southeast corner of Glenfada Park. He got down on one knee. He observed a man with a pistol at the far end of Rossville Flats. He thought the man was wearing darkish clothes. The man had a black object which looked like a pistol in his hand. He then shouted to Soldier G "there's a gunman down here" and took two aimed shots and the man fell to the ground. The man was in a half crouching position moving to the right as he shot him. **B138**.

(vi) He then observed, in the position where he was, about 20 people (19 men and 1 woman) huddled against the side of a wall at the south end of the western block of Glenfada Park. He shouted to Soldier G to assist him in arresting these people. They then ushered them back through the rear of Glenfada Park into Columbcille Court and he saw soldiers taking them off. **B138**.

(vii) They were then ordered to withdraw back to their vehicles and they went back to the vehicles, which had moved to Rossville Street level to the end of Rossville Flats on the west side of the street. They got into the vehicles. They were checking that nobody was missing and then awaited further orders. By this time the Radio Operator was observing the Rossville Flats out of one of the windows of the vehicle and observed a gunman in the flats. **B138**.

(viii) Soldier F jumped out of the vehicle and ran to the front of the vehicle and asked the Radio Operator where the gunman was. The Radio Operator indicated where the gunman was and Soldier F fired three rounds in the direction of the window where the Radio Operator pointed out and where Soldier F saw a movement. He saw all of his shots strike a window. It was a second floor window. **B138**.

(ix) He then moved forward to the front of the vehicle and observed the flats. He spotted a man with a rifle at the same window and he fired three rounds at this window. **B138.**

(x) He then saw a gunman appearing in the top floor of Rossville Flats. He had a rifle. He saw the rifle fire. Soldier F then fired two rounds at the window. He did not know whether he had hit him or not. **B138**.

(xi) After this time everything went quiet and they moved around the side of Rossville Flats. He then checked his magazine and found he had seven rounds left. His platoon waited for about ten minutes for further orders and they were then ordered to move

back to the waste ground between William Street and Prince Arthur Street. They did so. They then left the area. **B138**.

(xii) Soldier F confirmed that he made two statements on 31st January 1972 regarding the events of 30th January 1972. He stated these were statements taken in the early hours of the morning and furthermore this was his first operation in the area. Having seen aerial photographs of the area, he now realised some of the positions he gave in these statements were not accurate. He was now satisfied he had a clear understanding of the positions he took up that afternoon. **B138.001**.

(xiii) He also said he was reasonably sure he had shot a person whose photographs were shown to him called Donaghy. He stated that he shot this person in Glenfada Park. Having seen further photographs of Donaghy he was still reasonably satisfied that he was the person he shot because he bore a close resemblance. **B138.001**.

Discrepancies and issues arising from Soldier F's statements.

18.7.3.96 In his first RMP statement Soldier F described their deployment and advance along Rossville Street towards Rossville Flats where numerous rioters were located. He stated that when he deployed and started to advance he cocked his weapon with one round in the breech. The safety catch was on safe. He then described advancing 30 yards where he came under sniper fire which sounded like rifle fire. It is clear that Soldier F had his weapon cocked with a live round in the breech at a time when there was no threat to himself or his colleagues from any civilian or activity by gunmen. This was a clear breach of the Yellow Card.[18] At **Day 376/64/4 to Day 376/64/7** Soldier F accepted it was

[18] See **ED71.1.** Yellow Card revised.

such a breach. It was further pointed out to Soldier F that in his Treasury Solicitor statement at **B137 paragraph 2**, he claimed in contrast to his first RMP statement, that as soon as they left the vehicles the first thing he heard was shots coming from the direction of the Rossville Flats and he then cocked his weapon. Soldier F agreed they were two completely different accounts but could not explain it. **Day 376/65/6 to Day 376/66/2**. He went on to give further answer to Counsel on this matter which it is submitted is typical of his testimony to this Inquiry. At **Day 376/67/7 to Day 376/67/12**:

Q: "Which one is true?"

A: "As far as I wrote down at the time, or it was made out at the time, they were both true to the best of my knowledge."

Q: "They both cannot be true can they?"

A: "That is not for me to say."

Soldier F agreed that his Treasury Solicitor statement made the incident "Yellow Card compliant", but again could not explain it. **Day 376/66/3 to Day 376/66/16**.

18.7.3.97 In his first RMP statement he described shots coming from the direction of Rossville Flats. They were too far from the flats to pin point the gunmen. They continued to advance and as they got nearer the flats he could see the barricade. He then described the missiles etc. and the two nail bombs exploding. They then "took up a position" behind a wall on the right hand side of Rossville Street about 40 yards short of the Rossville Flats. In his third RMP statement he described coming under fire from a gunman who was south of his position but he was unable to locate him. Even though on Soldier F's evidence the soldiers were under sniper fire from the direction of either the flats or the south and could not pinpoint the gunmen or gunman, they

continued on foot advancing towards the flats. He did not claim any attempt "to take cover" until his Treasury Solicitor statement. Advancing on foot under fire and towards incoming fire and without being able to locate the gunman, seems an inherently unlikely movement by military personnel. It is submitted the truth of the matter is that they were able to advance under no threat whatsoever to take up position behind the wall.

18.7.3.98 At **WT14.66 E-G** and **WT14.67 A-C** Soldier F was examined concerning the nail bombs he heard going off in front of the barricade. He described them as being about 40 metres in front of the barricade and exploded about 40 metres away from him. This placed him about 80 metres from the barricade. They went closer to the barricade after the explosion and confirmed that they kept on advancing, both himself and the other 16 soldiers who came with him. The concept of a group of 16 soldiers advancing into the face of exploding nail bombs towards the persons armed with such nail bombs and taking no action whatsoever is patently ludicrous. The only explanation for such a scenario is that no nail bombs exploded.

18.7.3.99 The above was not the only example from Widgery where Soldier F indicated that he and colleagues had proceeded onwards in the face of hostile fire. He confirmed that following his alleged sighting of the three men with the rifle he moved forward from the wall. He was asked the following at **WT14.68 C-D**:

Q: "As you came forward you were coming nearer and almost directly into commanding line of fire from Rossville flats."

A: "Yes"

Q: "How many of you moved forward there"

A: "A number of us sir, about four".

It is submitted that once again Soldier F was claiming to engage in a manoeuvre which was at best suicidal. In fact it is another example of a

fabrication of a threat of hostile activity, in an attempt to justify army conduct on the day. It is submitted that Soldier F and other soldiers were able to reach the positions they did on Rossville Street precisely because they were not under fire.

18.7.3.100 In his first RMP statement Soldier F described continuing to advance towards the flats and seeing a barricade across the street at the far end where the 200 rioters were located. These 200 rioters were throwing stones, bottles and other missiles at themselves and the other troops as the troops advanced. He saw at least two nail bombs explode as they advanced. It is obvious from independent evidence such as the contents of **Video 48/11/.35 to 11.41**[19] that no such grouping of rioters or such number of rioters were engaged in that activity in the area described by Soldier F as the soldiers advanced down Rossville Street. The civilian evidence and the evidence of journalists and photographers behind the Rubble Barricade demonstrates that not only were there no nail bombs but the troops were not under attack. The evidence of Liam Mailey who took the series of photographs[20] from behind the Rubble Barricade gave evidence that during the time he was taking his series there were no nail bombs or petrol bombs. **Day 163/131/25 to Day 163/132/7**. Indeed as the soldiers advanced there were no crowds behind the Rubble Barricade and there was a clear gap between the soldiers and the group of people behind the Rubble Barricade.

18.7.3.101 By the time of his Treasury Solicitor statement the crowd of 200 were being described as running away from the soldiers as opposed to throwing stones, bottles and other missiles at the troops as they advanced. **B137 paragraph 3**. It is submitted that this alteration can only have come about as a result of Soldier F being advised that his original description was unsustainable on the basis of other evidence or

[19] Also **P1117, P1118**, **EP27.6**, **P1121**
[20] **AM50.14 to AM50.19**

information available. He therefore had to correct his false description in his first RMP statement.

18.7.3.102 In his first RMP statement Soldier F described being behind the wall on the right hand side of Rossville Street and again coming under sniper fire from the flats. He estimated the gun fire was coming from the second floor of the flats, the third window along. He then described firing three aimed shots at this window and saw all three shots strike the windows. It will be seen that these shots completely disappeared from Soldier F's subsequent accounts of events and in fact he later acknowledged to Lt. Colonel Overbury at **B135** that he did not witness or engage in any such incident. It is submitted that this incident at the flats was an invention designed to disguise the real use that Soldier F made of his ammunition on the day.

18.7.3.103 In his first RMP statement at **B122** Soldier F described, after the sniper fire from the second floor of the flats had stopped, about 30-40 rioters leaving the barricade and going to the right behind a block of flats out of their sight. On seeing this they i.e. the soldiers moved position to their right to Glenfada Park where he saw one of the men light something. Soldier F saw it fizzle and spark and he realised it was some sort of bomb. The man raised his arm to thrown the bomb and Soldier F fired two aimed shots at him striking him in the shoulder and the stomach. The bomb did not explode. By this time other members of the unit had joined them. It is notable that in his third RMP statement at **B129** Soldier F described three men moving from the barricade northwest into the area of Glenfada Park Flats. One of the men was carrying what looked like a rifle. At the stage of the third statement he thus claimed to have identified a group of three people as opposed to 30-40 rioters but has added that one of the group had a rifle. His explanation for the apparent differences in these accounts was given at **Day 375/143/18 to Day 375/143/19**.

"I do not know, maybe it was just the confusion at the time when the statements were made".

This attempt by Soldier F to explain the confusion was repeated throughout his testimony to both the Widgery Inquiry and his evidence to the current Inquiry. It is submitted that it can be completely rejected as inadequate, self-serving and thoroughly dishonest in keeping with the general content of Soldier F's evidence.

18.7.3.104 It is beyond comprehension why Soldier F left such a detail as a man with a rifle out of his first account of the movement from the barricade unless either he was inventing such a detail in his third RMP statement to emphasise the threat he and his colleagues faced or had become aware that Private H, for example, was claiming to have witnessed gunfire from behind the Rubble Barricade with what were possibly short rifles. The explanation may also lie in the fact that in his third RMP statement Soldier F also claims to have seen Soldier G fire and hit another of the same three men in Glenfada who: "was carrying what appeared to be a rifle". This incident did not appear at all in Soldier F's first RMP statement. It may be noted that in his first statement to the RMP at **B168** taken at 02.15 on 31 January 1972 Soldier G claimed to have shot one of two men with small rifles in Glenfada Park.[21] This may well explain why Soldier F's account of the incident then appeared in his next RMP statement. It is a reasonable inference that Soldier F was attempting to verify Soldier G's account. For further consideration of Soldier F and Soldier G in Glenfada Park see submission on Sector 4.

18.7.3.105 In his third RMP statement at **B130** Soldier F introduced, for the first time, the suggestion that he saw Soldier G fire a shot at windows in Rossville Flats and this is of course following the return to the vehicles. No mention whatsoever was made in the Soldier F's first statement of

[21] This was eleven minutes after Soldier F's first statement was taken by the RMP.

Soldier G firing any shots at any time of the day. This may it is submitted provide an example of Soldier F attempting to account for and justify the shooting by Soldier G as well as his own shots.[22] Soldier F of course denied, quite implausibly it is submitted, ever learning from Soldier G or other members of his platoon what shots they had fired after the events of the day were over. **Day 375/106/9 to Day 375/106/21**.

The Shooting of Michael Kelly.

18.7.3.106 It was only in his statement to Lt. Col. Overbury on 19th February 1972 that Soldier F acknowledged that he fired a round at a man which he saw behind a barricade about 40 yards from him when he was about to throw a bomb. It was a large object and he saw sparks coming from it. This of course is the shot which was claimed to have killed a nail bomber. It was the shot which killed Michael Kelly[23]. Soldier F made no reference whatsoever in his RMP statements to shooting a man about to throw a bomb behind the barricade. It is submitted that it is quite clear that by this stage Soldier F must have been made aware that he was a prime suspect for the shooting of a civilian behind the barricade from his position at the Kells Walk. This is the only rational explanation for the introduction of this information by Soldier F into his statement to Colonel Overbury on the 19th February 1972. Hence the shooting of Michael Kelly had to be justified by the claim that Soldier F had in fact fired at a man about to throw a bomb behind the barricade.

18.7.3.107 At **Day 375/165/13 to Day 375/166/18** Soldier F was asked what it was that caused him at the date of his statement to Colonel Overbury to state that he had fired a shot behind the barricade which was the first

[22] Soldier F confirmed that himself and Soldier G worked as a pair. **B121**. Further, they were "great mates". **Day 376/71/10 to Day 376/71/11.**

shot he had fired that day. His reply was, it is submitted, typical of Soldier F's stock response in evidence:
"Well, that statement was made in 1972 and I obviously made the statement but I cannot recollect anything about it."

He was asked could he explain why the same situation arose concerning mentioning the man with the pistol behind the flats. He replied: "No."

It is submitted that he was then asked a key question by Counsel to the Inquiry at **Day 375/166/19 to Day 375/167/1**:

" Q. Is the position that by this stage it was becoming apparent in the course of the investigation as to what had happened on the day, that the accounts given by the Anti-Tank Platoon did not fit with the number of victims?

A Not to my knowledge

Q You cannot give us any assistance at all?

A That is correct."

He was then reminded that he had told Lord Widgery that he had not referred to shooting at the barricade because it had slipped his mind and that he had not mentioned the man with the pistol at the rear of the flats because his recollection had been prompted by seeing aerial photographs. He answered that he presumed it was seeing his statements not aerial photographs. Counsel suggested to him that it could not be seeing his previous statements that caused him to produce the statement including two new important shootings. He replied:

---

[23] **WT14. 73G** Soldier F confirmed the number of his rifle. This was the number of the rifle identified in Dr. Martin's evidence and Soldier F agreed there was no possibility of anybody else using that rifle that afternoon.

"I know, but obviously that is a statement I made but I have no recollection of it ". **Day 375/167/2 to Day 375/167/15**.

18.7.3.108 It is submitted that it is utterly inconceivable that Soldier F could have any honest reason to omit mention of such an incident in his first four statements to the Royal Military Police which were taken before the statement to Colonel Overbury on the 19th February 1972. He could only have come to mention it after being forced to do so by further information or circumstances being brought to his attention. Thus, not only does Soldier F mention the shooting but of course attempts to provide a justification for it also. **B135**.

18.7.3.109 The following exchange occurred at **Day 376/86/15 to Day 376/86/22**:
Q: "We know you shot and killed Michael Kelly because the bullet that you fired was recovered from his body. You know that do you not?"

A: "Yes."

Q: "The overwhelming evidence in this case is that Michael Kelly was completely and utterly innocent at the time he was shot; do you follow me?"

A: "Yes."

18.7.3.110 Soldier F's reason for the omission of any reference to the shooting at the barricade until the statement to Lt. Col Overbury was stated at **Day 376/53/20 to Day 376/53/25**.
Q ".does it follow from what you are saying that it did just slip your mind that you had killed a 17 year old boy when you made that statement?" [i.e. his first RMP statement]

A "During the events of the day there was a lot of confusion and it is possible, yes."

18.7.3.111 When the issue of why he had not mentioned his shooting of the man at the barricade or the man with the pistol behind the Rossville Flats was raised at **Day 375/138/25 to Day 375/139/6** Soldier F's reply was:

"All I can say was there is errors of in the judgement of making the statements and they got confused."

18.7.3.112 At **WT14.65 E-G** Soldier F was asked about the numbers behind the barricade. He claimed there were about six to eight people behind it. When asked were the people behind the barricades throwing stones towards the troops, Soldier F gave the following answer:
"Only the person I observed was throwing."

The evidence of Soldier F to Widgery was therefore that at the time he shot the man at the barricade with the bomb, there was no other activity taking place around the man which could have justified firing.
Although it is virtually impossible to rely on anything Soldier F said as constituting the truth, in the context of this answer, it is highly unlikely that if other persons had been throwing any objects around Michael Kelly, which constituted a threat to Soldier F or his colleagues that Soldier F would have failed to mention this. Any suggestion therefore that it was the conduct of other persons around Michael Kelly that caused him to be shot by accident or ricochet is untenable on the evidence of the person who fired the fatal shot.

18.7.3.113 At **Day 375/83/17 to Day 375/83/19** Soldier F was asked the following:
Q "Were you aware of other people falling at or in the vicinity of the barricade, apparently shot?"

A "No."

It is submitted that there is no doubt that throughout his statements Soldier F was sure he hit the person he aimed at. Any suggestion that

the bullet which hit Michael Kelly was intended or struck someone else before him is unsustainable on the account of Soldier F.

As to his reasons for firing, the evidence of Soldier F is so discredited as to be unworthy of belief. He has been and remained in his evidence to this Inquiry a persistent and wholly transparent liar. One of the major reasons for his lies has been his knowledge that he murdered Michael Kelly at the Rubble Barricade. Even if it were not possible to conclude this on the evidence of Soldier F and the circumstances of the shooting itself, the civilian evidence that Michael Kelly was not engaged in any conduct justifying the application of lethal force confirms overwhelmingly that on 30 January 1972, Michael Kelly was murdered by Soldier F at the Rubble Barricade.

Soldier F and the shooting at the windows of the Rossville Flats

18.7.3.114 While there is disputed evidence about whether or not a ceasefire order was given at Kells Walk prior to Anti-Tank Platoon entering Glenfada Park North, there is no doubt a ceasefire order had been given when Soldiers F and G fired their rounds at the Rossville Flats. The need to justify the shooting after such an order no doubt contributed to the need to obtain a series of statements from soldiers who could report a gunman or gunmen shooting from the Rossville Flats at soldiers after their vehicles had moved up Rossville Street. The RMP clearly went to considerable lengths to obtain information designed to justify the actions of Soldiers F and G. See Table x attached showing the order in which soldiers from Anti-Tank Platoon made their statements.

18.7.3.115 In his first RMP statement at **B123** Soldier F described how having returned to their vehicles on Rossville Street and after being in position for a couple of minutes their Radio Operator said: "There's a sniper up in the flats." Soldier F jumped out and took up a firing position beside

the vehicle. The Radio Operator told him where he had seen the gunman and he himself saw something move in the window. He fired approximately four aimed shots at this window and he saw all four shots strike in the area of the window. He changed position to near the vehicle parked in front of theirs. At this time a man appeared in a window in the second from the top floor of the flats. He had a rifle and fired two shots at the soldiers' position. Soldier F then fired four aimed shots at the man and saw the four shots strike the area of the window. He did not know if he hit the gunman or not.

18.7.3.116 Soldier F's third RMP statement was made on 4th February 1972 which is significant date in the statement taking exercise. The Tribunal is referred to Section 5 of these submissions where it is demonstrated that a significant number of soldiers made statements on that date which were expressly designed to corroborate and justify the use of lethal force by other soldiers.

18.7.3.117 As can be seen a number of soldiers of Anti-Tank Platoon fall into that category and made statements on 4 February 1972 including, of course, Soldier F himself. Soldier J made a statement at 15.10 hours, (**B269**, **B270**), Soldier 018 at 19.15 hours, (**B1487**) Soldier 036 at 19.30 hours, (**B1629**, **B1630**) Soldier 147 at 20.00 hours (**B1886**, **B1887**) and Soldier F, time unknown. Soldiers 018, 036 and 147 had not made any statements prior to this date. The statements of each of soldiers 018, 036, 147 and Soldier J deal with the incident where they say they came under fire from the Rossville Flats and Soldiers F and G returned fire. In spite of the intention of this statement taking exercise by the RMP significant discrepancies arise in the 4th February 1972 accounts which are examined in detail in the submission on Soldier 036.

18.7.3.118 In his third RMP statement at **B130** which was his 4th February 1972 statement Soldier F described what is clearly the same incident which occurred following the withdrawal from Glenfada and an order to

remount into their vehicles. Their vehicles were positioned level with the northeast wall of block 1 of Rossville flats facing down Rossville Street. On his account in this statement three shots were fired at them from a window on the second floor of block 1 of the Rossville flats as they entered the vehicles. The window was described as about the fifth from the southern end of the flats. The shots passed high over the vehicles. Soldier F claimed to have returned two rounds at the gunman and saw Soldier G return one shot also. He saw all three bullets strike the windows. He could not say if the gunman was hit.

18.7.3.119 The incident described is at the same time and location as the two incidents of the four shots described in the first RMP statement and is clearly the same incident. It is not clear from this statement whether Soldier F was describing an additional two shots at the relevant location or was now claiming only two as opposed to previously claiming two sets of four in the first RMP statement. He did not mention the previous account in his third statement. It may be significant or it may be sheer coincidence that this is the only occasion that Soldier F ever claimed to have fired two shots at this location and that is precisely the number of shots attributed to Soldier F in the 4th February statement of Soldier 036. Soldier 018 described a total of three shots fired by Soldier F and Soldier G which is again a precise combined total of the shots claimed by Soldier F and Soldier G at that stage. Of course this exercise in chicanery is rendered redundant when Soldier F by the time of his statement to Lt Colonel Overbury on 19 February 1972 has to change his shot number again back to eight because by now he has to introduce the single shot at the Rubble Barricade and the two shots at the pistol man behind Block 2 of the Rossville Flats.

18.7.3.120 The third RMP statement introduced Soldier G as firing for the first time at the same general location. In spite of Soldier F's assertion to the Inquiry that he hadn't been made aware of other people's shots it is

inherently likely that by the time Soldier F had come to make this statement that he had been made aware that Soldier G had admitted firing a shot at this location in his first RMP statement.

18.7.3.121 In his statement to Lt. Colonel Overbury, Soldier F referred to three shots he fired at the second floor window of the Rossville Flats following his return to the vehicle on Rossville Street. As well as these three shots he also described firing five rounds at men firing in his direction from the windows of the Rossville Flats. He introduced the figure of five for the first time into this statement fired on two separate occasions having previously divided the shots as four and four in his first RMP statement. Significantly he did not divide the five rounds up. It is submitted that there is no reason why he could not have done so in this statement given his knowledge as the shooter and the fact that he was quite happy in previous statements to divide the number and location of these shots. It is submitted that he must have been either by his own decision or on the advice of others declining to pin down the division of these shots pending further information. This submission is supported by the fact that when he came to speak to the Treasury Solicitor he was able to divide these shots into three and then two. **B138 paragraph 10**.

18.7.3.122 At **B138** in his statement to the Treasury Solicitor Soldier F described having returned to the vehicles and awaiting further orders. Soldier F described the Radio Operator having observed a gunman in the flats out of one of the windows of the vehicle. According to the Treasury Solicitor statement, the Radio Operator was asked by Soldier F where the gunman was. It was the Radio Operator who indicated where the gunman was located. Soldier F fired three rounds in the direction of the window the Radio Operator had pointed out and where Soldier F saw

movement. He claimed to see all of his shots strike the window. It was the second floor window.

18.7.3.123 In his Treasury Solicitor statement Soldier F then described moving forward to the front vehicle and observing the flats. He spotted a man with a rifle at a third floor window. Soldier F fired three rounds at this window.

18.7.3.124 He then claimed to have seen a gunman appearing on the top floor of Rossville flats. The man had a rifle. Soldier F claimed to have seen the rifle fire and he fired two rounds at the window. He could not say whether he had hit him or not. Soldier F then gave a further description of everything going quiet but moving round to the side of Rossville flats and there checking his magazine where he found seven rounds left. Thus his statement to the Treasury solicitor has amplified the claim first made to Colonel Overbury on the 19th February of a further five shots fired on two separate occasions at the Rossville Flats. It is quite clear once again in our submission that the pattern of Soldier F's evidence is to provide justification for his firing of what he claims to have been thirteen shots.

18.7.3.125 At **Day 375/171/1 to Day 375/171/25** it was put to Soldier F that he had in his first RMP statement divided the shots into groups of four and four but by the time of his statement to the Treasury Solicitor the division of the shots had become three, three and two. He replied as follows:

" I cannot answer that. I do not know. I really do not know. Obviously it is in my statement and I have put it down, so it obviously happened but to answer your question I do not know."

Soldier F's evidence to the Widgery Tribunal and the shooting at the windows of Rossville Flats.

18.7.3.126 With regard to the firing at the windows after return to the vehicles at **WT14.50 A-D** Soldier F was being asked questions about the gunman at the window which the Radio Operator had pointed out to him. In this account Soldier F added substantial further detail to the account he gave in his statement to the Treasury Solicitor. When asked to describe the movements he actually saw, he claimed that it was the sort of movement "as though someone was pulling a rifle out of a window". When asked if it looked like a rifle, he replied yes. This may be contrasted with his accounts in his first RMP statement and his statement to the Treasury Solicitor which included only a description of "movement". It is submitted that on any reasonable reading of the exchange between Soldier F and Mr. Gibbens at **WT14.50**, Soldier F was making the details of his account up as he went along. He then returned at **WT14.50 C** to describing seeing the movement of a person and, as Soldier F fired, the person moved back. When Soldier F was asked was he firing at the window, he replied yes. It may also be noted in this account that Soldier F described shooting at the third window along on the second floor. His first RMP statement at **B125** contained no such description of the location of the window and his Treasury Solicitor statement contained only a description of a "second floor window". Soldier F was once again providing detail at Widgery he had not included in his previous accounts.

18.7.3.127 Soldier F was then examined on the second alleged gunman in the flats as described in his Treasury Solicitor statement. This was the alleged gunman seen when he had moved to the front vehicle. This gunman was described at **WT14.51 A** as on the same floor as the previous gunman only the next window along that is the fourth window. It was pointed out to Soldier F at **WT14.74 A-D** that he had told the Treasury Solicitor at **B138 paragraph 10** of his statement that he had seen the

man at a third floor window. Soldier F's response was that "with the number of windows" he was confused. He claimed it was the second floor window. It is submitted that Soldier F's confusion arose solely from an inherent lack of truth in the accounts of the various incidents.

18.7.3.128 Soldier F's description of this gunman in his statement to the Treasury Solicitor at **B138** is noticeably bare referring only to a man "with a rifle". In his evidence at the Widgery Tribunal at **WT14.51 A** Soldier F described the rifle as being out of the window pointing it in Soldier F's direction. He went on to describe a figure with a rifle sticking out of the window in his general direction. He claimed that this was not in an aimed position but he recognised it as a rifle. No such detail was given to the Treasury Solicitor. It is submitted that once again it is clear that Soldier F was embellishing his testimony at Widgery to bolster his account of events. He again claimed that his round struck the window but did not see whether they struck the man with the rifle. Again this information was not given to the Treasury Solicitor. The man then moved back from the window. After Soldier F had fired the man had just completely gone. At this stage Soldier F claimed that Soldier G was firing also but could not see what his target was. Soldier F claimed that Soldier G fired one round from the second vehicle. It is not quite clear how Soldier F would have known this or observed this since as Soldier F made so clear at **WT14.52 A** Soldier G fired from the second vehicle behind the vehicle that Soldier F was firing from.

18.7.3.129 In his statement to the Treasury Soldier F described the third gunman as appearing on the top floor of the Rossville Flats. He had a rifle and Soldier F claimed to see his rifle fire. Soldier F fired two rounds at the window. He could not see whether he had hit the man or not. In his evidence to the Widgery Inquiry at **WT14.52 A-G** Soldier F claimed to be able to identify the weapon as a single barrelled weapon and was able to say that whilst the gun man was not aiming at him, the gunman was aiming at troops at the junction of William Street and Rossville

Street. Again Soldier F was providing detail under questioning which was quite remarkable in contrast to the paucity of detail on very significant events through his first RMP statement to his Treasury Solicitor statement.

18.7.3.130 It does not appear to have been explored with Soldier F at Widgery why a gunman with Anti- Tank Platoon personnel, vehicles and possibly other soldiers directly beneath him at Rossville flats should chose to put his weapon out of a window and fire up Rossville Street towards the William Street and Rossville Street junction. Soldier F claimed to have seen the muzzle flash from the window and it was one shot. He again claimed that he had been ordered to withdraw to the side of Rossville flats where he checked his magazine and found seven rounds left in his magazine out of ten. It is submitted that on an examination of the combined content of Soldier F's various statements and his evidence to Lord Widgery the reader is presented with a concoction of lies and self-serving justifications for the discharge of his weapon on the day.

18.7.3.131 Some insight into the conundrum of Soldier F's numerous different accounts of shot fired at the windows of the Flats can be gained by reference to **WT14.60 G** and **WT14.61 A-E**. Under cross-examination by Mr. McSparran QC the following exchange occurred after Soldier F's confirmation that he had told the SIB that he had fired a total of 13 shots:

"Q ... but you did not tell them you had fired two rounds at a man with a pistol? [i.e. the man behind block 2 of Rossville Flats.]

A. No sir.

Q. Will you tell the tribunal how you accounted for those two rounds at the time you made the statement to the SIB?

A. At the present time [meaning the time he was making the statement], sir, I mixed my rounds up. I was firing at the flats and later I then accounted for the rounds when I was firing at the gunmen...

Q. You told the SIB investigator that you had fired another two rounds at the flats?

A. Yes sir.

Q. Was that two rounds fired as a separate shooting incident at the flats or was that two rounds fired in addition to the rounds you had already mentioned had already been fired at any one of the separate incidents?

A. In addition, sir.

Q. So you detailed another shooting incident at the flats to the SIB Investigator did you which did not take place?

Lord Widgery: Is that right?

Witness: Could you repeat the question, again, sir.

Q. You told the SIB Investigator about shooting, firing two shots at the flats?

A. At that time sir.

Q. When, in fact that had not occurred at all. Those were two shots you had fired at a man with a pistol on the ground?

A. Yes sir.

Q. So apart from not telling the SIB investigators about firing at the man with the pistol, that was one inaccuracy, you failed to tell him about that?

A. Sir those two shots were mentioned came into account in one of the previous statements. I mentioned four rounds at one of the windows.

Q. That meant in one of the previous statements you said you had fired four rounds at one of the windows when you had fired two?

A. Yes, sir.

Q. Why did you say you had fired four at a window when you only fired two?

A. At the time I made those statements it was in the early hours of the morning. There had been all riots during that day and I couldn't quite think about it..."

The exchange then continued regarding why Soldier F had made the statements he had. Counsel for the families in 1972 did not of course have access to the previous RMP statements or the two subsequent statements to Lt.Colonel Overbury or the Treasury Solicitor.

18.7.3.132 It is submitted that the following propositions arise out of the above exchange:

(i) Soldier F at Widgery admitted claiming shots he fired at the Rossville Flats in his RMP statements were in fact shots he fired at the man with a pistol behind block 2 of the Rossville Flats. He therefore admitted to Lord Widgery that he had concealed shots he had fired by claiming to have fired shots he had not in fact fired. He was concealing his shots behind block 2 and this could only have been because having fired those shots he could not justify them. The later allegation that the man had a pistol behind block 2 was either his own attempt or one which was suggested to him to justify his murderous and unlawful activity in firing behind block 2.

(ii) In the above exchange with Mr. McSparran Soldier F's own lies were beginning to unravel. In the exchange with Mr McSparran he clearly accepted the account of these two shots being fired at the window in the Rossville Flats were a substitute for his real two shots behind block 2. As we now know he had indeed given an account of firing two shots at the Rossville flats in his third RMP statement at **B130** and these may well have been the two shots he was thinking of at this point in the exchange. As can be seen from the above Widgery extract during the exchange with Mr. McSparran Soldier F began by claiming the two shots were "additional" to the previous shots he had accounted for to the RMP. If that was the case Soldier F by the time of his third RMP statement had admitted fifteen shots. In the course of the exchange with Mr. McSparran he attempted to bring the total back to thirteen by saying that those two shots had in fact been part of an account of firing four shots at the Rossville Flats he had given to the SIB. The only account of four shots he gave to the SIB were the two groups of four shots at the Rossville Flats windows in his first RMP statement at **B123**. Soldier F was clearly capable of not only telling lies but lies within lies.

(iii) It is submitted that the two shots at the pistol man behind block 2 represented two out of the three shots which Soldier F had said in his first RMP statement had been fired at the flats by him on de-bussing. The third shot was his shot at the barricade. He had told Lt. Colonel Overbury that the three early shots were in fact fired later as part of the eight shots at the windows of the flats thus keeping his total at thirteen. He was still attempting to maintain this, even at this Inquiry at **Day 376/61/3 to Day 376/61/22**. It is submitted that this was a clear and deliberate deception by Soldier F to cover three previously unacknowledged shots at Michael Kelly and behind block 2 of the Flats.

(iv) Whether the two shots at the pistol man were concealed as part of the account in the first RMP statement or the account in the third RMP statement he of course did not own up to the pistol man shots behind block 2 until the statement to Colonel Overbury on 19 February 1972. It is submitted that the only reason he would have done so was by that stage he was aware or had been made aware by that date that he was the main candidate for the shooting behind block 2 of the Rossville Flats and could not get away with not admitting to any shots in that area. He therefore was forced to admit shooting there and invented two shots at a man with a pistol to justify it.

(v) The question as to why Soldier F made the third RMP statement claiming two shots were fired at the window in Rossville Flats is not clear. It may be that these two shots were an additional two to the thirteen he admitted to in his first RMP statement and if so the only logical inference is they were required to cover two further unjustified shots he had not admitted to or thought might be discovered. It is important to emphasise that there is no independent verification of exactly how many shots Soldier F fired on Bloody Sunday or where he fired his total number of shots. Given the amount of ammunition he was carrying, even as admitted, to Lord Widgery, it is highly likely that he fired more shots than he admitted. This would have particular significance in every area in which Soldier F is known to have discharged shots.

18.7.3.133 It is submitted that there can be little doubt that Soldier F and Soldier G fired a number of shots at the Flats and were clearly responsible for firing at the window of 12 Garvan Place.[24] The shots were fired at Fulvio Grimaldi[25] who was attempting to take photographs of the soldiers from the window of the flats. The window was located on the

[24] See the transcript of the relevant excerpt from the Susan North tape at **E3.0062-0065**.
[25] **M34.65 paragraphs 76 to 80**

second floor and was the third window along when moving north to south. The bullet holes are shown at **P544**.[26] In his evidence to this Inquiry at **Day 375/173/24** Soldier F was asked did he fire at least six shots at the same window said:

"I cannot remember. I have no recollection."

18.7.3.134 It is further submitted that no gunman fired at Soldier F or Soldier G in the Rossville Flats. Soldier F did not see a gunman or a weapon at that location. He did not see any shots or hear any fire. Nor did he believe he saw a gunman or a weapon. Their shots were fired wholly without justification. These shots demonstrate the mindset of the soldiers of Anti-Tank Platoon and in particular Soldiers F and G to the use of lethal force.

18.7.3.135 It would appear that the civilian and photographic evidence suggests there was possibly a total of seven shots. If this evidence is correct there is a question of what happened to the excess number of shots fired by Soldier F and Soldier G. Since neither soldier ever suggested that they had done anything but hit the window targets they were aiming for it cannot be the case that they simply missed. If the civilian evidence is accepted as correct, in all probability one or more of these shots accounts for some of the shooting by Anti-Tank platoon soldiers over the Rubble Barricade. The issue of shots over the Rubble Barricade is considered below.

[26] The photographs show that six shots went through the window. However, a number of the persons present refer to a further shot hitting the window frame. **Margaret Featherstone** **AF5.4 paragraphs 20 to 23** refers to one shot hitting the metal frame, then six more coming through the window. **Susan North** said the following: "I was under the distinct impression there were seven bullets and one had hit the window frame which can also be seen in the photograph". **M35.8 paragraphs 48 to 49**, **M35.9 paragraphs 53 to 58**.

Soldier F and the other shots at the Rubble Barricade.

18.7.3.136 As has been seen already in this submission Soldier F admitted for the first time to Lt. Colonel Overbury on 19 February 1972 that he fired one shot at the Rubble Barricade. He maintained that suggestion in his statement to the Treasury Solicitor and to Lord Widgery. This was the bullet traced to the body of Michael Kelly. At **Day 375/85/4 to Day 375/85/15** Counsel to the Inquiry asked Soldier F could he tell the Tribunal how the three, namely John Young, Michael McDaid and William Nash died. Given his known location and the timing of these shootings following Michael Kelly this must be an obvious lie. He said he could not nor could he say who shot them. Further he said he did not see them fall. He could not offer any explanation why on the accounts given to Lord Widgery and this Tribunal by the Anti-Tank Platoon there was no explanation for how the three died. He denied there had been a conspiracy of silence.

18.7.3.137 However the following matters were put to Soldier F and his response to them suggests not only his presence at the barricade at the time of these shootings but a probability of further shots by Soldier F at the Rubble Barricade in addition to the shot which killed Michael Kelly.

Counsel to the Inquiry put a portion of the evidence of Soldier 027[27] to Soldier F at **Day 375/86/19 to Day 375/90/15**.

"F of my section reached the pavement by the end of the small wall, he went down into a kneeling position beside it, raised his rifle to his

[27] A number of soldiers refer to soldiers firing over the Rubble Barricade without identifying them. Soldier H at **B229**,INQ 1237 at **C1237.6 (48)** INQ 635, **C635.4 (28)**

shoulder, and without pause or hesitation commenced firing towards the centre of the crowd..." **B1565.014.4**.

Soldier F was asked if that was an accurate description. He replied: "Not as far as I can remember, no". The following exchange then occurred:

Q: "How are you able to tell if you have no recollection of the circumstances of your firing?"

A: "Well, basically I don't remember it anyway."

Q: "So you cannot tell us whether it is accurate or not?"

A: "That is correct." **Day 375/87/10 to Day 375/87/22**.

This passage was again put to Soldier F at **Day 376/147/10 to Day 376/147/17**.

Q: "He is likely to be right, is he not that when you fired towards the crowd at the barricade, you fired from a kneeling position?"

A: "It is possible yes."

At **Day 375/87/17 to Day 375/87/25** a further portion of Soldier 027's statement at **B1565.039 at paragraph 84** was put to Soldier F:

"Within seconds, other soldiers came on the scene, some kneeling and some standing joining in the firing. I could see strikes on the barricade. Two people towards the centre of the barricade fell within a few seconds of each other in the opening burst of firing." Counsel to the Inquiry then put the following to him:

"Q: So the picture that he is giving is that you come to the wall and immediately begin firing and then other soldiers join firing at the barricade and two fall. Are you saying you have no recollection of that? A: That is correct." **Day 375/87/23 to Day 375/88/2**.

Soldier F's reply was not a denial but a confirmation that he had no recollection of that. Further quotations from Soldier 027's statement were put to Soldier F including the following from **B1565.040 paragraph 90**:

"I would estimate that we were at that position for a number of minutes which is a long time in this context. I cannot say how many each individual fired. It all merged into a general outburst of shooting. Initially when there just two or three soldiers firing I would say that there were steady shots being fired at intervals of a second or two".

Soldier F was asked at **Day 375/89/8 to Day 375/89/9**:

Q: "Is that what happened?"

A: "I do not remember."

It is submitted that the absence of a denial is critical in assessing the weight to be given to these descriptions of events. Soldier F did not challenge the veracity of these accounts given by Soldier 027. Whilst certain other areas of Solder 027's evidence may give some cause for concern as to reliability this area was not challenged by the witness who was being accused.

A further quotation from Soldier 027 was put to Soldier F at **Day 375/89/10 to Day 375/89/19**:

"The level of shooting grew as more soldiers arrived. I have been told that during the Widgery Inquiry, Lance Corporal F started, firing in a kneeling position, it would not have taken long to fire three or four rounds. My impression was that the firing continued during the following minutes."

When asked did he have a recollection of the firing continuing for a number of minutes, Soldier F replied "No I do not". It is submitted that during this entire exchange Soldier F did not deny any part of the incident referred to by Soldier 027.

18.7.3.138 Soldier F did not admit until 19 February that he fired at all at the Rubble Barricade. The account given by Soldier 027 set out above was not denied by Soldier F and he acknowledged he could not tell whether it was accurate or not. It is submitted that it is entirely probable that Soldier F fired further shots at the Rubble Barricade in addition to the shot that killed Michael Kelly along with Soldier G and the other Anti-Tank Platoon soldiers at the Kells Walk wall.[28]

18.7.3.139 As has already been demonstrated the statement made by Soldier F to Colonel Overbury on 19th February 1972 contains very significant differences from the statements made to the Royal Military Police.

(i) In this statement Soldier F stated that he did not, contrary to what he said earlier in his first RMP statement, fire at a window in Rossville Flats after they first left their vehicles in the Rossville Flats area. He, in fact, fired these three shots later and formed

[28] Soldier E, Soldier J and Soldier P of Mortar Platoon.

part of his firing at the windows of the flats following his return to their vehicles. **B135.** The removal of these shots from the total of course allowed Soldier F to account for the shooting of Michael Kelly at the barricade and the two shots at the man with the pistol behind block 2 of the Flats. Soldier F confirmed this was what he had done at **Day 376/59/15 to Day 376/60/6**.

(ii) For the first time he introduced an acknowledgement that he fired a round at a man which he saw behind a barricade about 40 yards from him when he was about to throw a bomb. This was the shooting of Michael Kelly and is discussed at above.

(iii) Soldier F's account in evidence at **WT14.67 F-G** was of a nail bomb fizzing in the man's hand, but presumed it fell to the ground and confirmed there was no explosion. It is notable in our submission that the same fate befell the nail bomber allegedly seen by Soldier F in Glenfada Park North. It is submitted that this is not likely to have been co-incidental incompetence on the part of two nail bombers but in reality likely to have been because Soldier F invented both accounts. It also made it easier for Soldier F to stand over the two accounts if he said the nail bombs did not explode should anyone have asked why no one else saw or heard the nail bombs explode.

(iv) In this statement to Lt. Colonel Overbury Soldier F, also for the first time, introduced the account of hearing pistol shots coming from the area of the wall at the far end of the Rossville flats. He described shouting "there's a gun man" and dropping to his knee into a kneeling position. He saw a man near the wall facing in his direction who turned as if to run. He saw the man had an object in his hand. He was the only person in the area from which the gunfire had come. The object in his hand was large and black like an automatic pistol. Soldier F fired two rounds at the man and he

fell to the ground. Thus again Soldier F introduced a description of firing and shooting a man in an area he had not mentioned at all at any stage in his four previous statements to the Royal Military Police. The only rational explanation for this particular omission is that Soldier F wanted to conceal his unlawful shooting in that area. By the time that Soldier F came to make the statement to Colonel Overbury on the 19th February 1972 the only rational explanation for mentioning was that he had been made aware that he was a likely candidate for shooting from the corner of Glenfada Park North behind block 2 of the flats. He therefore had to produce a justification. **B135**.

(v) As has been seen at paragraph 20.5.4.336-342 above Soldier F significantly reworked his distribution of shots at the windows in Rossville Flats in contrast to his previous RMP statements.

(vi) He claimed he could work out the number of rounds he fired on the last two occasions from the ammunition check he made shortly afterwards when he counted seven rounds left in his magazine. **B135**. He later told the Treasury Solicitor that this was done when they moved round the side of Rossville Flats. **B138 paragraph 12**. This was of course before he went to barracks and then waited four hours to make his first statement.[29] If Soldier F had been giving a remotely truthful account of his actions he could have provided this information in his first or even one of the subsequent RMP statements. He claimed to have been certain that he fired one round at the nail bomber at the barricade, two rounds at the nail bomber in Glenfada Park, two rounds at the gunman at the end of Rossville flats and three rounds at the window on the second floor of the Rossville Flats. The remaining five rounds he fired on two separate occasions at different windows of the Rossville Flats. **B135**.

Soldier F's Treasury Solicitor statement.

(i) As has been demonstrated at above Soldier F attempted to use his statement to the Treasury Solicitor to alter his account of the circumstances in which he came to have his weapon cocked on Rossville Street.

(ii) As has been demonstrated above Soldier F used his statement to the Treasury Solicitor to correct his obvious untruths in his first RMP statement concerning the conduct of the crowd running away towards the Rubble Barricade.

(iii) Solider F then described how he observed a number of people from his position behind the wall at what appears to have been Kells Walk. One of them was attempting to throw what looked like a nail bomb which was in his hand. It was fizzing. He had seen nail bombs before and he was in no doubt it was one. Soldier F fired one aimed shot and the man fell. The bomb did not explode. He did not see what happened to him. Then he saw three men leave the barricade. One was carrying a rifle and they moved to the right of Glenfada Park. **B137 paragraph 4**.

(iv) He then described the shooting in Glenfada Park.

(v) He described the shooting of the man with the pistol behind block 2 of the flats.

[29] **WT14 61 G**

(vi) As has been seen at above Soldier F then significantly reworked the breakdown and distribution of his shots at the windows of the Rossville Flats.

Soldier F's evidence to the Widgery Inquiry and his excuses for inconsistency.

18.7.3.140 At **WT14.60 C-D** Soldier F was asked why he did not tell the SIB that he had shot a man behind the Rossville Flats from his position at the southern end of Glenfada Park. His answer was: It slipped my mind what with the other offence that happened". "What other offence?" Answer: "Shooting the other two bombers". It is submitted that even for a witness of F's doubtful credibility the suggestion that the shooting of a man with a pistol behind Rossville Flats had slipped his mind when he was discussing other matters with the SIB is remarkable. It may also be noted that Soldier F in this attempted explanation put his slip of the mind down to other events being the shooting of the other two bombers. This was in itself an obvious lie since he had also failed to mention one of the "bombers" at the barricade to the SIB.

18.7.3.141 At **WT14.61 F** at the end of the exchange with Mr. McSparran considered above, Soldier F was asked for an explanation as to why he had said he had fired four shots at a window when he had only fired two, his answer was as follows:

"At the time I made those statements it was in the early hours of the morning. There had been all riots during the day and I couldn't quite think about it."

On the contrary it is submitted that it is clear that Soldier F had every opportunity to think about it and in fact at **WT14.61 F** Soldier F acknowledged he had about four hours in their barracks in Derry before

he made his first RMP statement. It is submitted that what Soldier F did not have ample time to think about was just how he was going to present a consistent and plausible account of the discharge of his shots and avoid detection for the actions he had carried out. He therefore minimised his early accounts to the SIB in the hope that the actual amount of shots and his targets would not be discovered. It may be noted that at **WT14.62 A-C** Soldier F confirmed that he was firing at the man with the pistol behind the flats to kill him. He also confirmed that that had "just slipped" his mind.

18.7.3.142 At **WT14.64 A-C** Soldier F was asked why he did not refer to the shooting of the man with the pistol behind the Flats and what brought it to his mind on the 19th February. His answer was as follows:

"At that time I was shown aerial photographs of the immediate area and I realised that I had shot a man there. We had previously only had a map."

In his statement to Colonel Overbury on 19 February Soldier F had said that having read his previous statements and looked at maps and photographs of the air: " I realise that I have mistaken the sequence of events." **B135**.

He then went on, as we have seen, to disavow his first three shots at the Rossville Flats on de-bussing, add the shootings at the man at the barricade and the man behind the Rossville Flats and change the breakdown of his shots at the windows of the flats. He therefore did considerably more than change his sequence of shots with the use of previous statements, maps and aerial photographs.

18.7.3.143 Even Soldier F began to sense the ludicrous nature of the proposition he had put forward in his statement to Colonel Overbury and to Lord Widgery that his recollection had been prompted by maps and aerial photographs at **Day 375/167/4 to Day 375/167/9**. When asked about the matter he replied:

"No, I presume it was seeing my statements not aerial photographs."

He was then challenged by Counsel to the Inquiry on this statement on the basis that it could not have been his previous statements that caused him to produce the statement to Colonel Overbury which included two important new shootings. He replied:

"I know, but obviously that is a statement I made, but I have no recollection of it". **Day 375/167/14 to Day 375/167/15**.

It is submitted that in addition to being a different excuse from the one proffered earlier, as a statement in itself it beggars belief. It is submitted that he had failed to mention this incident before 19th February 1972 because he considered until that point it would not necessarily emerge that he was the soldier who had fired from the position at the corner of Glenfada Park North. By the 19th February 1972 the army were in possession of the evidence of Soldier 134 and others and it can only be rational to conclude that Soldier F had been made aware of that information. The Army had also to explain by that stage two civilian deaths and two woundings in that area, none of which had been accounted for by any soldier.

18.7.3.144 When the issue of why he had not mentioned his shooting of the man at the barricade or the man with the pistol behind the Rossville Flats was raised at **Day 375/138/25 to Day 375/139/6** Soldier F's reply was:

"All I can say was there is errors of in the judgement of making the statements and they got confused."

18.7.3.145 It was pointed out to Soldier F that in his first RMP statement he was not confused about the number of bullets he fired. His reply was:

"Not at that particular time." **Day 375/139/10**.

He further acknowledged that he gave a precise account of the number of shots, the sets of shots, the targets and the sequence. **Day 375/139/11 to Day 375/139/12**. It is submitted that the only possible conclusion that be drawn form these answers is that Soldier F had no truthful or logical answer to the questions asked.

18.7.3.146 It was further pointed out to him that the shots omitted were shots where he was trying to kill his targets.

"Q. How can you possibly have forgotten those shots?

A. There was a lot going on that day, there was a lot of activity going on and when I made these statements, the statements got confused and there were errors made." **Day 375/139/25 to Day 375/140/3**.

It is submitted that these answers further demonstrate that the shooting was unjustifiable and that Soldier F was an utterly untruthful witness.

18.7.3.147 Soldier F had failed, even by the time of his third RMP statement, to mention either his firing at the barricade or his shooting behind the

Rossville Flats. It is not known precisely when this statement was made but it must have been some days after his original statement. [*Sentence inserted at the request of Madden and Finucane*: The date has now been confirmed in Soldier Fs Eversheds statement as 4 February 1972.] Soldier F was asked to explain this failure. He replied as follows:

"All I can say is that it must have been an error at the time and I must have forgot and then later on, when more statements was required, obviously it was to come to light. I have no explanation for it." **Day 375/144/19 to Day 375/144/22**.

He went on to deny the suggestion from Counsel to the Inquiry that the reason there was no explanation was that in these statements he was telling lies in order to conceal the truth and therefore got in trouble with the details of what happened. **Day 375/144/23 to Day 375/145/2**.

18.7.3.148 Soldier F could not explain the appearance of either the shooting at the barricade or the shooting behind the Rossville Flats in the statement of 19 February 1972. It is submitted that Counsel to the Inquiry summarised the general truth about these omissions at **Day 375/166/19 to Day 375/166/24** with this exchange:

"Q Is the position that by this stage it was becoming apparent in the course of the investigation as to what had happened on the day, that the accounts given by the Anti-Tank Platoon did not fit with the number of victims?

A. Not to my knowledge."

18.7.3.149 It is submitted that Soldier F's testimony to this Inquiry as well as being untruthful and self –serving was designed to continue to conceal his activities on Bloody Sunday. It is simply beyond logic or belief that he could have forgotten the incidents he was involved in entirely. If

that is the case his "amnesia" can only have been part of a deliberate and conscious strategy to avoid answering as to the events of Bloody Sunday. It is important to note that at **Day 376/28/20 to Day 376/28/22** Soldier F confirmed that he had no medical condition which accounted for his total lack of recall.

18.7.3.150 At **Day 375/59/8 to Day 375/59/17** having confirmed that before Bloody Sunday he had not killed anyone and after Bloody Sunday he had killed no one in Northern Ireland he agreed it was a pretty dramatic day.

Q "Are you being truthful when you say that you remember practically nothing whatever about it?"

A."That is correct".

It is submitted that this was not correct and that Soldier F's vague recollection of the day was simply a device conceived by him to avoid answering questions likely to be asked of him and to which he could not answer truthfully without admitting to a litany of lies, torture, unlawful activity, wounding and murder.

18.7.3.151 He acknowledged in his Evershed's statement that he remembered some men leaving the Barricade and Soldier G. At **Day 375/83/4 to Day 375/83/8** he stated he could not remember the scenes in **P635**, **E14.012** and **E14.016** and all he could remember was the barricade. It would probably be idle to speculate on why those items should stick in his mind but shooting to kill at least two men did not. However, it is of note that when certain propositions regarding his conduct were put to him he asserted they did not happen. Again it is not clear how he could have done this if his memory of the day was genuinely so vague.

The shooting behind Block 2 of the Rossville Flats.

18.7.3.152 It is submitted that the shooting by Soldier F behind the flats clearly accounted for the killing of Patrick Doherty and Barney McGuigan. It is also submitted that Soldier F in all probability fired more than the two shots he acknowledged into that area. These either shots which he claimed to have fired at the windows of the Rossville Flats or extra shots he never admitted to. Further submissions on this matter may be found at submissions on Sector 5. It is further submitted that the only evidence of the number of shots fired in this area by Soldier F and indeed his total of thirteen shots comes from himself. It is submitted that the number of Soldier F's inconsistent accounts make it difficult to conclude that he was being truthful as to the location of a number of even his declared shots. Soldier F denied in his statement to this Inquiry at **167.002 paragraph 15** and **Day 375/116/7 to Day 375/116/8** that he had private supplies of ammunition.

18.7.3.153 It is notable that in his first RMP statement at **B121** and in his statement to the Treasury Solicitor at **B137 paragraph 1**, he described himself as armed with an SLR with twenty rounds. He then describes deploying and debussing. In his evidence to the Widgery Inquiry at **WT14.45 B-C**, he was asked had he debussed near the junction of William Street and Rossville Street. He confirmed he had and was asked the following:

Q: "Were you armed with an SLR?"

A: "I was."

Q: "How many rounds of ammunition did you have?"

A: "20 rounds on the rifle itself, 20 rounds in my pouch and 10 rounds in a bandolier."

Q: "A total of 50?"

A: "Yes."

Soldier F would appear to have told Lord Widgery that he had left the vehicle with fifty rounds of ammunition as opposed to his earlier figure of twenty. This must raise yet another question as to the truthfulness or accuracy of any account given by Soldier F as to his ammunition supply and his use of that on the day.

18.7.3.154 At **Day 375/59/8 to Day 375/59/17** having confirmed that before Bloody Sunday he had not killed anyone and after Bloody Sunday he had killed no one in Northern Ireland he agreed it was a pretty dramatic day.

Q: "Are you being truthful when you say that you remember practically nothing whatever about it?"

A: "That is correct".

In summary it is submitted that Soldier F remembered very well the events he was involved in but chose not to assist this Inquiry. He chose not to do so with the intention of obstructing the search for the truth about Bloody Sunday and to attempt to continue with his policy of self-serving lies and evasions. The purpose of such a policy was to cover up murder and wounding of innocent civilians and to cover up the wrong doing of his colleagues. His "amnesia" at this Inquiry was to prevent himself having to answer questions to which he had no answer and to avoid answering questions concerning the conduct of his colleagues.

Soldier J

18.7.3.155 Soldier J admits to having fired 2 live rounds while on Rossville Street on Bloody Sunday. Both rounds were fired over the Rubble Barricade, one on the Glenfada Park side of the Rubble Barricade and one at the corner of Block 1 of the Rossville Flats. In relation to both shots he

claims to have fired at persons who were about to throw nail bombs at him and in both cases he claims to have missed his target.

18.7.3.156 Soldier J is a crucial witness in a number of respects. He is one of the few soldiers in Anti-Tank Platoon who admits to having fired live rounds over the Rubble Barricade in Rossville Street. While he claims to have missed those targets the location of his first target makes him a prime candidate for having killed one of John Young, Michael McDaid and William Nash, his second shot makes him a candidate for the killing of Hugh Gilmore. In these circumstances Soldier J may account for 2 of the deaths behind the Rubble Barricade.

18.7.3.157 It is alleged that Soldier J probably murdered at least one of John Young, Michael McDaid or William Nash at the Rubble Barricade on the 30th January 1972. Since that date he has lied about his actions and lied about the actions of his fellow soldiers in Anti-Tank Platoon, in order to prevent the truth about his role in the murder of innocent civilians from being told.

Soldier X

18.7.3.158 Soldier J was interviewed by Toby Harnden in 1999 and is the soldier referred to as Soldier X in articles written by Toby Harnden and published in the Daily Telegraph in May 1999. (**L282.1**, **L282.2**) Soldier J acknowledges that he has "previously, untruthfully" and repeatedly lied about his involvement in that interview, despite having been repeatedly asked by the Tribunal through his solicitor whether he was Soldier X. He eventually told the truth in September 2003, just prior to giving evidence. **B289.028 paragraph 1** and **B289.029 paragraph 7**

18.7.3159 Soldier J explained that the purpose of having given the interview to Toby Harnden was to assist soldiers in their anonymity application and also because:

"I wanted to get over the point that we were fired upon first after a riot had got out of hand I was fed up with reading and hearing that the Paras went on an unprovoked attack." **B289.028 paragraph 4**

18.7.3.160 During the course of the interview with Toby Harnden Soldier J stated that he had witnessed events on Bloody Sunday that he had not actually witnessed. In the course of this Inquiry he justified this by stating that

"A. Because, sir, he was our last-gasp chance to get our anonymity. **I had to put it -- lay it on thick. In other words, in this modern idiom today, you would say I sexed it up a bit."** **Day 370/9/4 to Day 370/9/9**[30]

18.7.3.161 Soldier J was apparently incapable of acknowledging that he had told untruths to Toby Harnden preferring to hide behind phrases such as 'sexed-up' and 'hamming it up' rather than accept that he had told Mr. Harnden out and out lies.[31]

18.7.3.162 In Soldier J, the Tribunal is dealing with a witness who is demonstrably dishonest, who despite having had to accept that he had "previously, untruthfully" lied to this Inquiry, not once but "repeatedly", was unable to characterise blatant lies as untruths. Crucially it has been shown that this witness has, over a period of years, been dishonest in his dealings with this Tribunal, and was, in his interview with Toby Harnden, dishonest in relation to his involvement in Bloody Sunday.[32]

18.7.3.163 It is our submission that his evidence cannot be accepted as being given in good faith, and as with his interview with Toby Harnden, his

---

[30] A reference to the more complete exchange on this issue is **Day 370/90/21 to Day 370/92/21**

[31] "LORD SAVILLE: Another way of describing it would be that you told Mr Harnden things that you knew not to be true; is that right?
A. I told Mr Harnden things that I had gleaned from my first statements, from other people what had told me, just to ham it up a bit so he would make a good case for it and write things in the paper which could persuade the Prime Minister to give us anonymity." **Day 370/91/10 to Day 370/91/17**

[32] Soldier J's involvement in the arrest of individuals and the dishonest accounts he gave about the persons whom he had arrested are also evidence of his willingness to lie about the events of the day. This topic is addressed in relation to Soldier J's involvement in Sector 4.

objective in giving evidence to this Inquiry has been to present a view of Bloody Sunday sympathetic to the Paras, rather than to tell the truth about his role in the events of that day.

Soldier J's Recollection of events

18.7.3.164 Soldier J as with a number of soldiers from 1 Para claims to have a limited recollection of the events of Bloody Sunday. In relation to his current account, it is noteworthy that his recollection about the early part of the day is clear up until he was briefed about the operation in Derry, from that point on he states that:

> "I do not remember much more about the events of that day." **B289.002 paragraph 12**

18.7.3.165 In fact as became apparent in the course of questioning by Counsel for the Tribunal and Counsel for the Families, in relation to most of the issues on which he was questioned, Soldier J's stock response was that he had "no recollection". The only real exception to that reply relates to the shootings themselves in respect of which he maintains that he can clearly recollect that the persons he shot were nail-bombers and that he did not hit his targets. Thus he can assist this Inquiry to the extent necessary to provide himself with a defence to allegations of murder, but no more.

18.7.3.166 In the course of his interview with Toby Harnden Soldier J is quoted as saying:

> "I was grilled for several hours this year by lawyers acting for the Saville Inquiry. I told them the bare minimum and said that I could not really enlarge on anything said to Widgery or contained in my original statement the day after Bloody Sunday." **B289.029 paragraph 4**

18.7.3.167 Soldier J maintains that these are not his words but that Toby Harnden has "taken that out of context to make maximum headlines with it."

Day 370/94/4 to Day 370/94/9 Although it is noteworthy that when asked:

> "Q. Was it the position that the game plan was to threaten that if you were to be named, you would not tell the whole story because of fears for your safety in the hope that that threat would influence the decision on anonymity?
> A. Well, I do not know really for sure, but **it seems a very good bargaining chip to make sure that we did not -- or we did get anonymity,** but I cannot remember saying that to him. Again, I think it was a bit of journalistic licence." **Day 370/94/22 to Day 370/95/6**

18.7.3.168 It is the case, as Soldier J has had to concede, that his Eversheds statement is the bare minimum and does not enlarge in any way on the statements previously made or the accounts given to Lord Widgery. **Day 370/93/25 to Day 370/94/7**

18.7.3.169 It is our submission that Soldier J has lied to this Inquiry about the extent of his recollection about Bloody Sunday and that

> "the progression of your statements was a carefully constructed device to provide a smokescreen against those who would inquire as to the truth about what happened on Rossville Street and what happened in Glenfada Park". **Day 370/129/1 to Day 370/129/6**

18.7.3.170 It will moreover be contended that it became apparent during the course of questioning by our Counsel that Soldier J does in fact have a greater recollection of events than he wishes to acknowledge.[33] Soldier J, just as he lied to Toby Harnden about his role on Bloody Sunday, and as he lied to his own lawyers and this Tribunal about his role as Soldier X, is lying about the extent of his recollection about Bloody

[33] See **Section 18**

Sunday and is doing so with the express objective of obstructing the search for the truth.

1972 Statements

18.7.3.171 Soldier J made 3 statements in 1972, two to the RMP and one to the Treasury Solicitor. As with other soldiers in 1 Para who claim either a limited or no recollection about the events Soldier J invites this Tribunal to accept the accounts he gave in 1972 as accurate. As he stated on one occasion, when challenged about the accuracy of those accounts in light of objective evidence to the contrary:

> "I think because I put that down in my statement and spoke to Lord Widgery on that, it must be true to say that I did see nail bombs being thrown that day, sir." **Day 370/84/12 to Day 370/84/14**

18.7.3.172 However, as with Lt. 119 and other soldiers from Anti-Tank Platoon, the difficulty lies in establishing which of the various versions advanced by Soldier J in 1972, if any, should be accepted as accurate. Particularly given, not only the contradictions between the various accounts given by Soldier J, but the contradictions between his accounts and those given by other soldiers of Anti-Tank Platoon.

18.7.3.173 Soldier J's first statement was made on the 1st February 1972, two days after Bloody Sunday, and as he has acknowledged he felt under no pressure at the time he made the statement. **Day 370/113/17 to Day 370/113/23** Inasmuch as it relates to Sector 3 he states as follows:

i) That 1 Para had been tasked to advance down Rossville Street to disperse a crowd of 1,500 rioters who were congregated at the Rubble Barricade. **B265**

ii) As they advanced down the right hand side of Rossville Street he heard automatic fire coming from the Rossville Flats. **B265**

iii) As they continued to advance they came under fire and heavy stoning from persons located in the Glenfada Court area. **B265**

iv) When he was 100m from the Rubble Barricade he could **clearly** see the Barricade and he could see youths throwing missiles. **B265**

v) Shots were being fired from gunmen behind the Rubble Barricade.

vi) He saw a youth whose hand was in the throwing position and who had an object in his hand from which he could see **smoke** **B266**

vii) His rifle had been cocked "on the start of the advance". **B266**

viii) He fired one round which hit the top of the Rubble Barricade. **B266**

ix) Meanwhile "Other troops had opened fire on other snipers located around the Rossville and Glenfada Flats area." **B266**

x) They then advanced further along Rossville Street towards the Rubble Barricade and several nail bombs were thrown at them. **B266**

xi) He saw a person at the junction of a block of flats holding a nail bomb, he was able to see **smoke** coming from the bomb. **B266**

xii) He fired one shot which hit the wall above the nail bomber's head, the nail bomber dropped and disappeared and Soldier J did not believe he hit him. **B266**

xiii) As this was happening he was under fire from the Rossville Flats the fire was automatic. **B266**

xiv) "The advance was continued and the crowds from the barricade were dispersed." **B266**

xv) He then went into Glenfada Park North to conduct arrests. **B266**

It should be noted that in his first RMP statement he gives no further information in relation to his involvement in the events of the day and no description of any kind in relation to what occurred in Glenfada Park North.

18.7.3.174 In relation to his first RMP statement it should be noted that, contrary to what he asserted, there never were 1,500 rioters behind the Rubble

Barricade. Soldier J was unable in the course of his evidence to this Inquiry to explain how he had come up with that figure. **Day 370/12/19 to Day 370/13/1**

18.7.3.175 While not a major issue in relation to the evidence he gives, this is just one more example of Soldier J's preparedness to lie in order to provide justification for the actions of soldiers.

18.7.3.176 Soldier J's second RMP statement was made on the 4th February 1972 and is in essence supplemental to his first in that, he does not rehearse those matters about which he had already given an account, but provides additional material, not contained in his first RMP statement. In essence the additional material is as follows:

i) In his first RMP statement he had stated that "Other troops had opened fire on other snipers located around the Rossville and Glenfada Flats area." **B266** In his second statement he states that "From [the Kells Walk Wall] I observed two male persons taking cover behind a barrier which was placed across the street at Rossville Flats. The distance between them and myself was about 100 metres. . . . From my position **members of my Coy returned fire at the nail bombers** but I cannot say who they were as at this point everyone was wearing gas masks." **B269**

ii) Whereas in his first statement he simply refers to going into Glenfada Park North to effect arrests he now provides information in relation to the shooting carried out by F and G in Glenfada Park North.

iii) He gives a description of the incident in which F and G shot at windows in the Rossville Flats. Significantly, from inside the rear of the Pig he was able to say that he heard 2/3 low velocity shots "and more" fired from the "second storey of Rossville Flats at the northern end." **B270**

18.7.3.177 The fact that his second statement was made on the 4th February 1972, is not without significance. We would refer the Tribunal to **Section 5**

of these submissions wherein we make the case that a significant number of soldiers made statements on that date which were expressly designed to corroborate and justify the use of lethal force by other soldiers.

18.7.3.178 It will be seen from those submissions that a number of soldiers from Anti-Tank Platoon fall into that category. In particular we would refer the Tribunal to the fact that on the 4th February 1972 statements were taken from the following members of the Anti Tank Platoon: Soldier J at 15.10 hours, (**B269**, **B270**) Soldier 018 at 19.15 hours, (**B1487**) Soldier 036 at 19.30 hours, (**B1629**, **B1630**) Soldier 147 at 20.00 hours (**B1886**, **B1887**) and L/Corporal F, time unknown. Soldiers 018, 036 and 147 had not made any statements prior to this date. The statements of each of soldiers 018, 036, 147 and Soldier J deal with the incident where they say they came under fire from the Rossville Flats and Soldiers F and G returned fire.

18.7.3.179 However Soldier 018 now states that :

> ". . . I was not in a position to see whether there was a gunman in the flats when the shots were fired, nor could I see that they went through the window. The RMP told me that he needed to include this to substantiate details that had been provided by my colleagues to show that when they fired, they did not hit anybody. As the time I made my statement, I was led to believe the details about the location of the gunman in the flats and the area to which fire was returned were true. I had also heard the shots being fired from my position inside the pig. I therefore agreed to include the details in my statement". **B1491.5 paragraph 42**

18.7.3.180 Soldier J's statement of the 4th February is exclusively aimed at providing corroboration and justification for the actions of Soldiers F and G. In our submission it was made for that sole purpose and cannot be relied upon, except as further evidence of the willingness of Soldier

J to perjure himself at the Widgery Tribunal and to lie in order to assist his colleagues.

18.7.3.181 Soldier J's third statement was the statement prepared for the purposes of the Widgery Inquiry and taken by the Treasury Solicitors. Again this statement differs in material respects from the combination of the first two statements made by Soldier J in the following ways:

i) "We then moved along in front of the wall behind which are low rise flats and while we were moving along to the end of this wall I could see stones and bottles and also nail bombs being thrown in our direction, from the direction of the barricade. I saw one nail bomb explode." **B272** A reading of this statement suggests that Soldier J initially went in front of the Kells Walk Wall and was forced to take cover behind it because of an exploding nail bomb. This is the first occasion upon which he suggests that a nail bomb exploded as they advanced down Rossville Street and prior to taking cover at the Kells Walk Wall.

ii) There was shooting from the Rubble Barricade, he saw three people and there was smoke coming from their rifles and two soldiers from Anti-Tank Platoon engaged the 2 gunmen. **B272** In his first RMP statement he referred to his colleagues engaging snipers in the Rossville Flats and Glenfada Flats area. In his second RMP statement he suggested that his colleagues engaged nail bombers behind the Rubble Barricade, these nail bombers have now become gunmen. **B269**

iii) The nail bomber at whom he fired had a **fizzing** as opposed to a smoking object. **B273**

iv) As they advanced forward of the Kells Walk Wall several nail bombs were thrown from behind the rubble barricade and 2 exploded. **B273** Although he refers to nail bombs being thrown at soldiers as they advanced in his first RMP statement, **B266** in neither of his RMP statements does he refer to 2 nail bombs exploding.

v) Again the second alleged nail bomber at whom he fired had a **fizzing** as opposed to a smoking object. **B273**

vi) His description of Soldiers F & G firing after the return from Glenfada Park North now involves two separate incidents of civilian fire and return fire. He no longer purports to be able to identify the precise location from whence civilian fire came. **B273**, **B274**

18.7.3.182 Finally Soldier J gave evidence at the Widgery Inquiry during which he gave an account broadly in line with his Treasury Solicitor statement except as follows:

i) The 2 men with rifles who were engaged by soldiers from his Platoon were crouched behind the Rubble Barricade and all that could be seen were their heads and shoulders and "puffs of smoke" as they were firing. It was as a result of the shooting from these gunmen that they took cover at Kells Walk Wall. **B277**.

ii) They were ordered by the Platoon commander, Lt 119 to go into Glenfada Park to make arrests. This is the first time he mentions being ordered into Glenfada Park North.

iii) When he returned from Glenfada Park North and was positioned in the rear of the vehicle, he heard shots from the Rossville Flats. He does not suggest that he was able to identify precisely where the shots came from but states that the wireless operator pointed out to the sentry where the shots were coming from. This sequence was repeated once. **B282**

18.7.3.183 As can be seen above there are significant variations in Soldier J's account of events from statement to statement. The changes in the targets fired upon by his colleagues are significant in a number of respects, primarily because it is difficult to see how persons described as nail bombers can suddenly take on the appearance of men with rifles. The greater difficulty is of course that while two other soldiers from Anti-Tank Platoon have admitted firing from the Kells Walk

Wall, F claims to have fired at a nail-bomber, while E claims to have fired at sniper at Block 1 of the Rossville Flats. No soldier claims to have fired at riflemen at the Rubble Barricade.

18.7.3.184 Of perhaps even greater significance, given that Soldier J's justification for the use of lethal force is his belief that the persons he identified were throwing nail bombs, both the sudden appearance of exploding nail bombs, and the change in description in the objects held by **both** of his own targets from 'smoking' objects to 'fizzing' objects.

18.7.3.185 In the course of his evidence to this Tribunal Soldier J failed to advance any explanation, coherent or otherwise, for the discrepancies between the various accounts given in 1972.

18.7.3.186 A more significant difficulty which arises however is that some of the other evidence before this Inquiry demonstrates that some of his accounts are patently untrue.

Exploding Nail Bombs

18.7.3.187 On Soldier J's account he witnessed 3 nail bombs explode on Rossville Street. The first exploded at or about the time Anti-Tank Platoon arrived at the Kells Walk Wall and a further 2 exploded as they moved forward of the Kells Walk Wall towards Glenfada Park North.

18.7.3.188 The movement of Anti-Tank Platoon up Rossville Street and their arrival at the Kells Walk Wall is caught on camera by Liam Mailey and the sequence can be found from **P1116 to P1121**.

18.7.3.189 Not only is it the case that the photographic evidence gives no indication that any nail bomb exploded in this area at or about that time, Liam Mailey who took the photographs, gave evidence to the Widgery Inquiry, and to this Tribunal. On his evidence no nail bomb exploded on Rossville Street at that time, or for that matter at any stage while he was on Rossville Street. Moreover while Liam Mailey was

questioned by Counsel acting on behalf of Soldier J it was never suggested on Soldier J's behalf, that a nail bomb had exploded at or about the time Anti-Tank Platoon arrived at the Kells Walk Wall, or at any time. Finally, of course, Soldier J's account in this respect, as well as being contradicted by the evidence of media witnesses behind the Rubble Barricade, and the vast body of civilian evidence, is uncorroborated by the soldiers from Anti-Tank Platoon and Mortar Platoon who were with him on Rossville Street. That a nail bomb could explode on Rossville Street at a time when large numbers of civilians were behind the Rubble Barricade, and large numbers of soldiers were in the vicinity of the Kells Walk Wall, and not a single witness can lend support to Soldier J's account, renders it entirely implausible.

18.7.3.190 Soldier J contends that 2 further nail bombs exploded as soldiers advanced forward of the Kells Walk Wall. The image of soldiers from Anti-Tank Platoon moving forward from the Kells Walk Wall was caught on video and **V48/11.35 to 11.55** shows, not merely the soldiers advancing but also the absence of people behind the Rubble Barricade. Not only is it evident that nail bombs were neither thrown nor exploded, it is evident that "there were not any crowds there before the soldiers went in advance of the Kells Walk Wall". Soldier J was specifically questioned about this issue and dealt with it as follows:

> "Q. Could you explain the sentence: "The advance was continued and the crowds from the barricade were dispersed."
>
> A. Well, as it says there, they must have dispersed and moved away from the barricade or from behind the barricade or whatever.
>
> Q. But we have seen the video, there were not any crowds there before the soldiers went in advance of the Kells Walk wall; how do you explain that?
>
> A. All I can say is, they must have moved before the photograph was taken or the video. Because, at one time --

according to that, at one time there was 1,500 people there, they did not just vanish into thin air, sir.

Q. This is after you have shot at a youth on the barricade, after you have gone ahead of the barricade; after, according to your subsequent statements, you have been nail bombed several times and you have seen one explode within 30 metres of where you were, and even after all of that, the advance continued and the crowds were dispersed?

A. Yes, sir.

Q. It just does not fit with the objective, independent evidence that exists from the media who were there; it does not fit, because you are lying and you know you are lying; is that not right?

A. No, sir." **Day 370/119/24 to Day 370/120/25**

18.7.3.191 Soldier J was given the opportunity in the course of this Inquiry to qualify his allegations with regard to nail bombs and stated as follows:

"Q. Your position, as I understand it, is that you now have, apart from your recollection of the man at whom you shot, no recollection of nail bombs being thrown or exploding; is that right?

A. That is correct, sir.

. . .

Q. The Tribunal has heard a very great deal of civilian evidence that no nail bombs were heard to explode on the day. Is it right that the noise of a nail bomb is deafening?

A. Well, it all depends on the kind of built-up area where it would go off, sir.

Q. Assume that a nail bomb was thrown towards you and exploded, either as you advanced towards the Kells Walk wall or as you advanced from the Kells Walk wall to the barricade, would that make a deafening noise?

A. I think it would, sir.

Q. Is it possible that whatever bangs and thumps that you heard did not in fact include an exploding nail bomb?

A. Well, I think because I put that down in my statement and spoke to Lord Widgery on that, it must be true to say that I did see nail bombs being thrown that day, sir.

Q. Is it possible that when you saw someone throw something or appear to throw something or with something in his hand, you chose to characterise it as a nail bomb whether you could see that it was or not?

A. If I saw the, the fizz or the smoke coming from it. I would have taken it for granted that it was a nail bomb, sir."

Day 370/83/11 to Day 370/84/20

18.7.3.192 Despite the large number of media witnesses present behind the Rubble Barricade on Bloody Sunday, including photographers and the actuality footage of Rossville Street on Bloody Sunday, there is no objective evidence which lends a shred of support to Soldier J's evidence that 3 nail bombs exploded on Rossville Street. It is our submission that the evidence establishes beyond doubt that no nail bombs exploded on Rossville Street on Bloody Sunday and Soldier J's insistence in continuing to assert that they did so, in reliance on what he said in 1972, demonstrates his continued willingness to lie about the events of Bloody Sunday.

Soldier J's Use of Lethal Force

18.7.3.193 Soldier J maintains that he does have a recollection of the circumstances in which he fired his two shots.[34] **Day 370/28/16 to Day 370/29/13** He can identify his location at the time of the shooting, he can identify the location of his targets, he can describe their actions, he can state with certainty that they were about to throw a nail bomb and he can confirm that he did not hit his targets.

18.7.3.194 It is noteworthy that while he stated he could recollect the incident, he could not assist the Tribunal with any detail about the surrounding circumstances, in particular the two riflemen who were allegedly alongside the nail-bomber and who were being engaged by his colleagues at precisely the same time.[35]

18.7.3.195 In relation to his first target he told this Tribunal that his trajectory photograph **P13** was inaccurate and that his target was at the Rubble Barricade but further west than the location identified in his trajectory photograph. **Day 370/30/3 to Day 370/30/24**

18.7.3.196 The location at which Soldier J places his first target is the location at which Michael McDaid, John Young and William Nash were killed, shortly after the killing of Michael Kelly.[36]

18.7.3.197 Soldier J maintains that he was able to identify the object in the persons hand as a nail bomb because, "as I wrote in the statement, I distinctly saw smoke or fizzing coming from it." **Day 370/36/3 to Day 370/36/21** Whether it was smoking or fizzing depends of course on which of his 1972 accounts is to be accepted. He was not prepared to accept that he might have been mistaken in identifying his target as a nail bomber yet, he was wearing a gas mask when he fired his first

---

[34] Under questioning from Mr. Clarke QC he stated that it was all a bit 'obscure' but when pushed stated that he could recollect this incident happening.

[35] Day 370/33/20 to Day 370/34/6 "Can you be a little clearer as to whether you were referring to two or some other number of gunmen, where they were and what they were doing? You describe them as "gunmen".
A. Well, I do not remember now, sir.
MR TOOHEY: You mean you remember nothing about the number of persons who you described as "gunmen" at the time?
A. Well, sir, I am afraid I cannot recollect.
MR TOOHEY: Do you have any recollection of anyone at the barricade answering the description of the gunman at the time that you are referring to in your statement?
A. No, sir."

[36] It is our contention that Video 48 which shows Alex Nash at the Rubble Barricade, taken with the civilian evidence which states that these three young men fell at or about the same location, identifies, as precisely as is possible the location at which John Young, Michael McDaid and William Nash met their deaths.

shot, and was at a distance of approximately 75 yards from his intended target. **Day 370/35/6 to Day 370/35/13**[37]

18.7.3.198 Under precisely the same conditions Soldier J could not identify the soldiers of his own platoon, standing beside him, who also fired over the Rubble Barricade. **Day 370/38/21 to Day 370/39/1** He never noticed Soldiers P or 017 standing in front of the Kells Walk Wall and never noticed Soldier P firing 9 rounds. He never saw any of the 4 persons who were killed behind the Rubble Barricade fall, **Day 370/39/6 to Day 370/39/18** yet they were shot and killed while he was at the s Walk Wall and at about the time he was firing at a target at the precise location at which these young men fell.

18.7.3.199 When asked how he could fail to recognise his colleagues, he stated, "it is quite easy, really, I was observing that way, I was not really worried about what was going on at the sides of me. My whole vision was directed towards the barrier which there was people milling about on." Of course this is precisely the reason why he could not have missed witnessing Michael Kelly, Michael McDaid, John Young and William Nash as they were shot and killed.

18.7.3.200 It is moreover quite clear that, contrary to what he has said to this Tribunal, Soldier J does recollect precisely what happened at the time he fired his first round. When asked by Counsel for our clients:

> "Q. How could you have failed to have missed the scene of boys walking through the barricade, soldiers firing and people dying when you are looking there?
>
> A. I do not know the timescale of that, but I know there was not anybody really walking about at the time.
>
> Q Is that so.
>
> A. They were more like crouching or running.

[37] Mr. Clarke QCs questioning of Soldier J in relation to this shooting can be found at Day 370/34/7 to Day370/37/19

Q. That is an improvement, now we have a specific clear memory.

A. No, no, I am just saying, I would not have seen people standing like - -

Q No, no, no. Surely what you have said is, "but I know there was not anybody really walking about at that time"; is that now a memory that you have, it has come to you suddenly like a bolt from the blue?

A. No, sir, I am just saying that what I saw from the other side of the barricade certainly was not the same as what you see from this side." **Day 370/115/25**

18.7.3.201 While he backtracked once he realised his error, it is evident from the above excerpt that Soldier J has a much clearer recollection of his actions on Bloody Sunday than he has been prepared to admit to this Tribunal. The reason Soldier J chooses to hide behind a failing recollection is because he fired at least one live round over the Rubble Barricade, without justification, and he is guilty of the murder of, at least one of, John Young, Michael McDaid or William Nash.

18.7.3.202 Soldier J's second target was again identified as a nail-bomber. According to Soldier J at the time he fired this shot: he was still wearing his gas-mask; approximately 4 nail bombs had been thrown at him from the Rossville Flats side of the Rubble Barricade; 2 had exploded; and, he was also under automatic fire from the Rossville Flats.

18.7.3.203 Again Soldier J states that he has a recollection of the actual shooting in his mind's eye, albeit that he can no longer remember any of the surrounding circumstances, whether the exploding nail bombs, or coming under automatic fire. **Day 370/49/19 to Day 370/49/23**

18.7.3.204 Again Soldier J failed to witness events which were happening at the end of Block 1 at or about the time he was shot: he never saw Hugh

Gilmore fleeing for his life along the side of Block 1; he never saw him shot; he never saw the people who came to his aid. **Day 370/51/7 to Day 370/51/25** But he is sure that: despite the distance; despite wearing a gas mask; despite the fact that it was a fleeting glance he could not be wrong in his identification of his target as a nail-bomber. **Day 370/49/ 25 to Day 370/51/6** and **Day 370/51/24 to Day 370/52/4**

18.7.3.205 The photographic evidence and the actuality footage, in particular **V48/11.35 to 11.55** which shows Anti-Tank Platoon advancing down Rossville Street, demonstrate that when Anti-Tank Platoon advanced there was no one behind the Rubble Barricade, no nail-bombs were thrown and they were not under automatic fire.

18.7.3.206 If Soldier J did fire that round in the direction of Block 1 of the Rossville Flats, then he is a strong suspect for having shot and killed Hugh Gilmore as he fled for his life. It is because, as with his first shot, his decision to fire live rounds at unarmed civilians was without justification that Soldier J lied in 1972 and has had to persist in his lies to this Inquiry.

1 Para's attitude to Derry

18.7.3.207 Soldier J was returning from Cyprus the night before Bloody Sunday and was not therefore at any briefing given by Lieutenant 119. Nonetheless as with all of the soldiers in Anti-Tank Platoon who have given evidence he rejects the suggestion that soldiers from Anti-Tank Platoon regarded this as "an occasion upon which 1 Para might be able to engage with the IRA and get some kills". **Day 370/6/7 to Day 370/6/11**

18.7.3.208 He claims that his current recollection was simply that they were there to police an illegal march at which trouble was expected. **B289.002 paragraph 11** When questioned by Lord Gifford, Soldier J rejected the suggestion that his attitude in going to Derry was that he would like

to get at the rioters and people in no-go areas, and deal with them as fully and strenuously as possible. **Day 370/144/10 to Day 370/144/12**

18.7.3.209 However, even in his statement to this Tribunal it is clear that when he went to Derry it was his view, and a view which was shared by his colleagues, that the situation in Derry was out of control:

> "Bombings and shootings seemed to have become a nightly occurrence in Londonderry. Subsequently, just before Bloody Sunday, two police men had been killed there. We had never been to Londonderry but we all saw the news reels on the television about it and wondered why it was going so badly there." **B289.001 paragraph 6**

18.7.3.210 His interview with Toby Harnden is more instructive about his approach and that of Anti-Tank Platoon both in terms of their attitude to the persons on the civil rights march and their expectations about to the operation in Derry.

"Q. "Soldier X, of the Support Company, said he had been told by officers that IRA activity was likely." Then there is the passage in quotes:

"We were briefed that it was an illegal march and that the civil rights movement had been completely infiltrated by Republican elements."

Is that what you said and what you were briefed?

A. I think so, sir, yes.

Q. You are then recorded as saying:

"Two policemen had been killed in Londonderry a few days earlier [we know that is true] and we were told that the IRA wanted to cause as much mayhem as possible; we were ready for the worst-case scenario."

Is that what you told Mr Harnden and what you yourself were told?

A. I think so, sir, yes. **Day 370/89/24 to Day 370/90/14**

18.7.3.211 Unusually, Soldier J accepted, both that this was what he had said to Toby Harnden and that it was true. In our submission this lends support to the view that at the very minimum the soldiers of 1 Para were dangerously hyped-up when they arrived in Derry, that they substantially over-estimated the risk posed to them by unarmed Civil Rights marchers, and that this attitude was encouraged, rather than suppressed by their officers.

Conclusion

18.7.3.212 Michael Kelly, Michael McDaid, John Young, William Nash and Hugh Gilmore were shot and killed at the Rubble Barricade by soldiers at a time when soldiers from Anti-Tank Platoon, including Soldier J were positioned behind the Kells Walk Wall. Soldier J, in common with the other soldiers from Anti-Tank Platoon[38] has been unable to account for how these young men met their deaths. The reason for this complete inability, on the part of any of the soldiers to advance an explanation is because, consistently with the body of civilian evidence, there was indiscriminate and unjustified firing from the Kells Walk Wall which was covered up.

18.7.3.213 A feature of Soldier J's limited recollection common to all soldiers in Anti-Tank Platoon, is his inability to account for the actions of other soldiers. He has never identified the two soldiers standing by his side, apparently shooting at persons who posed a threat to his life and the lives of his colleagues. He claims that he can no longer recollect any of the events in Glenfada Park and thus does not have to deal with questions about what occurred there. He can no longer remember the shooting by Soldiers F and G at windows in the Rossville Flats when Anti-Tank Platoon left Glenfada Park North.

18.7.3.214 Soldier J accepted that he was aware of and understood the implications of the immunity which has been granted to soldiers in

[38] With the exception of Soldier F who belatedly had to account for the death of Michael Kelly.

relation to their testimony on Bloody Sunday. **Day 370/109/14 to Day 370/109/25** While charges cannot be brought against any individual soldier on the basis of admissions made about the events of Bloody Sunday, charges can be brought on the basis of the testimony of other soldiers. Thus if Soldier J was to identify his colleagues who fired lethal rounds over the Rubble Barricade, or was to describe the actions of his colleagues in Glenfada Park his testimony could incriminate them. Soldier J, and other soldiers in Anti-Tank Platoon have adopted a strategy of mutual protection. Each individual soldier is left to account as best he can for the shots he discharged, but no Soldier will account for the shots fired by his colleagues. By failing to recollect the actions of their colleagues, they prevent effective questioning of those actions and nothing they say can be used to incriminate the other. In this way the truth about their wilful murder of innocent civilians on Bloody Sunday is hidden. **Day 364/23/10 to Day 364/23/15**

18.7.3.215 Soldier J has given a false account about the circumstances in which he fired live rounds on Bloody Sunday both to Lord Widgery and to this Tribunal "false both as to what they did say and false by reason of what they omitted." **Day 370/149/2 to Day 370/149/8** He has moreover lied about the extent of his recollection of the events of the day. He has done so because on the 30th January 1972 Soldier J participated in murder, and in the years since he has participated in criminal conspiracy to prevent the truth about Bloody Sunday from emerging, to protect himself from the consequences of his actions on Bloody Sunday.

Soldier H

18.7.3.216 Soldier H fired more live rounds on Bloody Sunday than any other soldier, firing a total of 22 shots. According to Soldier H, 19 of those rounds were fired into a frosted glass window in Glenfada Park North. It is alleged, that as Lord Widgery found in 1972:

> "It is highly improbable that this cycle of events should repeat itself 19 times; and indeed it did not. . . . So 19 of

the 22 shots fired by Soldier H were wholly unaccounted for."

18.7.3.217 Soldier H's conduct on Bloody Sunday is vital to understanding the truth of what occurred on Bloody Sunday. He was at the Kells Walk Wall when members of his Platoon and Mortar Platoon fired over the Rubble Barricade and 5 people were killed.[39] He was in Glenfada Park North when members of his Platoon shot and killed people in Glenfada Park North, Abbey Park and in Rossville Street. Most significantly, having fired 19 unaccounted for rounds, he must be a prime candidate for one or more of the civilian deaths which Anti-Tank Platoon have chosen not to account for, including the deaths of those murdered behind the Rubble Barricade.

18.7.3.218 Soldier H's conduct in Glenfada Park will be dealt with separately in Sector 4. However given that:

i) his 19 rounds remain unaccounted for; and

ii) soldiers from Anti-Tank Platoon have been unable to account for the casualties behind the Rubble Barricade;

it will be necessary to address the firing of those rounds, despite the fact that he has generally maintained that those rounds were fired in Glenfada Park North.[40]

18.7.3.219 Soldier H gave 3 separate statements to the RMP in 1972, he also made a statement to the Treasury Solicitor. His first 2 statements were apparently made within 20 minutes of each other, one of them is timed at 2.10am on the 31st January, **B218** while the second is timed at 2.30am on the 31st January. **B228B**

[39] It is alleged that Soldier K was responsible for the murder of Kevin McElhinney

[40] During the questioning of Soldier H in this Tribunal he appeared to accept that he might be mistaken. Day 378/131/3 to Day 378/131/5 "I have always thought it was a toilet window and it has been proven here that it is not, but I did shoot through a window at all times." Moreover in his first RMP statement he appears to suggest that those rounds were in fact fired somewhere on Rossville Street. B221

18.7.3.220 As was noted by Counsel for the Tribunal the second statement appears not so much to be supplemental as "a complete re-write of [the first statement] and . . . appears to be markedly more intelligible." **Day 377/126/21 to Day 377/127/6** Soldier H has been unable to assist the Inquiry as to the circumstances surrounding the making of these two statements within such a short time-frame.

18.7.3.221 There are significant discrepancies as between the various accounts which have been given by Soldier H about Bloody Sunday, in 1972 and to this Tribunal. It is not proposed to address each discrepancy in detail. Rather it is our submission that reading Soldier H's accounts of Bloody Sunday whether given in 1972 or 2003 a clear trend emerges, and that is a willingness to exaggerate, sometimes to fantastical levels, about alleged attacks on his Platoon and the level of threat faced by them as they entered the Bogside. In every account he has given about the events of Bloody Sunday, Soldier H has lied, and in suggesting that 1 Para faced an onslaught of hostile attacks from armed civilians he aims to distract attention from his actions and in some way to justify his involvement in murder.

Drainpipe Shot

18.7.3.222 In his first statement Soldier H makes no mention of hearing the drainpipe shot prior to receiving the order to move in. In his second RMP statement he describes hearing a shot which struck the east wall of the Presbyterian Church. **B228** By the time he makes his Treasury Solicitor's statement he has not only heard the shot but seen the drainpipe fall. **B233**

18.7.3.223 This evolving state of knowledge about the drainpipe shot is not unique to Soldier H. A large number of soldiers from 1 Para now claim to have either heard or seen that shot, despite not having made that claim in their original accounts. Significantly the same soldiers never give an account of having heard the 5 SLR shots fired by soldiers from Machine-Gun Platoon when at that location.

18.7.3.224 It is accepted that the drain-pipe shot occurred and was heard and/or witnessed by some soldiers. However in 1972 it became a relatively common feature of the evidence of many soldiers of 1 Para despite the fact that an examination of those accounts shows them to be inconsistent as to the detail. This occurred, not because soldiers had witnessed this incident but rather because: having learnt of this shot subsequently, soldiers decided of their own volition to dishonestly insert it into their evidence; or, it was suggested to soldiers by the RMP that they should insert this into their statements. Whichever is true large numbers of soldiers claim to have witnessed this shot and have gave evidence about it in order to bolster the soldiers' case before Lord Widgery.

18.7.3.225 In the case of Soldier H, his claim to have heard the drainpipe shot is not without significance given what he said in his statement to this Tribunal:

> "I felt this was confirmation of our expectation that the IRA were prepared for us and that they had deployed their snipers around the Bogside. We knew we were going into a hostile environment and when the shot was fired at us we realised that the IRA had got their weapons out as soon as we had arrived. They didn't want us going in to the Bogside which had been their territory for two years. However, they were used to dealing with less well trained troops. Coming under fire like that would get you keyed up." **B262 paragraph 5**

18.7.3.226 In our submission the drainpipe shot has become, for many soldiers a ex post facto justification for the aggressiveness with which they went into the Bogside and the eagerness they displayed in the use lethal force.

Bullets striking the Vehicle

18.7.3.227 In his second statement to the RMP Soldier H describes hearing the sound of gunfire and bullets striking the left hand side of the vehicle before they debussed. **B229** That account was not contained in his first statement and in subsequent statements he is more hesitant about the claim stating that he thought he had heard a shot strike the side of the Pig. **B233** and **B237**.

18.7.3.228 When Soldier H made his statement for the purposes of this Tribunal he stated:

> "I heard bullets strike the side of our Pig. It was more than two bullets and I would describe it as a hail of bullets. It was very frightening to be shot at while you were sitting in a Pig. It was like being in a tin can with someone banging a stick on the outside." **B263 paragraph 10**

18.7.3.229 Soldier H has acknowledged in his evidence to this Tribunal that the sound he described may have been caused by stones hitting the side of the vehicle. No other soldier from Anti-Tank Platoon claims that their Platoon came under fire as they entered the Bogside in vehicles and is entirely dishonest. However Soldier H's account of coming under fire, even prior to de-bussing, is consistent with his overall approach to giving evidence.

Gunmen behind the Rubble Barricade

18.7.3.230 In his first statement Soldier H describes 4 gunmen behind the Rubble Barricade who were continually firing as Anti-Tank Platoon advanced from the Rossville Street/William Street junction up Rossville Street. **B219** Moreover as Anti-Tank Platoon advanced up Rossville Street under this hail of gunfire Soldier H describes their being simultaneously stoned, nail bombed and acid bombed. **B219**

18.7.3.231 In his second RMP statement the number of gunmen has been reduced to two, while the nail bombs and acid bombs have disappeared. **B229**

In his Treasury Solicitor statement and the account given to the Widgery Inquiry he speaks of at least 2 gunmen. **B233**, **B238**

18.7.3.232 Soldier H maintains that 2 soldiers from his Platoon opened fire on the gunmen although he has never identified those soldiers and now claims that he cannot do so. As with Lieutenant 119 his explanation of the circumstances in which soldiers fired at the Rubble Barricade from the Kells Walk Wall is inconsistent with the accounts given by the soldiers who admit to having fired live rounds at that location.

18.7.3.233 He cannot now give an account of any firing from the Rubble Barricade and cannot explain how the nail bombs which he recollected at 2.10am had been forgotten by 2.30am. This account is moreover inconsistent with the photographic evidence showing the arrival of Anti-Tank Platoon at the Kells Walk Wall.

18.7.3.234 **P1119** and **P1120** contradict the suggestion that Anti-Tank Platoon were coming under fire as they advanced down Rossville Street in that soldiers were able to move forward of the low wall without cover. Moreover Soldiers P and 017 never took cover behind the Kells Walk Wall, undermining the suggestion of continual shooting, nail bombs and acid bombs even further

Arrival at Kells Walk Wall

18.7.3.235 Soldier H's inability to separate truth from fiction is evident even in his statement to this Inquiry. He describes the scene as Anti-Tank Platoon arrived at the Kells Walk Wall in the following terms:

> "There were thousands of people all around and there were only 10 of us. I was conscious that we had been shot as we entered and people were throwing stones at us." **B264 paragraph 13**

18.7.3.236 It is evident from the photographs which show Anti-Tank Platoon as they arrived at the Kells Walk Wall **P1117** to **P1121**, or the video

evidence of the vehicles as they stopped, showing small groups fleeing from soldiers, that no description could be further from the truth. Once questioned about this Soldier H accepted that "It was not actually thousands of people surrounding us." **Day 377/27/22 to Day 377/27/23**

18.7.3.237 However the fact that he was willing to continue to make a case, which was both discernibly untrue and designed to paint a picture of soldiers as victims, illustrates the lengths to which this witness is willing to go to hide the truth about Bloody Sunday.

Soldier H's Third RMP Statement

187.3.238 Soldier H's third statement is undated, **B224** however, in common with a large number of statements taken from soldiers on the 4th February 1972, it appears to be aimed solely at providing corroboration for the actions of other shooters, and in particular Soldiers F and G. Much of the detail of that statement deals with events which occurred in Glenfada Park North. However, in common with Soldier J (**B269** to **B270**) Soldier 018 (**B1487**) Soldier 036 (**B1629**, **B1630**) and Soldier 147 (**B1886**, **B1887**) Soldier H's third statement deals with the incident on Rossville Street when soldiers from Anti-Tank Platoon maintain that they come under fire while in their pig and where Soldiers F and G fired at the Rossville Flats.

18.7.3.239 As with Soldier J, Soldier H's third statement of the 4th February has as its sole objective providing corroboration and justification for the actions of Soldiers F and G. It cannot be relied upon, except as further evidence of Soldier H's inability to tell the truth.

Soldier H's fears

18.7.3.240 Soldier H can no longer recollect the gunfire or nail bombs he gave evidence about in 1972, prior to entering Glenfada Park, with the exception that he maintains his recollection of the drain-pipe shot and

of coming under fire whilst in the pig. Despite this he describes his feelings on entering Glenfada Park in the following terms:

> "As I entered the courtyard I was terrified. I remember my knees trembling. The knocking of my knees is one of the clearest memories I have of the day. Coming under fire was absolutely terrifying." **B264 paragraph 16**

18.7.3.241 He was unable to explain to this Tribunal the basis of that fear, given his limited recollection, stating "I can only now remember the nervousness of it there." **Day 377/52/2 to Day 377/52/21**

18.7.3.242 What is clear is that while the details have changed, the picture painted by Soldier H in 2003 is the same as the picture painted in 1972. It is an image of soldiers facing a terrifying ordeal, coming under attack from armed civilians and forced to have recourse to lethal force and it is a gross distortion of the truth.

18.7.3.243 The reason Soldier H finds it necessary to distort the truth of what happened on Bloody Sunday is because, as found by Lord Widgery, 19 of the 22 shots fired by Soldier H remain unaccounted for to this day.

19 Rounds

18.7.3.244 Soldier H's account of how he came to fire those 19 shots is so implausible it has been universally rejected. His Platoon Commander Lieutenant 119 stated that his initial reaction to hearing the description of Soldier H's shots was "surprise and disbelief that he could have fired so many rounds of ammunition without me knowing about it." **B1752.018 paragraph 37** He subsequently went back to Glenfada Park and found that there was no damage to the area around the window and he gave evidence that he formed the belief that Soldier H may have lost a magazine full of ammunition because a "spare empty magazine was relatively easily obtainable." **B1752.018 paragraph 38**

18.7.3.245 Sergeant 1694, Soldier H's Platoon Sergeant apparently expressed concerns to CSM Lewis about some of the soldiers who had returned fire on Bloody Sunday, and in particular Soldier H, because of the explanation advanced by Soldier H for how he came to fire so many rounds. **Day 373/226/1 to Day 373/226/9** and **Day 373/227/8 to Day 373/227/25**

18.7.3.246 CSM Lewis regarded Soldier H's story as "incredible" **Day 373/94/4** and stated that it was his belief that some soldiers, including Soldier H, may have responded, as he euphemistically put it, rather "enthusiastically, over enthusiastically, to a situation which could have been controlled easier by firing fewer rounds." **Day 373/99/12 to Day 373/99/22**

18.7.3.247 A number of Soldier H's fellow soldiers have also expressed their scepticism about his account. For example INQ 2003 stated:

> "Soldier H's story was that he shot magazines at a window but the story from the lads was that he lost it. Afterwards he could not be trusted and stayed in camp on Pig guard. "Rentokil" and "Two Mags" were two of his nicknames afterwards." **C2003.33 paragraph 19**

18.7.3.248 Moreover, not a single soldier who was with Soldier H in Glenfada Park North has corroborated his account and as Soldier H acknowledged, so far as he is aware, "no-one has ever mentioned to you at any time that they saw you firing 19 shots." **Day 378/45/7 to Day 378/45/10**

18.7.3.249 There are a number of difficulties with Soldier H's account which demonstrate that it simply cannot be true:

i) In 1972 the area around the window at Glenfada Park North was examined and not only had the window not been broken but there was no damage to the area around the window.

"Sometime after Bloody Sunday but before the Widgery Tribunal I went back to Londonderry with a number of others in civilian clothes and accompanied by a number of RMP soldiers. My concern was to investigate the situation regarding H. The window at which he said he had fired 19 rounds was inspected and there were no signs of any damage around it which, if H was correct, there should have been and which could have been repaired in the time. The only explanation was that every round had gone through the window and only the glass needed replacing." **B1752.018 paragraph 37** Lt. 119

ii) Mrs. McCartney who lived in the house gave evidence that one shot was fired into their home, but not through a frosted window. The frosted window had not been damaged and there was no damage to their home consistent with Soldier H's account. **AM90 paragraphs 1 to 6**[41]

iii) No soldier witnessed this incident.

iv) Moreover the account was so implausible that no soldier was willing to corroborate the incident despite the evidence which suggests that soldiers did provide corroboration for shooters in order to justify the circumstances in which they had fired live rounds. **Section 5**

v) No civilian witnessed this incident.

18.7.3.250 Yet Soldier H, when giving evidence to this Inquiry, sought to resist the inescapable conclusion that his account of having fired through the window 19 times was untrue, and in doing so invited the Tribunal to believe the unbelievable:

i) When asked whether he was "seriously inviting the Tribunal to accept, as a realistic possibility, that 19 bullets fired at that window would not cause it to shatter?" He responded "I am stating what I know, sir." **Day 377/73/5 to Day 377/73/17**

ii) The account given by Soldier H of the gunman disappearing and re-appearing, while leaving his rifle behind, defies credulity as the following exchange demonstrates:

" if there was a gunman and if, as would seem likely in those circumstances, it was he who was supporting the rifle which he intended to use to fire at soldiers, then if you shot at him on 19 separate occasions and he moved away, you would expect the rifle inevitably to move as well; would you not?

A. If he was supporting it, yes.

. . .

Q. -- it is a necessary consequence of your evidence, if true, that something else was supporting the rifle so that it remained in a fixed position throughout; that must be the suggestion, must it not?

A. You are suggesting that. I, I cannot make a suggestion on something I do not know.

Q. Do you have any explanation –

A. No, sir." **Day 377/74/20 to Day 377/75/11**

iii) The lack of any witnesses renders the story entirely implausible:

"Q. To fire 19 shots in your direction over a period of time, singly, waiting for the shadow to reappear and fire again, would take a little time; would it not, it is not just an odd shot that would get missed?

. . .

you would agree that it is remarkable that no-one saw you doing it; would you not?

A. I agree with you again, sir." **Day 378/45/7 to Day 378/45/20**

iv) Finally, the actions of the putative gunman defy belief:

---

[41] See also statement of James McCartney **AM88.1 to AM88.2** and Liam McCartney **AM86.3 paragraphs 16 to 19** and attached photographs at **AM86.6 to AM86.12**

Q. If that account is right, the upshot must be that the gunman, having been shot at once, must have intentionally moved into the same position of mortal danger, in line with a soldier with an SLR, who had just tried to kill him on 18 further occasions?

A. Yes, sir.

Q. That is rather incredible; is it not?

A. Yes, sir.

Q. And on 18 occasions, at least, you fired at and missed him?

A. That is correct, sir.

Q. Doubly incredible really; is it not?

A. Do you want an answer to that, sir?

Q. Sorry?

A. Do you want an answer to that?

Q. Yes, please?

A. Yes.

Q. Is the explanation for these two incredible facts --

A. Two, sir?

Q. Yes, the fact that he moved forward on 18 occasions -- 18 further occasions that you missed him on each occasion, is the explanation for those facts that in fact they are not true?

A. No, that is not right, sir. The statements I made at the time were true to the best of my knowledge and I would stick to those statements." **Day 377/76/10 to Day 377/77/10**

18.7.3.251 In reality the last sentence encapsulates the evidence of Soldier H to this Inquiry. He was going to stick with the account he had given in 1972 despite all the evidence to the contrary, as he acknowledged himself

"it does not matter what is said you will maintain it?

A. Yes, sir." **Day 378/43/15 to Day 378/43/21**

18.7.3.252 Soldier H fired 19 shots on Bloody Sunday for which he has never provided a truthful account. We know that Soldier H, along with other soldiers from Anti-Tank Platoon, was at the Kells Walk Wall. We also know that soldiers fired from that position over the Rubble Barricade causing the deaths of Michael Kelly, John Young, Michael McDaid and William Nash and also possibly Hugh Gilmore. Michael Kelly was killed by Soldier F, the other deaths remain unaccounted for. It is also of course the case that civilians were murdered in Glenfada Park North, Abbey Park and behind the Rossville Flats by soldiers from Anti-Tank Platoon and Soldier H is a candidate for having killed those civilians.

18.7.3.253 Soldier H advanced a ludicrous account to explain his firing of 19 shots in January 1972 and he has been 'sticking' to that account ever since. The truth is not, as some of his colleagues have sought to advance on his behalf, that he lost a magazine. The truth is that on Bloody Sunday Soldier H fired 22 rounds in circumstances which were entirely without justification. Some of those rounds resulted in the deaths of unarmed civilians and he invented this account in order to try to account for the number of rounds expended, in a way which would not render him accountable for murder.

18.7.3.254 Soldier H is undoubtedly guilty of murder, the tragedy for the family of his victim/s is that he is not prepared, even now to explain his actions on Bloody Sunday. Soldier H is also, along with his colleagues in Anti-Tank Platoon guilty of having participated for 30 years in a criminal conspiracy to prevent the truth of their role in Bloody Sunday from emerging and has perjured himself in his evidence to Lord Widgery and in his evidence to this Tribunal.

Conclusion

18.7.3.255 Soldier H's unaccounted for 19 shots do not merely raise the spectre of Soldier H's guilt. They also demonstrate, without more, the complicity

of his colleagues, his senior officers and the Ministry of Defence in murder and their tolerance of murderers within the ranks of the British army.

18.7.3.256 As has been seen: Soldier H's colleagues did not believe his account; his Platoon Sergeant; his Platoon Commander; and the Company Sergeant Major did not believe his account. Lord Widgery expressly rejected his account in the conclusions he reached. Nonetheless when asked whether he was aware that Lord Widgery had rejected his evidence he stated:

> "No, I was not actually sir, no.
>
> Q. You were not aware of that?
>
> A. No, sir, after the Tribunal, um we never heard no more."
>
> **Day 378/3/17 to Day 378/3/22**

18.7.3.257 He was never disciplined for the firing of those rounds, nor indeed criticised. **Day 378/4/16 to Day 378/4/20** Despite the fact that as INQ 1900 stated:

> "it was clear to me that much of what occurred was outside the requirements of the Yellow Card. In one statement, a soldier said he fired 19 shots at a shadow in a window. In another case, a soldier said that he fired over the heads of the crowd. These two statements stick in my mind because they were totally outside the requirements of the Yellow Card and so blatantly wrong." **C1900.4 paragraph 23**

18.7.3.258 Moreover, no action was taken by the RUC, upon receipt of the report and the conclusions of the Lord Chief Justice. The only conclusion possible from the universal rejection of Soldier H's account, from his colleagues in 1 Para, through to the Lord Chief Justice was that he had used lethal force in circumstances which were unjustified. Yet Soldier H remained in the army for some considerable period after Bloody Sunday and left the army as a senior NCO. **Day 378/2/8 to Day**

378/2/14 There can be no clearer example of the willingness of the British military to condone "unadulterated murder". **GEN 02.07**

Soldier E

18.7.3.259 Soldier E was one of the soldiers from Anti-Tank Platoon who used lethal force on Bloody Sunday. In 1972 he admitted to having fired 2 shots on Bloody Sunday. The first in Sector 3 and the second in Sector 4.

18.7.3.260 The trajectory of Soldier E's first shot is such that if his account is accurate in this respect he may be a candidate for the shooting of Hugh Gilmore. However, given that:

i) Soldier E is one of the few soldiers who admits having fired a shot from behind the Kells Walk Wall;

ii) John Young, Michael McDaid and William Nash were shot and killed by a soldier/s shooting down Rossville Street;

iii) None of the admitted firing by soldiers down Rossville Street accounts for their deaths,

iv) No witness, civilian or military, corroborates any aspect of Soldier E's use of lethal force in Rossville Street;

Soldier E must also be a suspect for the murder of one of those three young men.

18.7.3.261 As with other soldiers from Anti-Tank Platoon whose evidence is relevant to 2/more Sectors this section deals exclusively with his role in Sector 3 on Bloody Sunday.

18.7.3.262 It is alleged that Soldier E lied to the Widgery Inquiry, not merely about the circumstances in which he himself fired live rounds, but also in the evidence he gave about the general situation facing soldiers on Bloody Sunday and about the circumstances in which other soldiers fired live rounds. Specifically it is our case that:

i) Soldier E lied about the circumstances in which he himself fired a live round. Soldier E did not come under fire from a

gunman with a Luger/machine-pistol located in the Rossville Flats, and he lied in order to justify his use of lethal force in circumstances which were unjustified and unlawful.

ii) Soldier E also lied about the general situation which faced soldiers when they de-bussed in Rossville Street. In particular he lied about: coming under fire as soldiers advanced down Rossville Street; hearing a nail bomb explode as he moved down Rossville Street; witnessing a petrol bomb explode in Rossville Street; and observing gunmen behind the Rubble Barricade, including one who was shot. He lied about these incidents in order to provide justification, in general terms for the actions and in particular the use of lethal force, by soldiers from his regiment on the streets of Derry on Bloody Sunday.

iii) Soldier E also lied about the circumstances in which he admits to having witnessed another soldier fire a live round. He gave evidence to the Treasury Solicitors and to Lord Widgery designed to provide some justification for the shooting by G at a window in the Rossville Flats in circumstances which were without justification.

18.7.3.263 Soldier E's conduct in Glenfada Park North will be dealt with separately in Sector 4 however his conduct in Glenfada Park is relevant to his conduct while on Rossville Street in a number of respects. Soldier E is one of the soldiers who admits having entered Glenfada Park North and fired live rounds. According to Lord Widgery Soldier E was one of the soldiers involved in shooting civilians as they were fled from himself and his colleagues. The evidence given by soldiers to the Widgery Inquiry in relation to their involvement in events in Glenfada Park North was demonstrably dishonest and designed to cover up their involvement in murder. Soldier E thus demonstrated a willingness to use lethal force against unarmed civilians and to perjure himself in order to cover up his role and the role of his colleagues in wilful murder. In those circumstances little or no weight can be

attached to Soldier E's account of his use of lethal force in Rossville Street in the absence of corroboration.

18.7.3.264 Soldier E was also one of the soldiers involved in conducting arrests in Glenfada Park North. We would refer the Tribunal in particular to our allegation that paratroopers systematically lied about the identification of marchers as rioters as well as the location of, and reasons, for the "arrests". Members of the Parachute Regiment, including Soldier E, made formal statements of (fabricated) evidence for the purpose of supporting criminal charges against the marchers, charges which, if proven, would have led to mandatory 6-month prison sentences. Soldier E's willingness to participate in what was in effect a conspiracy to pervert the course of justice is further evidence of his willingness to participate in unlawful and dishonest conduct in 1972. His readiness to invent evidence for this purpose undermines his credibility generally and his evidence concerning his involvement in the use of lethal force.

18.7.3.265 Soldier E's involvement in the unlawful use of lethal force in Glenfada Park North, the lies he told about the conduct of himself and other soldiers in Glenfada Park North and his preparedness to fabricate the circumstances of the arrests of innocent civilians all go to undermine his account of events on Rossville Street. Specifically that conduct provides support for the allegation that the circumstances in which he used lethal force on Rossville Street were unlawful, without justification and in all probability involved the murder of one of Hugh Gilmore, Michael McDaid, John Young or William Nash.

1972 Statements

18.7.3.266 Soldier E made 3 separate statements to the RMP, all on the 31st January 1972, he also made a statement to the Treasury Solicitor prior to giving evidence at the Widgery Inquiry.

18.7.3.267 Inasmuch as it referred to Sector 3, Soldier E stated as follows, in his first RMP statement:

i) As Anti-Tank Platoon advanced up Rossville Street he heard automatic gunfire and other shots coming from the vicinity of the Rossville Flats, he also saw a petrol bomb explode. **B86**

ii) Soldier E took up a position behind the Kells Walk Wall and saw a man in a window on the second storey from the top of the Rossville Flats who appeared to have a pistol of some sort in his hands. The gunman fired a shot and E fired 1 aimed shot at the gunman which he saw go through the window and strike the ceiling. **B86**, **B87**

iii) He then saw a man behind the Rubble Barricade with what appeared to be a machine gun. He saw him take up a firing position and then fall as if he had been shot. **B87**

iv) He saw a man next to the man with the machine gun with the butt of a gun. **B87**

v) The rioters behind the Rubble Barricade then moved towards Glenfada Park North and he moved forward in order to head them off. **B87**

vi) On returning from Glenfada Park North and while on Rossville Street troops came under fire from the Rossville Flats. Soldier E did not see any target and did not fire any further rounds. **B87**

18.7.3.268 In his second RMP statement he claimed that Michael Kelly was the person he had shot in Glenfada Park North and that he had shot him for throwing nail bombs. **B91** It has of course now been established that Michael Kelly was killed by Soldier F and was shot and killed while positioned behind the Rubble Barricade.

18.7.3.269 In his third RMP statement, apparently made only 10 minutes later, he claimed that Gerard Donaghey was the person he had shot in Glenfada Park North and he had shot him for being in possession of nail bombs. **B93.001**, **B93.002** It has now of course been established that Gerard Donaghy was killed by Soldier G and was shot and killed while in Abbey Park.

18.7.3.270 Soldier E subsequently gave an account of events to the Treasury Solicitor, as follows:

i) Shooting had broken out shortly after debussing and he cocked his rifle "which is the normal procedure." **B94**

ii) As he reached the end of the Rossville Flats sniper fire broke out from the area of the Rossville Flats and he heard machine gunfire. **B94**

iii) As a result of this fire he took cover behind the Kells Walk Wall. **B94**

iv) He saw a sniper from the second storey from the top of the Rossville Flats who fired 1 shot with a machine pistol. Soldier E fired 1 shot which went through the window, he stated that he had no idea whether he hit the sniper. **B94**

v) He then saw a petrol bomb explode about 30 yards in front of the Rubble Barricade. **B94**

vi) At the same time he saw 2 gunmen behind the centre of the Rubble Barricade, one was kneeling and in firing position, he saw the gunman fall but could not say where the shot had come from. **B94**

vii) He saw the crowd escape towards Glenfada Park North so he got 4/5 men and moved forward. **B94**

viii) Upon returning from Glenfada Park North to Rossville Street they got into their vehicles. He maintained that they stayed in that position for 45 minutes during which time sniper fire of mixed velocity was directed at their position. **B94**

ix) He saw Soldier G who was a sentry take up position and fire. **B94**

18.7.3.271 The account which Soldier E gave to the Treasury Solicitors is more detailed than that given to the RMP. There are also a number of discrepancies between the two accounts:

i) In his RMP statement he claimed that the petrol bomb exploded as Anti-Tank Platoon advanced up Rossville Street and prior to

their having taken up position at the Kells Walk wall. **B86** In his Treasury Solicitor statement he claimed that the petrol bomb exploded after he had taken up position at the Kells Walk Wall and after he had fired at his first target. **B94**

ii) In his RMP statement he claimed that he could see in through the window of the flat into which he had fired his shot and that he hit the ceiling. **B86**, **B87** In his statement to the Treasury Solicitors he claimed that he could not say one way or the other whether he had hit the gunman. **B94**

iii) In both statements he described seeing two gunmen behind the Rubble Barricade, one of whom he saw fall as if shot. In his RMP statement he identified the gunman whom he saw fall by reference to his having what appeared to be a machinegun. He also described him as wearing glasses, with a cloth tied around the lower part of his face and wearing dark clothing. The second man is identified as having the "butt of a gun" Soldier E was unable to see any more of the supposed weapon. **B87** In his Treasury Solicitor's statement he simply states that he saw 2 gunmen behind the Rubble Barricade, one of whom was kneeling and in a firing position and whom he saw fall. **B94**

iv) In his RMP statement he makes no reference to having seen Soldier G fire at any target in Rossville Street upon their return to their vehicles. In his Treasury Solicitor statement he states that he saw Soldier G "who was a sentry for one of the other armoured vehicles take up position and fire." **B95**

18.7.3.272 Soldier E gave evidence to Lord Widgery, there are a number of discrepancies between the account he gave to Lord Widgery and the accounts he gave earlier as follows:

i) He claimed to have heard an explosion in the area of the Rossville Flats which sounded like a nail bomb. **WT14.29A** He never previously made such a claim, either in his account to the RMP, or to the Treasury Solicitors.

ii) He claimed that he took cover behind the Kells Walk Wall because he came under fire 3 times from the Rossville Flats by machine pistol fire. **WT14.29B-C** In his previous statements he had claimed that the man with the Luger had fired only one shot. **B86** and **B94.** This was the subject of questioning by Mr. Read Counsel to the Tribunal at **B113D-E** and will be dealt with in more detail at **20.9.3.210 – 20.9.3.218** below.

iii) His account in relation to what he saw of the shot he had fired is consistent with his Treasury Solicitor's statement rather than his RMP statement in that he claimed that he could not say whether he had hit the gunman **B94** but did not claim that he could see the shot he had fired hit the ceiling. **B86**, **B87**

iv) His account of having seen the petrol bomb is consistent with his Treasury Solicitor's statement rather than his RMP statement in that he claims that it exploded after he had fired at his first target. **B101D-E**

v) In relation to the two alleged gunmen behind the Rubble Barricade. He now states that one had a Thompson sub-machine gun whilst the other had "what appeared to be a rifle". **B101G** In his RMP statement he had stated that the first gunman, who was subsequently shot, "appeared" to have a machine-gun. **B87**

vi) He described this gunman as wearing goggles, as opposed to glasses. **B102C**

vii) He described the second purported gunman as crawling, a description he had not given before. **B102A** Under questioning from Mr. Hill he identified the weapon as a rifle.

viii) He continued to assert that he had acted of his own initiative in making the decision to move to Glenfada Park North, for the purpose of cutting off the crowd behind the Rubble Barricade. **B102F**

ix) In relation to Soldier G's firing, he now claimed that when they came under fire whilst in their vehicles he could hear the crack "which indicated it came from the Rossville Flats" **B105E** and

that Soldier G had fired one round towards the Rossville Flats. **B106A** Previously he had not been able to identify where the incoming rounds had come from or in what direct Soldier G had fired in.

Soldier E's First Shot

18.7.3.273 It is our contention that Soldier E gave false accounts, both in the written accounts he gave of the events of Bloody Sunday and also in the oral testimony which he gave to Lord Widgery about the circumstances in which he fired a live round in Rossville Street, while positioned behind the low wall.

18.7.3.274 We make this submission for the following reasons:

i) Because his first account of the shooting is on the face of it ludicrous and patently dishonest;

ii) Because of the discrepancies between the accounts originally given and the account given by Soldier E in oral evidence, during the course of which he demonstrated his willingness to lie about the incident;

iii) Large numbers of soldiers ought to have been in a position to provide some corroboration of both Soldier E's firing a live round as alleged and of the circumstances which justified Soldier E firing a live round. Yet not a single member of Anti-Tank Platoon, nor Mortar Platoon provides a shred of evidence which corroborates either Soldier E's suggestion that he fired a round at the Rossville Flats or which could justify E's his use of lethal force.

iv) Because of Soldier E's general lack of credibility as a witness.

Soldier E's first account

18.7.3.275 In the first account given by Soldier E of the shooting he maintained that he saw the shot he fired go through the window and hit the ceiling. **B86**, **B87** The idea that Soldier E positioned behind the Kells Walk

Wall could have a sufficiently clear view of a ceiling on the inside of a flat on the second storey from the top of the Rossville Flats is a patently untrue. Inevitably that version of events disappears from subsequent accounts given by Soldier E and he was not questioned about this matter at the Widgery Inquiry.

18.7.3.276 The assertion is not without significance given that in the same statement Soldier E stated that the person at whom he fired "appeared" to have a gun. It is submitted that even on his own account there must be a question-mark as to whether the circumstances in which he fired justified the use of lethal force, given his limited observation of an alleged gunman.

Discrepancies in account given to Lord Widgery

18.7.3.277 In his written statements made in 1972 Soldier E stated that he had fired at the man with the weapon identified as a Luger-type pistol and located in the Rossville Flats after that man had fired one shot. **B87, B94** When he gave oral evidence to Lord Widgery he claimed that the man had fired three shots. **B100B-C**

18.7.3.278 Soldier E was specifically questioned about this issue, during the course of the Widgery Tribunal, by Mr. Read, counsel for the Tribunal:

"Q. May I now turn to the small machine pistol which you say you saw fired from the window of Rossville Flats. Do you remember giving evidence today to my Lord that there were roughly three shots?

A. I said he fired one shot at me.

Q. But there were three shots fired from that area?

A. Yes.

Q. One shot was fired at you but there were other shots which were not? Is that what you are saying?

A. Yes." **B113D-E**

18.7.3.279 In the first instance it should be pointed out that what Soldier E, in fact, said to Lord Widgery was:

> "Q. What caused you particularly to take cover?
>
> A. I was shot at first.
>
> Q. As far as you could tell, where were you shot from?
>
> A. From Rossville Flats, sir.
>
> Q. What sort of firing?
>
> A. It was small machine pistol fire.
>
> Q. Small machine pistol fire?
>
> A. Yes, single shots.
>
> Q. About how many shots were you aware of?
>
> A. I heard roughly three shots, sir." **B100B-C**

18.7.3.280 This portion of the transcript demonstrates that Soldier E was clearly describing himself as having come under fire from the Rossville Flats, the fire having come from a small machine pistol and roughly three shots having been fired at him. **B100B-C**

18.7.3.281 This becomes more clear when one reads the earlier portion of transcript which deals with the general firing which Soldier E maintained that Anti-Tank Platoon came under as they advanced down Rossville Street, which was firing of mixed velocity. **B99F-G** It is evident when you read the transcript as a whole, that he firstly deals with the general firing and then goes on specifically to deal with the fire from the Luger/machine-pistol which caused him to use lethal force.

18.7.3.282 Moreover when one goes to the relevant portion of the statements made by Soldier E in 1972 it is quite clear from each of these accounts that he had always maintained that only one shot was fired from the Luger/machine-pistol. In his RMP statement he stated:

> "I saw a man in a window in the next to the top floor of the flats. He had what appeared to be a pistol. I saw this man fire one shot at our position from this weapon." **B87**

18.7.3.283 That account does not attempt to distinguish shots fired at Soldier E from shots fired at his colleagues.

18.7.3.284 In his Treasury Solicitor statement he states:

> "I saw a sniper in the second storey from the top of the Rossville Flats at a window and he fired one shot at what looked like a machine pistol." **B94**

18.7.3.285 It is clear from a reading of both statements that in his written accounts Soldier E claimed only that one shot was fired by this gunman and that the explanation advanced to the Widgery Tribunal for the discrepancy between the accounts does not stand up to scrutiny.

Lack of Corroboration of Soldier E's account

18.7.3.286 Of perhaps more significance in relation to Soldier E's account of his use of lethal force is the fact none of the other members of Anti-Tank Platoon or of Mortar Platoon positioned on Rossville Street when Soldier E claims to have fired his shot corroborate his account in any respect. No soldier saw a gunman firing 1 or 3 shots from a window in the Rossville Flats at the relevant time. No soldier apparently heard a Luger/machine-pistol firing at their location from the Rossville Flats at the relevant time. No soldier saw Soldier E fire his shot.

18.7.3.287 The failure of any soldier to corroborate his account of the gunman is significant in two respects. The photographic evidence demonstrates that there were 17 members of Anti-Tank Platoon at the Kells Walk Wall, as well as soldiers from Mortar Platoon positioned on Rossville Street.[42] That not a single soldier among such a large body of soldiers

[42] A number of soldiers from Anti-Tank Platoon maintain that they did not advance forward to the Kells Walk Wall but remained in their vehicles, specifically, Soldier 147, Soldier 036 and INQ 1581. However Video 48 and the photographs show 18 men – the number in Anti-Tank Platoon, positioned behind the wall Unless members of Composite Platoon advanced ahead of their own Platoon and joined Anti-Tank, it means that all of the members of Anti-Tank Platoon did in fact debus and advance to the Kells Walk Wall. See for example **E14.012** and **P1121** and transcript at **Day 366/55/20 to Day 366/56/14**.

should have failed to witness Soldier E's gunman, or Soldier E firing given that apparently only 3 soldiers from Anti-Tank Platoon actually fired shots while positioned behind the Kells Walk Wall completely undermines Soldier E's evidence.

18.7.3.288 Moreover a number of soldiers have given evidence either that they witnessed other gunmen at the southern end of the Rossville Flats or that they were observing that area, and so should have been in a particularly good position to see or hear Soldier E's gunman yet none provide the necessary corroboration.

18.7.3.289 Lieutenant 119 claimed to have heard an M1 carbine firing from the top floor of the Rossville Flats. Given that both Lieutenant 119 and Soldier E were located behind the Kells Walk Wall and both soldiers, on their account of events, were looking in the same direction, the failure of Lieutenant 119 to corroborate Soldier E materially undermines Soldier E's evidence in relation to his target.[43]

18.7.3.290 Soldier U claimed to have fired 1 shot from the north of Block 1 of the Rossville Flats at a man who he claimed had fired 2 pistol shots from the east pavement of Rossville Street, south of Block 1. Again this suggests that Soldier U was looking in the direction of the southern end of the Rossville Flats at the same time as Soldier E, yet he fails to provide any corroboration for Soldier E's account of a man firing a Luger/machine-pistol from the Rossville Flats.

18.7.3.291 Soldier G in his statement to the Treasury Solicitor's stated that "When we got to the wall I covered left, but identified no targets and did not fire, but I heard quite a bit of firing coming from the flats and the barricade area and one of them was definitely an automatic." **B185**

[43] It should be noted that an M1 carbine and a Luger/machine-pistol are completely different weapons and given both soldiers confidence in their description of the relevant weapons the accounts do not amount to corroboration.

18.7.3.292 Again a soldier observing in the very area where Soldier E saw his gunman fails to witness Soldier E's gunman or corroborate his account in any way.

18.7.3.293 The first account given by Soldier E about the shooting was patently untrue. While this was qualified in subsequent statements, Soldier E demonstrated, when giving evidence to Lord Widgery, his willingness to fabricate evidence to justify his actions. Large numbers of soldiers were positioned alongside Soldier E at the Kells Walk Wall yet all fail to corroborate his account. Soldier E perjured himself at the Widgery Inquiry and he did so in order to provide justification for the circumstances in which he used lethal force which were both unjustified and unlawful.

18.7.3.294 It is our contention that Soldier E lied, not merely about the circumstances which he claims justified his use of lethal force, but also in all probability about the location at which he fired live rounds. There is no objective evidence, in the form of photographic evidence showing bullet holes at the windows or the wall in and about the location where Soldier E claims to have fired his round, in contrast with the position in relation to the shots fired at McCrudden's flat. **EP30.1** and **EP30.2**. There is also a body of evidence from soldiers from Anti-Tank Platoon[44] which refers to soldiers firing over the Rubble Barricade, albeit, that they never identify those soldiers, it is evident that more soldiers fired over the Rubble Barricade than have admitted doing so and Soldier E must be a candidate for having done so. It is our submission that Soldier E, in all probability did not fire at the Rossville Flats but fired, along with his colleagues, over the Rubble Barricade, and his shot may account for the murder of one of John Young, Michael McDaid or William Nash.

Nail Bombs, Petrol Bombs and Gunmen

18.7.3.295 It is further alleged that Soldier E's evidence about other matters and in particular his evidence about alleged civilian gunmen and bombers evidences his willingness to lie about the events of the day in general. The only motivation for doing so can be a desire to bolster the army case generally to the effect that soldiers came under a hail of gunfire and bombing as they dismounted their vehicles which provided a context to justify their subsequent actions. In our submission Soldier E's willingness to lie about such matters supports our specific allegation that he lied about the circumstances in which he used lethal force.

18.7.3.296 Specifically we will rely upon Soldier E's lack of credibility in relation to the following matters:

i) His assertion that he witnessed a nail bomb explode in the car-park of the Rossville Flats.

ii) His assertion that he witnessed a petrol bomb explode on Rossville Street as he was positioned behind the Kells Walk Wall.

iii) His assertion that he saw a man with a Thompson sub-machine gun shot behind the Rubble Barricade and that he also saw a man with a rifle at the same location.

18.7.3.297 Soldier E's assertion that he witnessed Soldier G firing a shot at a window in the Rossville Flats, having come under fire, will be dealt with separately.

18.7.3.298 The first occasion upon which Soldier E gave an account of having heard a nail bomb explode as he advanced down Rossville Street was when he gave oral testimony to Lord Widgery. Soldier E's initial explanation for leaving this matter out was the fact that he had made his statement to the RMP in the early hours of the morning. However when it was pointed out to him that he had failed to give an account of

[44] See for example, Soldier H at **B229**, INQ 1237 at **C1237.6 paragraph 48**, INQ 635, **C635.4**

this event in his Treasury Solicitor statement either he was unable to advance any meaningful explanation for that discrepancy. **B113D**

18.7.3.299 The preponderance of evidence supports the conclusion that no nail bombs were thrown or exploded on Bloody Sunday on Rossville Street. There is no civilian evidence to support the suggestion that nail bombs exploded. The evidence of journalists and photographers undermines any evidence to that effect even further. Significantly most soldiers who made such an allegation in 1972 have withdrawn any such allegation because it is so demonstrably false. It is our contention that Soldier E perjured himself in front of Lord Widgery in order to strengthen the army case that the firing by soldiers was justified.

18.7.3.300 Soldier E gave two different accounts of witnessing a petrol bomb explode on Rossville Street. In his first RMP statement he maintained that the petrol bomb exploded while Anti-Tank Platoon advanced down Rossville Street. **B87** In his statement to the Treasury Solicitor and in his evidence to Lord Widgery he maintained that the petrol bomb exploded after he had shot his first target. **B94, B101E-F**

18.7.3.301 Soldier E was never challenged in relation to the discrepancies between the two accounts by either counsel for the army or counsel for the Widgery Inquiry. Counsel representing the Families was unaware of the discrepancy so this Tribunal has had no opportunity to consider what explanation if any, might have been advanced by Soldier E.

18.7.3.302 Soldier E's account of seeing a petrol bomb explode on Rossville Street is arguably corroborated by one soldier INQ 1237. **C1237.6 paragraph 45** However INQ 1237's description of the circumstances in which a petrol bomb exploded differs in significant respects from the account given by Soldier E and in our submission does not amount to corroboration in fact.

18.7.3.303 INQ 1237 describes more than one petrol bomb being thrown at soldiers shortly after they deployed. Whereas Soldier E describes one explosion at the point in time at which soldiers had reached the Kells Walk Wall and after he had engaged a target.

18.7.3.304 Moreover INQ 1237's testimony in relation to this matter is undermined by the photographic evidence. INQ 1237 was shown photographs of arrests made after soldiers had debussed, specifically photographs **P256**, **P203**, **EP33.7**. Despite the discrepancy between the photographic evidence and his testimony INQ 1237 was unwilling to countenance any doubts about the accuracy of his testimony:

> "none of these photographs show the burst of flames from petrol bombs that you have described in your statement. They also – and the photograph we have on the screen is an example – suggest that fellow soldiers from Support Coy appeared to be willing to move closer to the rubble barricade.
>
> Given that, does that raise any doubt in your mind that petrol bombs were thrown that day?
>
> A. No, sir." **Day 366/16/6 to Day 366/16/15**

18.7.3.305 Moreover INQ 1237's recollection in relation to the events that occurred is not entirely reliable. He did not give evidence in 1972 and maintained to this Inquiry that soldiers from Anti-Tank Platoon who fired live rounds did so while positioned in a line facing the crowd and not from behind the cover of Kells Walk Wall. Despite the photographic evidence and testimony to the contrary he remained adamant that this was the position, casting doubt in relation to his reliability on other matters. **Day 366/20/8 to Day 366/20/10**

18.7.3.306 Finally, of course INQ 1237 is the soldier who described an incident in Belfast when there was "a massive explosion and a whole house blew up into the air, remaining completely intact and landing in the street about 60 yards ahead of us." **C1237.2 paragraph 14** An incident

which purportedly involved CSM Lewis. In these circumstances it is submitted that his evidence must be somewhat suspect.

18.7.3.307 No other soldier from Anti-Tank Platoon or Mortar Platoon gives an account of petrol bombs exploding on Rossville Street.[45] Moreover that this could have occurred is contradicted by the body of civilian evidence and the evidence of journalists and photographers positioned behind the Rubble Barricade on Bloody Sunday.

18.7.3.308 . It is our submission that Soldier E's account of seeing a petrol bomb explode on Bloody Sunday was demonstrably false and was designed to provide justification for the army case and in particular for the use of lethal force in circumstances which he knew to be unjustified.

18.7.3.309 Soldier E's account of having seen 2 gunmen behind the Rubble Barricade, one of whom was shot and killed was in our submission expressly advanced to justify the circumstances in which men from his Platoon fired live rounds over the Rubble Barricade and is completely false. Given that Soldier E himself fired live rounds in Rossville Street and may thus be a candidate for the shooting of John Young, Michael McDaid and William Nash the fact that he gave this account is not without significance.

18.7.3.310 By the time he came to give evidence to Lord Widgery Soldier E was clear that the weapon he saw the man holding was a Thompson sub-machinegun, **B113G** although in earlier accounts he described the weapon as "appearing" to be a machinegun. **B87**

18.7.3.311 Soldier 028, a Captain in the 22nd Light Air Defence Regiment also claims to have seen a man positioned behind the Rubble Barricade

[45] Soldier M gives an account of a nail bomb being thrown from Glenfada Park North and exploding just in front of the Rubble Barricade. However according to Soldier M this occurred at the point in time when he had arrived at the Kells Walk Wall and therefore after Anti-Tank Platoon had advanced up Rossville Street and Soldier E and some or all of Anti-Tank Platoon had entered Glenfada Park North. **B360**

firing at the paratroopers. **B1571E to B1572D** According to Soldier 028, this man fell as if he had been shot, after fire was returned by paratroopers. **B1572D** Soldier 028 gave evidence to this Inquiry and he no longer has any recollection of seeing a man with a Thompson sub-machinegun behind the Rubble Barricade, although he claims the various accounts he gave in 1972 are reliable. Our submission in relation to the evidence of Soldier 028 will be that the accounts he gave in 1972 were a total fabrication and that for a variety of reasons, which will be set out in detail below, Soldier 028 could not have witnessed all he claims to have witnessed on Bloody Sunday. It will be our assertion that no reliance can be placed upon his testimony. In any event his description of the actions of the man with the Thompson sub-machinegun is inconsistent with the description of this incident given by Soldier E.

18.7.3.312 In is moreover the case that no soldier claims to have shot a man kneeling in a firing position with a Thompson sub-machinegun behind the Rubble Barricade. Of the soldiers who admit firing over the Rubble Barricade. Soldier F claims to have shot a nail-bomber, Soldier J claims to have shot a nail-bomber and Soldier P claims to have shot a man with a pistol.

18.7.3.313 Moreover as regards Soldier E's second gunman, who he saw with the "butt of a gun" **B87** the only other soldier to give an account of a gunman with a rifle behind the Rubble Barricade is INQ 635. Soldier E's gunman was in the centre of the Barricade, he was crawling and was positioned beside a man with a Thompson sub-machine gun who had just been shot and apparently killed. In contradistinction INQ 635 saw 3 or 4 men move out from the gable end wall of Glenfada Park North and 2/3 of those men were carrying weapons. The man moved forward at a fast walking pace across the Rubble Barricade from right to left and according to INQ 635 these men were completely blatant and visible to anyone positioned behind the Kells Walk Wall. **C635.3 paragraphs 22 to 25**

18.7.3.314 It is submitted that Soldier E's account of the two gunmen is patently untrue and is designed to provide further justification for the use of lethal force by soldiers from Anti-Tank Platoon and Mortar Platoon over the Rubble Barricade which led to the killing of 6 young men.

Soldier G's shot

18.7.3.315 Along with a large number of soldiers from his Platoon Soldier E has given an account of the circumstances in which Soldier G fired a live round in Rossville Street.

18.7.3.316 It seems highly likely that Soldier G did fire at least one round at the window in the Rossville Flats from which Fulvio Grimaldi was taking photographs. Soldier E's account provides justification for Soldier G's shot in that he describes a scene in which the Paras came under fire for 45 minutes after they had mounted their vehicles and after the main shooting was over.

18.7.3.317 There is no evidence to support this contention and all the available film and photographic evidence as well as the evidence of senior officers contradicts the assertion that soldiers from 1 Para were under fire for 45 minutes after they mounted their vehicles. Moreover the evidence of the other soldiers who describe the incident, including that of Soldier G, describe coming after fire very shortly after mounting the vehicles and Soldiers F and G responding to that fire within a very short space of time.

18.7.3.318 Soldier E's account contradicts the account given by Soldier G and other soldiers at the time in that he describes G as having been a sentry whereas other soldiers have described G as having had to dismount from his vehicle before firing shots.

18.7.3.319 It is alleged that Soldiers F and G between them fired 7 shots at the at Fulvio Grimaldi who was trying to take photographs of the troops from

the window of McCrudden's flat at 12 Garvan Place at the time. **A9 41.50 to A945.22**[46] It is alleged that neither F nor G saw any gunmen at that location, nor heard any shots fired from that location, nor did they see or hear anything which led them to believe there was a gunman at that location. Their shooting was without justification and demonstrates the mindset of the soldiers of Anti-Tank Platoon and in particular Soldiers F and G to the use of lethal force. It is questionable whether Soldier E actually witnessed the shooting given his failure to mention it when originally questioned. However it is submitted that, as with his accounts about nail bombs, petrol bombs and civilian gunmen, Soldier E's account of 1 Para coming under fire while in their vehicles is patently untrue and a further demonstration of his willingness to lie about the events of Bloody Sunday.

18.7.3.320 It is our submission that Soldier E was involved in the unlawful use of lethal force on Bloody Sunday and that he lied about the circumstances in which he used lethal force and about the general situation faced by 1 Para in an attempt to justify his actions and those of his colleagues. Given his location when he fired his shot Soldier E is a suspect for having murdered Hugh Gilmore, or in the alternative one of Michael McDaid, John Young and William Nash.

Soldier G

18.7.3.321 On Bloody Sunday Soldier G claimed to have fired 6 live rounds, 3 on Rossville Street and 3 in Glenfada Park North. Soldier G's actions in Glenfada Park North and Abbey Park will be dealt with in detail below. However Soldier G's conduct in Sector 4, and in particular his shooting of Gerard Donaghey, is relevant to the issue of his credibility in relation to the accounts he gave about the circumstances in which he fired live rounds on Bloody Sunday.

[46] The transcript of the relevant excerpt from the Susan North tape can be found at **E3.0062 to E3.0065**.

18.7.3.322 It is beyond doubt that Soldier G killed Gerard Donaghey because his bullet was recovered from Gerard Donaghey's body. It has also been established, beyond doubt, in the course of this Tribunal, that Gerard Donaghey was shot and killed while in Abbey Park. This is contrary to the evidence given to the Widgery Inquiry by Soldier G and his colleagues in Anti-Tank Platoon.

18.7.3.323 Thus Soldier G lied to the Widgery Inquiry about the circumstances in which he used lethal force on Bloody Sunday. Given that Soldier G demonstrated a willingness to lie in 1972 about the circumstances in which he shot and killed Gerard Donaghey, his credibility in relation to the circumstances in which he fired his other live rounds is seriously undermined.

18.7.3.324 It has also been established, beyond doubt, that soldier/s from Anti-Tank Platoon and Mortar Platoon have lied about the circumstances in which John Young, Michael McDaid, William Nash and Hugh Gilmore who were killed when Anti-Tank Platoon were on Rossville Street. To the extent that if their accounts were to be accepted, these young men could not have been killed behind the Rubble Barricade because no soldier's shooting accounts for their deaths.

18.7.3.325 The accounts advanced by Soldier G for firing live rounds while on Rossville Street were untrue. It will be alleged, in particular, that the first two shots fired by him were not fired, either in the circumstances claimed by him, or even at the location claimed by him and his account of those two shots is a complete fabrication. In those circumstances, at least 2 of the shots fired by Soldier G are unaccounted for.

18.7.3.326 Soldier G sought to justify his use of lethal force on Bloody Sunday by lying about the circumstances in which he fired live rounds. Moreover he is guilty of firing live rounds in circumstances which were unjustified, in the case of Gerard Donaghey. It follows in our submission that Soldier G, as one of the soldiers who fired live rounds

on Rossville Street is potentially a candidate for the murder of one or more of Michael McDaid, John Young, William Nash and Hugh Gilmore.

18.7.3.327 Having said that, it will be alleged that the evidence about Soldier G's conduct in Glenfada Park North and Abbey Park demonstrates not merely that he is guilty of the murder of Gerard Donaghey but also Gerard McKinney. It will be alleged that he fired a live round at Eibhlin Lafferty, a member of the Knights of Malta, while she was in Abbey Park and that he fired the round which killed Jim Wray. If it is accepted that Soldier G only fired 6 rounds, then it appears that most, if not all of those rounds were fired while Soldier G was in Glenfada Park North or Abbey Park, rather than on Rossville Street and most if not all of the rounds fired by Soldier G were fired in Sector 4.

18.7.3.328 Soldier G made a total of 4 statements in 1972 in relation to the events of Bloody Sunday as well as giving evidence to the Widgery Inquiry. This section focuses on three aspects of his evidence: his account of soldiers having come under live fire while on Rossville Street, consequent upon which, soldiers returned fire; his account of firing live rounds down an alleyway leading from Rossville Street to Glenfada Park North; and, his account of firing a live round at a window in the Rossville Flats. In our submission Soldier G's evidence in relation to each of these issues is demonstrably untrue.

Shooting at Soldiers while on Rossville Street

18.7.3.329 Soldier G gives three separate accounts of soldiers coming under fire while they were on Rossville Street: the first, in his first RMP statement made on the 31 January 1972; the second, in the account he gave to the Treasury Solicitor; and finally in the account he gave to the Widgery Inquiry.

18.7.3.330 In broad terms Soldier G describes two separate incidents of soldiers coming under fire. He maintains that soldiers came under fire, initially

just after debussing as they took cover at the walls of derelict buildings at the top of Rossville Street, and then after they had taken cover at the Kells Walk Wall, at which stage some soldiers returned fire.

18.7.3.331 In relation to the initial incident the first account Soldier G gave of this incident his evidence was very specific. Three shots were fired at troops, from a gunman positioned in Block 1 of the Rossville Flats. Soldiers then came under further fire and 6 soldiers, including Soldier G, took shelter behind a low wall. **B168**

18.7.3.332 In his statement to the Treasury Solicitor Soldier G was "not sure of the direction of firing, though I think it might have been from the high flats in Rossville Street. The sound came from that direction and I could hear the bullets pass over the top of us." **B185 paragraph 3**

18.7.3.333 In his account to the Widgery Inquiry Soldier G stated that the shots were coming over the top of them down Rossville Street. **B191A-B** Specifically he stated that the shots were coming pretty fast together and he was unable to identify a weapon. **B191B-C**

18.7.3.334 There are a number of discrepancies between the three accounts given by Soldier G:

i) In the account he gave to the RMP, Soldier G was very clear as to the number of shots fired at soldiers and the location of what was a single gunman. **B168** He goes on to state that they came under further fire while at this location as a result of which they took cover behind the Kells Walk Wall, so in his account to the RMP there were two series of shots, the first comprising three shots and the second an unidentified number of shots. On both occasions the shots came from Block 1 of the Rossville Flats.

ii) By the time he came to make his statement to the Treasury Solicitors Soldier G was distinctly vague both about the number of shots and the location from where the shots were fired. Soldier G stated that he was "not sure of the direction of firing,

though I think it might have been from the high flats in Rossville Street. The sound came from that direction and I could hear the bullets pass over the top of us." **B185 paragraph 3**

iii) In the account he gave to Widgery Soldier G stated that the shots were coming over the top of them down Rossville Street. **B191A-B** Specifically he stated that the shots were coming pretty fast together and he was unable to identify a weapon. **B191B-C**

18.7.3.335 A difficulty which affects the evidence given at the Widgery Inquiry generally, is the failure of Counsel for the Ministry of Defence and, more significantly, Counsel to the Inquiry to address the discrepancies between the various accounts given by soldiers in statements made prior to giving evidence. In circumstances where Counsel for the Next of Kin of the Deceased and Wounded were denied access to the RMP statements and Treasury Solicitor's statements the failure on the part of the Counsel to the Inquiry, amounts to a clear dereliction of his professional obligations. Moreover in circumstances where soldiers now claim a loss of memory as to the detail of the events of Bloody Sunday, regardless of whether that memory loss is genuine or contrived, it is impossible to resolve those discrepancies and in a general sense undermines the weight which can be attached to the accounts given to the Widgery Inquiry.

18.7.3.336 This difficulty is of course particularly acute in the case of Soldier G and E, both of whom fired live rounds on Bloody Sunday, both of whom are now deceased. Soldier G was never questioned about the discrepancies between the various accounts he gave prior to giving evidence at the Widgery Inquiry, and the evidence he gave to the Widgery Inquiry. In our submission those discrepancies go to undermine the weight which can be attached to the evidence he gave to Lord Widgery.

18.7.3.337 Soldier G maintains that soldiers then advanced to the Kells Walk Wall in order to take cover. In his RMP statement Soldier G stated that only 6 soldiers, including himself, took shelter behind a low wall. It is implicit in what he said in this statement that there was only one gunman firing at troops. "Fire was returned by some of the men when the gunman was located." **B168**

18.7.3.338 When he came to make his Treasury Solicitor statement Soldier G maintained that he was on the left and observing the left side, which is the Rossville Flats side, he identified no targets and did not fire. **B185 paragraph 3** Soldier G did however claim that he heard quite a bit of firing at that time, coming from both the Rossville Flats and the Rubble Barricade. He identified some of the firing as coming from an automatic weapon, which he believed to be a Thompson sub-machinegun. **B185 paragraph 3**

18.7.3.339 In this account Soldier G also stated that there was a lot of noise from the Rubble Barricade and bricks and bottles were being thrown from that location although they did not reach soldiers located behind the Kells Walk Wall. **B185 paragraph 3** "Members of my Platoon were firing back from our position but I could not myself see identified targets to engage. I was observing left and they could have been looking somewhere else." **B185 paragraph 3**

18.7.3.340 When Soldier G gave evidence to the Widgery Inquiry he stated that the "whole party" went down to the Kells Walk Wall. **B191E** When soldiers were at the Kells Walk Wall Soldier G observed to the left because he was on the outside. **B191F** Soldiers then came under fire and there was a burst of fire and some single shots. He believed that the burst of fire came from the Thompson sub-machinegun **B191F-G** and believed that the firing came from both the Rubble Barricade and the Rossville Flats.

18.7.3.341 Soldier G was unable to be specific as to where the Thompson sub-machine gun fire was coming from, it seems clear from his description that the fire was coming from the Rossville Flats, in that he was able to state that it came from "Higher than ground level but definitely not the top of the flats." **B192C**

18.7.3.342 Soldier G stated that as soon as he heard the sound of the firing he took cover. He explains his inability to see any of what we know happened behind the Rubble Barricade by stating that he was not looking towards the Rubble Barricade but towards the left. Soldier G was unable to say whether Soldier F fired from the Rubble Barricade, just that there had been firing from that location. **B192**

18.7.3.343 Again there are discrepancies between the three accounts given by Soldier G:

i) In his account to the RMP Soldier G talks about only 6 soldiers taking cover at the Kells Walk Wall, while in his account to the Widgery Inquiry he stated that the "whole party" went down to the Kells Walk Wall. **B191E**

ii) In his RMP statement it is apparent that the fire directed at soldiers came from only one gunman and that gunman was located in Block 1 of the Rossville Flats. **B168** In both his Treasury Solicitor statement and his evidence to the Widgery Inquiry he refers to firing having come from both the Rossville Flats and the Rubble Barricade and it is clear that on his account there was more than one gunman. **B185 paragraph 3**

iii) In his RMP statement he does not identify the type of fire directed at soldiers. In both his Treasury Solicitor statement and his evidence to the Widgery Inquiry, he stated that the firing included firing from an automatic weapon and that he believed it was a Thompson sub-machinegun. **B191**

18.7.3.344 As well as discrepancies between the accounts given, there are also internal inconsistencies which are never explained:

i) Soldier G states that he himself did not fire live rounds at this juncture because he did not identify any targets. He explains his failure to identify either the persons whose firing he heard, or the targets at whom his colleagues fired by reference to the fact that he was observing left and they could have been looking elsewhere. **B185 paragraph 3** However if he was looking left then he was observing Block 1 of the Rossville Flats. According to each of his statements there was fire coming from that location when he was positioned at the Kells Walk Wall. Moreover his view was not obstructed by the wearing of a gas-mask **B191A**.

ii) Soldier G was unable to identify the soldiers behind the Kells Walk Wall who fired live rounds, although he acknowledges that soldiers did fire from that location. **B185**, **B286 paragraph 3**

iii) Specifically, he cannot say whether Soldier F fired. However, we know that: Soldier F fired at least 1 round while at that location because he killed Michael Kelly; Soldier G's view was not obstructed by the wearing of a gas-mask **B191A**; and, Soldier G was partnering F and on his own account, when F moved forward G moved with him. **B186 paragraph 3**

18.7.3.345 Soldier G's failure to identify either the targets fired upon by his colleagues, or which of his colleagues fired, is incredible and cannot be accepted. It is noteworthy that Soldier G seeks to distance himself completely from the events behind the Rubble Barricade, by emphasising that at all times he was looking to the left, towards the Rossville Flats.

18.7.3.346 In our submission Soldier G failed to account for the shooting by soldiers from his Platoon because, Soldier G was at the very least aware if not involved in firing live rounds from behind the Kells Walk Wall, in circumstances where the use of lethal force was unjustified. Despite, on his own account, partnering Soldier F, who we know fired

at least one live round over the Rubble Barricade, Soldier G sought to distance himself from the firing by soldiers from his Platoon over the Rubble Barricade. In doing so it is our submission that he sought to distance himself from the murder of Michael Kelly, John Young, Michael McDaid, William Nash and Hugh Gilmore, all of whom would have been shot and killed as Soldier G was positioned at the Kells Walk Wall. Whether Soldier G lied because he himself was involved in the use of lethal force or, simply to avoid giving an account which would undermine the accounts advanced by those of his colleagues, who fired live rounds at that location, is unclear. At the very minimum it is our submission that Soldier G was aware that soldiers from his Platoon were involved in the use of unlawful lethal force while positioned at the Kells Walk Wall and that he perjured himself in order to protect them. It moreover may be the case that as well as being guilty of murder while in Glenfada Park North and Abbey Park, Soldier G was also guilty of murder while on Rossville Street.

18.7.3.347 It is further submitted that Soldier G's account of events as Anti-Tank Platoon debussed and advanced to the Kells Walk Wall, is undermined by:

i) the contradictions between the accounts given about these matters by soldiers in his own platoon; and,

ii) the video and photographic evidence taken on the day.

18.7.3.348 There are significant discrepancies between the account given by Soldier G and other soldiers from Anti-Tank Platoon in relation to hearing fire and we refer the Tribunal to Table 3 above, in this respect. As can be seen from the Table, the majority of soldiers with Soldier G did not consider themselves under fire as they debussed, or while positioned at the wall of the derelict building near Columbcille Court. Moreover, even when they get to the Kells Walk Wall there is no consistency in the accounts given. Soldiers at the same location standing shoulder to shoulder behind the Kells Walk Wall heard different weapons firing from different locations, while a number of

them claimed to have seen exploding petrol bombs and nail bombs invisible to their colleagues.

18.7.3.349 While the discrepancies in Soldier G's account and as between his account and those of his colleagues undermine his credibility, it is submitted that the photographic and video evidence available to this Tribunal objectively demonstrates the dishonesty of Soldier G's account. In particular the Tribunal is referred to:

i) **V48/12.14 to 13.01** which shows soldiers as they debussed on Rossville Street and which in our submission demonstrates that that soldiers did not come under fire as they debussed.

ii) Photographs **P1115**, **P1116**, **P1117** which show soldiers as they dismounted from their vehicles and show Anti-Tank Platoon moving towards the low wall at Kells Walk, again it is our submission that those photographs show that soldiers were not under fire.

iii) Photograph **EP27.6** shows "an obvious and substantial gap with nothing going on, between the convoy of vehicles at the north of Rossville Street and a group of 40 or 50 people standing up behind the rubble barricade". **Day 363/126/1 to Day 363/126/6** and is inconsistent with the evidence of Soldier G to the effect that they were under fire at this time.

iv) Photograph **P1120** shows soldiers from Anti-Tank Platoon advancing to the Kells Walk Wall with some moving forward of the Kells Walk Wall to speak with Soldiers P and 017, while **P1121** shows one soldier still in front of the Kells Walk Wall while others stroll behind the Rubble Barricade. These 2 photographs in particular undermine any suggestion of soldiers being under fire as they arrived at the Kells Walk Wall.

18.7.3.350 In our submission, Soldier G lied in his account to the Widgery about the soldiers having come under live fire on Rossville Street, he did so in order to justify the use of lethal force by soldiers from his Platoon and from Mortar Platoon on Rossville Street.

Soldier G's first live rounds

18.7.3.351 Soldier G advanced with Soldier F forward of the Kells Walk Wall, he reached an alleyway leading to Glenfada Park North, and on his account fired 2 shots at a gunman who was in the alleyway. Both shots missed and hit a wall. Then accompanied by other soldiers he went down the alleyway into Glenfada Park North.

18.7.3.352 Soldier G's first account is contained in his RMP statement, in which he states that having advanced forward of the Kells Walk Wall:

i) Soldier G saw a gunman positioned at a wall at the end of an alleyway and he fired 2 shots at that man. **B168**

ii) He claims that he fired in order to give cover to another soldier who was running across open ground and that the gunman went to ground. **B168**

iii) Soldier G then ran up the alleyway with Soldier F and went into Glenfada Park North. **B169**

18.7.3.353 In the statement he gave to Treasury Solicitor's Soldier G expands upon his earlier account:

i) Soldier G believes he got to the end of the alleyway leading to Glenfada Park North when he first got a warning about a gunman. He got down on one knee and "saw a man dodging in and out of an alleyway at the far end of the wall (at the other end of the line marked 2 on my photograph). I caught a glimpse of what might have been a weapon. After being warned to look out for a gunman I am satisfied that that is what I saw. From the way he moved and the manner in which he carried the object in his hands I was sure he was a gunmen. One of the others had to get across the alleyway and to keep this man's head down I fired two shots at him on the line shown, marked 2." Soldier G did not claim to have hit the gunman. **B186 paragraph 4**

ii) Soldier G claims that the soldiers waited for the gunman to re-appear, however "we could not wait long because of the risk of fire from the high flats" and soldiers then moved into the alleyway before making their way into Glenfada Park North. **B185 paragraph 5**

18.7.3.354 In the evidence he gave to the Widgery Inquiry about this issue Soldier G stated as follows:

i) When Soldier F went around to the front of the Kells Walk Wall, Soldier G followed.

ii) Soldier G got "just far enough along here so that I could see up this alleyway with cover" **B192E-F** when someone shouted to him about a gunman. He believed that person was at the other side of the street. **B193**

iii) Soldier G "looked up the alleyway and somebody was dodging about up there." **B193B** Firstly the putative gunman ran from Columbcille Court to the north-west of Glenfada Park North and as he went into Glenfada Park North Soldier G saw that the man had something in his hand. The man then started dodging back round the wall and looking back at us. "From what I had seen of him I was satisfied that he was a gunman, so we had to move from there and I took aim and fired two aimed shots up this alleyway." **B193D**

iv) He saw both shots strike the wall and then he went up the alleyway with Soldiers E and F.

18.7.3.355 Again there are discrepancies between the various accounts given by Soldier G:

i) Soldier G makes no mention of receiving a warning about a gunman, in his RMP account, although it appears in his two subsequent accounts.

ii) In his statement to the RMP he states that he fired in order to provide cover for another soldier, however that explanation disappears from his subsequent accounts.

iii) In his RMP account the putative gunman is "positioned at a wall at the end of an alleyway" **B168**. In his account to the Treasury Solicitors, the gunman is "dodging in and out of an alleyway at the far end of the wall". **B186 paragraph 4** In his account to Lord Widgery the man, ran from Columbcille Court to the north-west of Glenfada Park North then back to Glenfada Park North and then he started dodging back around the wall and looking back at the soldiers. **B193D**

iv) In his RMP statement, Soldier G refers unequivocally to a gunman. **B168** In his statement to the Treasury Solicitors the man is identified as a gunman because of the warning received by Soldier G and because he had what "might have been" a weapon. **B186 paragraph 4** In his evidence to Lord Widgery Soldier G saw that the man had something in his hand, he then began dodging back round the wall and looking back at the soldiers and from what Soldier G had seen of him he "was satisfied that he was a gunman". **B193D** Under questioning by Mr. Read he initially stated that "I caught a quick glimpse of what appeared to be a weapon" **B205G** but went on to state that "What I think, what I am positive in my mind was a rifle." **B206A**

18.7.3.356 In the first instance it is clear that Soldier G's identification of a gunman is far from certain. He refers to seeing what "might have been" a weapon **B186 paragraph 4** and catching a quick glimpse of "what appeared to be" a weapon. **B205G**

18.7.3.357 Moreover, Soldier G's account is substantially undermined by the complete lack of corroboration of his account by the other soldiers who accompanied him down the alleyway to Glenfada Park North.

18.7.3.358 Counsel's Report No. 1 suggests that there is some corroboration of Soldier G's account to be found from Soldier 003, who witnessed a soldier from Support Company firing "several rounds in the direction

of Columbcille Court where gunfire was coming from." However as the Report points out Soldier G makes no claim to having heard automatic fire or any fire coming from Columbcille Court.

18.7.3.359 Moreover, when he came to give evidence at this Inquiry, Soldier 003 stated that the soldier whom he saw fire was positioned "near to a Pig on Rossville Street. The soldier was facing south down Rossville Street, and I saw him fire one or two rounds in a southerly direction from a kneeling position." **B1366.004 paragraph 24** The position marked by Soldier 033 on the map attached to his statement is a position on Rossville Street, beside the waste ground at Pilot Row and nowhere near where Soldier G claims to have fired the shot. **B1366.0010**

18.7.3.360 It is clear therefore that Soldier 003 in reality provides no corroboration for Soldier G. In any event it is submitted that Soldier 003's account of the events of the day is unreliable. In this respect the Tribunal is referred to our submissions in **Section 11.** If Soldier 033's account was to be accepted it would mean that he witnessed this shooting while positioned at the back of 36 Chamberlain Street, yet at the same time he failed to witness any of the shooting by members of Mortar Platoon positioned beside his location in the Rossville Flats car-park. **Day 309/122/12 to Day 309/122/22**

18.7.3.361 Moreover on his account C Company arrived in the Bogside before Support Company and no soldiers from Support Company were in the Rossville Flats' car park near C Company. **B1366.004 paragraph 22**

18.7.3.362 Of more significance to Soldier G's credibility is the failure of Soldiers F, E and H, who we know to have accompanied Soldier G into Glenfada Park North, to see either Soldier G's target, or even Soldier G firing live rounds at this location. This despite the fact that it was apparently to give his colleagues cover that he fired these rounds. **B168**

18.7.3.363 As has been seen from **Video 48**, other soldiers from Anti-Tank Platoon advanced forward towards the alleyway with Soldier G. Again none of these soldiers witnessed either the civilian gunman or Soldier G firing live rounds.

18.7.3.364 Moreover, no soldier positioned at any other location on Rossville Street claims to have shouted a warning which alerted Soldier G to the possibility of a gunman, and on his own account, contributed to his identification of the man at the end of the alleyway as a gunman.

18.7.3.365 There is no truth in the account given by Soldier G about the circumstances in which he claims to have fired his first two shots on Bloody Sunday. It is our submission that this account was fabricated because Soldier G fired live rounds in circumstances which were unjustified, in Glenfada Park North and Abbey Park, but also possibly while positioned in Kells Walk Wall on Rossville Street.

Soldier G's Fire at the Rossville Flats

18.7.3.366 Soldier G was then involved in the use of lethal force in Glenfada Park North which included the killing of Gerard Donaghey. When soldiers returned to Rossville Street from Glenfada Park North, the vehicles of Anti-Tank Platoon had moved up Rossville Street and were positioned near the gable end of Block 1 of the Rossville Flats.

18.7.3.367 According to Soldier G, shortly after mounting their vehicles soldiers again came under fire, this time from a gunman in the Rossville Flats, as a result of which he dismounted the vehicle and fired a further live round.

18.7.3.368 As set out above it is our case that Soldiers F and G did between them fire 7 shots at the window of McCrudden's flat at 12 Garvan Place in

the Rossville Flats, the bullet holes of which are shown at **EP30.2.**[47] The window at which they fired was located on the second floor and was the third window along when moving from north to south. These shots were fired at Fulvio Grimaldi who was trying to take photographs of the troops from the window of the flat at the time. **A9 41.50-45.22**[48] It is alleged that neither F nor G saw any gunmen at that location, neither of them heard any shots fired from that location. Moreover they neither saw anyone whom they believed to be a gunman, nor saw anything which would have made them believe that shots had been fired from that location. Their shooting was without justification and demonstrates the mindset of the soldiers of Anti-Tank Platoon and in particular Soldiers F and G to the use of lethal force.

18.7.3.369 The civilian and photographic evidence suggests that there was a total of seven shots fired at this location. If that evidence is correct there remains the question of what happened to the remaining shot claimed to have been fired there by Soldier F and Soldier G, given that both soldiers claim to have hit the window at which they were aiming. In all probability this shot accounts for some of the shooting by soldiers from Anti-Tank Platoon over the Rubble Barricade.

18.7.3.370 According to Soldier G's statement to the RMP:

i) After 2 minutes in the vehicles soldiers were fired upon by a gunman from a window on the second storey of Block 1 of the Rossville Flats about 3 windows from the western corner. **B170**

ii) Soldier G took up a position at the front wheel of the vehicle and faced the flats, from where he located the gunman and saw a muzzle flash from his position. **B170**

---

[47] The photographs show that 6 shots went through the window, however a number of the persons present in 12 Garvan Place refer to a further shot hitting the window frame. Margaret Featherstone **AF5.4 paragraphs 20-23** refers to 1 shot hitting the metal frame then 6 more coming through the window. Susan North **M35.8 paragraphs 48-49** and **M35.9 paragraphs 53 to 58** "I was under the distinct impression there were seven bullets and one had hit the window frame which can also be seen in the photograph" **M35.9 paragraph 58**

[48] The transcript of the relevant excerpt from the Susan North tape can be found at **E3.0062 to E3.0065**.

iii) He fired 1 aimed shot at the gunman but could not say he definitely hit him. **B170**

iv) He claims the gunman fired 5 shots in total, all of these shots going high over the vehicle. **B170**

18.7.3.371 Soldier G also gave a statement about this incident to the Treasury Solicitor which supplements his first account:

i) On returning from Glenfada Park North, soldiers mounted their vehicles and while in the vehicles they came under fire again. **B187 paragraph 10**

ii) Soldier G got out of the vehicle and ran round to the right of the driver and said to the driver "where from?" the driver indicated an open window on the second floor about 3 windows from southern end "I heard more shots and saw the window move. I made out someone standing slightly back from the window which had been pointed out to me and fired one round at him. I cannot recall any further firing and I fired no more rounds." **B187 paragraph 10**

18.7.3.372 Finally, Soldier G gave an account to the Widgery Inquiry:

i) After Anti-Tank Platoon had returned to the vehicles and were in them for a minute or two, they were fired upon again from the Rossville Flats. **B196E**

ii) The driver saw where the shots had come from, Soldier G jumped out and ran to the front right hand side, he asked the driver where the gunman was and the driver pointed out an open window on the second floor, three windows from the right hand end. **B196F**

iii) Soldier G believes that Soldier F was at the front of the other vehicle at the time. He did not notice where F was or what he was firing at. **B196F**

iv) Soldier G was questioned about the shooting at the window in some detail and described it in the following terms:

"I saw the window move again and we were fired on again from there. Somebody stood back from the window, seeing it was tilted inside, and we were fired on again from that position.

. . . so I fired just one aimed shot at this position." **B197B**

"Q. I want to know how positive you are that you were fired on from the window. What did you see which gave you reason to think that was the truth?

A. When I saw the window move I could tell where the shot was coming from because I was watching it. I was actually watching where it came from."

Soldier G stated that he did not see weapon protruding just saw "somebody stood back from the window" **B197B-C** and he believes shot hit below the window.

18.7.3.373 In our submission, even taken at its height, the explanation given by Soldier G for his belief that there was a gunman in the Flats, does not justify his decision to use lethal force, under either domestic or international human rights law. He did not see a weapon, nor even a figure, merely somebody standing back from a window which had moved earlier at or about the time he heard a shot from the Flats. This account would not justify the use of lethal force, either in self-defence or defence of others and certainly the use of force was not absolutely necessary within the meaning of Article 2 of the Convention.

18.7.3.374 In relation to the shooting at McCrudden's window the Tribunal is referred to Section 5 of these submissions wherein we make the case that a significant number of soldiers made statements on the 4 February 1972 which were expressly designed to corroborate and justify the use of lethal force by other soldiers. On the 4th February 1972 RMP statements were taken from the following members of the Anti Tank Platoon: Soldier J at 15.10 hours, (**B269**, **B270**) Soldier 018 at 19.15 hours, (**B1487**) Soldier 036 at 19.30 hours, (**B1629**, **B1630**) Soldier 147 at 20.00 hours (**B1886**, **B1887**) and L/Corporal F, time unknown. Each of these statements deals with the incident where they say that

while in their vehicles they came under fire from the Rossville Flats and Soldiers F and G returned fire.

18.7.3.375 Despite the exercise by the RMP designed to bolster the credibility of Soldiers F and G, there are in fact significant discrepancies between the accounts given by Soldier G and the accounts given by Soldiers F, 036 and 147 about the circumstances in which Soldiers F and G fired live rounds.

18.7.3.376 Soldier 036 was the driver of the rear of the Anti-Tank Platoon vehicles from which Soldier G dismounted and fired a shot. **B1629**[49] Soldier G's statement to the Treasury Solicitor describes an incident, in which he states that we spoke to the driver of his vehicle and the driver pointed out the window from where firing was coming from.[50] **B187 paragraph 10** Soldier 036, the driver of the vehicle, in the accounts he has given, makes no reference to having spoken to either Soldier G, F or any other soldier.

18.7.3.377 It is also of course the case that on F's account it was Soldier 147, the radio operator, seated behind the passenger seat, who pointed out the first of his targets to him. **B123** Again Soldier 036 makes no reference to this despite having been seated in the front of the same vehicle.

18.7.3.378 Both Soldier G and Soldier F give an account of the shooting whereby G fired his round from the second vehicle, that is the vehicle driven by Soldier 036, **B146F-G**, while F was positioned at the front vehicle. **B196F**. It also appears from the transcript of Soldier F's evidence to the Widgery Inquiry that Soldier G fired his round when Soldier F was

[49] **B1668** Soldier 147 in his RMP statement also states that he was in the same vehicle as Soldier 036. While according to Soldier F he dismounts from the rear vehicle, speaks to the radio operator, Soldier 147 and then moves to the front vehicle. **B123**

[50] It must be assumed that the reference to 'we' in his transcript is a reference to himself and Soldier F.

firing at his second target in the Rossville Flats. **B145D**[51] and **B146A-G**

18.7.3.379 Yet Soldier G, apparently positioned at a location behind his partner, Soldier F, did not notice Soldier F firing 3 live rounds. **B196F-G** On the other hand Soldier F from a location to the front of Soldier G, and while engaged with a gunman, did manage to observe Soldier G fire his round. **B146F**

18.7.3.380 These discrepancies are dealt with in some further detail in our submissions in relation to Soldier 036. Suffice to say that despite the best efforts of the RMP, the accounts given by Soldiers G, F, 036 and 147 when considered in some little detail tend to undermine, rather than corroborate, the accounts given by Soldiers G and F about their justification advanced for shooting at McCrudden's window.

18.7.3.381 Soldier G claims to have fired three live rounds while on Rossville Street and he certainly fired at least 6 rounds on Bloody Sunday, one of which killed Gerard Donaghey. Soldier G's account of the circumstances in which he fired live rounds is demonstrably untruthful. Moreover it has been established that he lied about the circumstances in which he fired the live round which led to the death of Gerard Donaghey. Neither Soldier G's account of the location at which he fired live rounds nor the circumstances in which he fired live rounds can be accepted by this Tribunal. Given the allegations which will be made against Soldier G in relation to his conduct in Glenfada Park North and Abbey Park, it seems probable that it was his use of lethal force at that location which may account for his unaccounted for rounds. However, given Soldier G must also be considered as a suspect for the shooting of one or more of Michael McDaid, John

[51] Soldier F's evidence to the Widgery Inquiry makes it clear that he fires his first 3 shots from the front of the rear vehicle and then moved forward to the front vehicle, from where he fired 2 further series of shots at two different gunmen.

Young, William Nash and Hugh Gilmore, particularly if soldiers in Anti-Tank Platoon were in possession of extra rounds.

Soldier 147

18.7.3.382 Soldier 147 is an important witness, particularly with regard to the evidence which he gives in relation to the shots Soldier F claimed to have fired at the first of his three gunmen positioned in the Rossville Flats.

18.7.3.383 It is our case that Soldiers F and G did between them fire 7 shots at the window of McCrudden's flat at 12 Garvan Place in the Rossville Flats, the bullet holes of which are shown at **EP30.2.**[52] The window at which they fired was located on the second floor and was the third window along when moving from north to south. These shots were fired at Fulvio Grimaldi who was trying to take photographs of the troops from the window of the flat at the time. **A9 41.50-45.22**[53] It is alleged that neither F nor G saw any gunmen at that location, neither of them heard any shots fired from that location. Moreover they neither saw anyone whom they believed to be a gunman, nor saw anything which would have made them believe that shots had been fired from that location.

18.7.3.384 Soldier F claims to have fired a total of 8 shots at windows in the Rossville Flats, while G claims to have fired 1 further round. The civilian and photographic evidence suggests that there was a total of seven shots. If that evidence is correct there remains the question of what happened to the remaining shot claimed to have been fired there by Soldier F and Soldier G, given that both soldiers claim to have hit the window at which they were aiming. In all probability this shot

---

[52] The photographs show that 6 shots went through the window, however a number of the persons present in 12 Garvan Place refer to a further shot hitting the window frame. Margaret Featherstone **AF5.4 paragraphs 20-23** refers to 1 shot hitting the metal frame then 6 more coming through the window. Susan North **M35.8 paragraphs 48-49** and **M35.9 paragraphs 53 to 58** "I was under the distinct impression there were seven bullets and one had hit the window frame which can also be seen in the photograph" **M35.9 paragraph 58**

[53] The transcript of the relevant excerpt from the Susan North tape can be found at **E3.0062 to E3.0065**.

accounts for some of the shooting by soldiers from Anti-Tank Platoon over the Rubble Barricade.

4 February 1972

18.7.3.385 Soldier 147 was one of the members of Anti-Tank Platoon who made a statement on the 4 February 1972 designed to corroborate the actions of Soldier F and to justify the firing of live rounds. The Tribunal has been referred to **Section 5** of these submissions wherein we make the case that a significant number of soldiers made statements on that date which were expressly designed to corroborate and justify the use of lethal force by other soldiers.

18.7.3.386 A significant number of soldiers from Anti-Tank Platoon, including Soldier 147 fall into that category. It is our submission that Soldier 147's account of events is a complete fabrication. He was required to fabricate the account because of the explanation which had been given by Soldier F in his first RMP statement about the circumstances in which he fired at the first of his three alleged gunmen at the Rossville Flats. Soldier F stated in his RMP statement dated the 31 January 1972 that he had been told by the radio operator that there was a "sniper up in the flats" and once he jumped out of the vehicle the radio operator told F where he had seen the gunman. **B123** In the circumstances it was vital that this account was corroborated and the only person who could provide the necessary corroboration was Soldier 147. Soldier 147 lied in 1972 when he made statements about the circumstances in which F is alleged to have fired live rounds and he did so because, in light of the explanation which had been advanced by Soldier F. Had he not provided the necessary corroboration Soldier F's account would have been entirely implausible.

18.7.3.387 Significantly, and in contradistinction to Soldier 018, Soldier 147 has persisted in standing over the statements he made in 1972 and in his dealings with this Tribunal he has sought to bolster the military case by lying about what he saw of the events of Bloody Sunday. The

statement made by Soldier 147 in 1999 for the purpose of this Tribunal demonstrated not, a desire to the tell the truth, but a willingness to sustain and shore up the lies told in 1972. Unfortunately for Soldier 147, as his oral evidence demonstrated, his lies had a habit of tripping him up.

18.7.3.388 Soldier 147's primary significance as a witness relates to his involvement in the efforts made to lend some credibility to Soldier F. His evidence about hearing gunfire and explosions also provides more general support for other soldiers from his Platoon who fired live rounds. There is however another aspect of his evidence which is of some importance.

18.7.3.389 In particular the question of whether he remained within the APC when other soldiers from his Platoon debussed. If he is being honest in this aspect of his evidence this undermines even further the credibility of Lieutenant 119, but it also raises questions about the identity of the soldiers behind the Kells Walk Wall who are seen in photograph **EP23.9** or on **V48/11.35 to 11.41**

Whether Soldier 147 remained in the Vehicle

18.7.3.390 Soldier 147 appears to have consistently made the case that he did not debus with other soldiers from Anti-Tank Platoon, but remained in the vehicle throughout. He explains that by reference to the fact that he was a radio operator. **B1889 paragraph 1**, **B1891.003**, **Day 359/19/8 to Day 359/19/10** Having said that his statement to the RMP is somewhat confusing. He only describes the vehicle as having stopped at its second location, beside the Rossville Flats, despite the fact that the vehicle was initially parked at the junction of William Street and Rossville Street and soldiers debussed from that location, prior to the vehicle moving to the Rossville Flats. **B1886** Moreover according to his subsequent statement the decision to move up Rossville Street was as a result of a radio transmission received by him. **B1889 paragraph**

2 It is difficult to understand his confusion with regard to the moving of the vehicle if it is true that he remained with the vehicle throughout.

18.7.3.391 This issue is of significance in a number of respects. On the one hand both photographic and video evidence suggest that every member of Anti-Tank Platoon debussed and went to the Kells Walk Wall. According to the nominal roll there were 17 members of Anti-Tank Platoon and it appears that at least 17 soldiers can be seen behind the Kells Walk Wall, after Anti-Tank Platoon debus, and prior to the arrival of Composite Platoon. **EP23.9** Moreover the excerpt from **V48/11.35 to 11.55** which shows Anti-Tank Platoon advance forward of the Kells Walk Wall again shows what appears to be a full Platoon suggesting, at the very least that each and every member of Anti-Tank Platoon debussed and went as far as the Kells Walk Wall.[54]

18.7.3.392 Having said that the video and photographic evidence does not appear to show more than one radio operator, and we know that Soldier 027 was a radio operator and accompanied Lieutenant 119 at the Kells Walk Wall and into Glenfada Park North. That would tend to support Soldier 147's contention that he remained with the vehicle however it raises a question as to whether there were members of the Parachute Regiment who were not members of Anti-Tank Platoon at the Kells Walk Wall with Anti-Tank Platoon.

18.7.3.393 It may of course be that, consistent with the evidence of Soldier 027, some soldiers from Composite Platoon did arrive at the Kells Walk Wall, ahead of their colleagues. The suggestion that at least some members of Composite Platoon had advanced to the Kells Walk Wall, at or about the time Anti-Tank Platoon were at that location is also supported by **P1121**. This photograph shows one soldier forward of the Kells Walk Wall speaking with Soldiers P and 017 while other members of Anti-Tank Platoon return behind the Kells Walk Wall.

[54] See also **Day 366/55/20 to Day366/56/14**

There are also a number of soldiers slightly further back from the wall, positioned in a doorway and it would appear that there are at least 20 soldiers in the vicinity of the Kells Walk Wall, not including Soldiers P and 017.

18.7.3.394 If Soldier 147 is telling the truth about this aspect of his evidence then his evidence goes to further undermine Lieutenant 119's credibility with regard to the explanation he has advanced in order to suggest that he did not arrive in Glenfada Park North until after the shooting was over. According to Lieutenant 119 he initially sent 'some' of his men, including Soldiers E and F into Glenfada Park North, while at the same time sending a runner back to the Anti-Tank Platoon vehicles to bring them forward to provide cover to allow the remainder of his platoon to advance.

> "To cover us from fire from Block 1 I sent a runner to order up our vehicles to give us cover on the road. I then ordered some men forward into the courtyard of Glenfadda Park, hoping to cut off the gunmen by the barricade. As soon as my vehicles were in a position to give us satisfactory cover from the fire from Block 1 I moved forward myself into Glenfada Park courtyard." **B1752.044 paragraph 7** See also **B1752.037**

18.7.3.395 However, according to Soldier 147 the reason he remained with the vehicle was in order to take messages or to move the armoured vehicle to another position if ordered to do so. **B1889** If Soldier 147 is correct, Lieutenant 119 had no need to send a runner back to the vehicles, he could simply have radioed Soldier 147 who was waiting in the vehicle for that very order.

Hearing Gunfire and Explosions

18.7.3.396 In his RMP statement Soldier 147 stated that he heard the sound of shooting in the general area. **B1886** In his statement to the Treasury Solicitor he stated that after Anti-Tank Platoon debussed he could hear

shooting from all directions, he did not identify the type of fire he heard. **B1889**

18.7.3.397 By the time he comes to give evidence to this Inquiry in the statement he made in 1999 he stated that there was gunfire from low calibre weapons, or Thompson sub-machineguns. He was clear that the sounds he heard did not come from baton rounds were not the sounds of firing from SLRs. He also claimed to have heard explosions which could have been nail or petrol bombs. **B1891.003 paragraphs 17 to 19**

18.7.3.398 When questioned by counsel for the Tribunal he was asked given that:

> "in the two statements you made in 1972, you did not explain what kind of shooting you heard . . . You did not even identify the sounds of SLRS . . . How can you be sure now of the details that you have set out in your statement to this Inquiry of hearing weapons that were not British army issue weapons? . . . My question is: how can you be sure of the detail, given the amount of time that has passed?
>
> A. I cannot, sir." **Day 359/13/9 to Day 359/14/17**

18.7.3.399 When questioned by our counsel Soldier 147 was unable to explain why he had inserted paragraph 17 into his statement, given that he was unable to stand over that evidence. **Day 359/34/6 to Day 359/34/7**

18.7.3.400 It is also of course the case that Soldier 147 never suggested in 1972 that he had heard explosions. His evidence on that issue is as unreliable as the evidence which he gave seeking to suggest that the gunfire he heard was not army fire.

18.7.3.401 It is quite clear, as becomes more apparent with other aspects of his evidence, that now, as in 1972, Soldier 147 was willing to lie about what he saw and heard on Bloody Sunday, in order to reinforce the army case that soldiers were under fire. However when it came to

giving oral evidence Soldier 147's lies tripped him up all too frequently and resulted in his repeatedly having to withdraw the lies he had told to Eversheds.

F's shooting at the Rossville Flats

18.7.3.402 Soldier 147's first account of a gunman firing on troops from the Rossville Flats was made on the 4 February 1972, in relation to that incident he stated as follows:

i) He was in a Pig driven by Soldier 036, and remained in the vehicle which drove down Rossville Street while his Platoon advanced on foot in front of the Pig. **B1886**

ii) The Pig was stopped on the pavement at the north end of the Rossville Flats. **B1886**

iii) Looking up at the flats he saw a window on the second floor about 5/6 windows along from the southern end and saw the outline of a man and the muzzle flash of a weapon while he heard the sound of a report. The round passed very close over the roof of the vehicle. He saw the window move downwards after the shot. He did not see the weapon but believed that it was a .22 calibre weapon. **B1886**

iv) Within seconds the same window opened again and a second shot was fired. He again heard the sound pass near the troops and hit the ground near the front of the vehicle. He did not see the gunman or weapon. **B1886**

v) He shouted a warning to other members of his unit and pointed the window from where the gunman fired to F. **B1887**

vi) He claimed that he did not see return fire. **B1887**

vii) He states that a few minutes later he saw an apparently lifeless body being carried from the block of flats and placed in an ambulance. **B1887**

18.7.3.403 In the statement he made to the Treasury Solicitor he stated as follows:

i) He identified himself as a radio operator and stated that when the Platoon advanced he stayed with the vehicle in order to take

messages or to move the armoured vehicle to another position if ordered to do so. **B1889 paragraph 1**

ii) He received an order that the vehicle should be moved further up Rossville Street and communicated that order to the driver. From his new location he had a clear view of the Rossville Flats. **B1889 paragraph 2**

iii) Anti-Tank Platoon returned to the vehicles and one of the soldiers who got into his vehicle was Soldier F, Soldier 147 himself was located directly behind the front seat and no one was in the front seat. **B1889 paragraph 2**

iv) A second storey window in the flats opened and Soldier 147 saw the shape of a man, a shot then passed close to the vehicle and the window seemed to shut. **B1889 paragraph 2**

v) Within seconds the window moved again, he saw the shape of a man and a second shot was fired from the window which hit the ground to the front and slightly to the left of the vehicle. **B1889 paragraph 2**

vi) He shouted a warning to members of his Platoon and pointed out to F where the shots had come from. **B1889 paragraph 2**

vii) F dismounted from the vehicle "In fact, I think a couple of soldiers jumped out of the vehicle but I cannot be sure." **B1889 paragraph 2**

viii) He heard a couple of shots but cannot recollect who fired them. **B1889 paragraph 2**

ix) In relation to his RMP statement, Soldier 147 stated that while "I had said that I did not see the gunman. In fact I did see the shape of a man I have described but I could not give any further description of him". **B1890 paragraph 3**

18.7.3.404 There are a number of discrepancies between the two accounts made by Soldier 147:

i) In his first statement he stated that the Pig advanced behind the vehicle, this was corrected in the Treasury Solicitor statement to what we know to have been the situation. The Pigs were

originally parked at the junction of Rossville Street and William Street and some time after Anti-Tank Platoon advanced forward from the Kells Walk Wall they were moved and parked beside the footpath at the northern end of Block 1 of the Rossville Flats.

ii) In his first statement he states that he did not see the gunmen, this is overtly corrected in his second statement.

iii) In his RMP statement he makes no mention of F or any other soldier getting out of the vehicle.

iv) In his RMP statement he stated that he did not see return fire. **B1889 paragraph 2** In his statement to the Treasury Solicitor he describes hearing a couple of shots fired by soldiers albeit he cannot identify the soldiers in question. **B1889 paragraph 2**

18.7.3.405 Soldier 147 made a statement for this Inquiry in 1999, in which he dealt with the statements he had made in 1972. In relation to his RMP statement he stated that:

i) Having re-read the statement he recollected coming under fire while the Pig was positioned close to the Rossville Flats. **B1891.004 paragraph 25.1.1**

ii) He claimed that he saw "a hand come out of the window in question. . . . I remember seeing the window actually open and the hand sticking out of it. The hand was holding some sort of weapon. I cannot say exactly what type of weapon it was, but it was definitely not a camera. I am absolutely certain of that." **B1891.004 paragraph 25.1.1**

iii) He maintained that he saw the shape of a person but had no recollection of a muzzle flash and believed that he would have been unlikely to have seen one in daylight. **B1891.005 paragraph 25.1.2**

iv) He had no recollection of having shouted a warning and is surprised that he would have spoken to F because they disliked each other. **B1891.005 paragraph 25.1.4**

v) He had no recollection of a body being removed from the Flats. **B1891.005 paragraph 25.1.5**

18.7.3.406 In relation to the statement made to the Treasury Solicitors he stated as follows:

i) He had no recollection of being ordered to move the Pig, he had no recollection of his Platoon returning to the Pig and specifically had no recollection of F returning to the Pig. **B1891.005 paragraph 25.1.3**

ii) He was adamant that he was not in the Pig when he saw the man at the window and the reason he gave for that was because "it would be extremely difficult to see anything out of the window of a Pig. The windows are very narrow and give a restrictive view, particularly if you are sitting behind the passenger seat. I am certain that I was actually standing at the back of the Pig on its left hand side when I saw the hand appear at the window. Similarly, I am sure that I was outside the vehicle when the shot passed overhead." **B1891.005 paragraph 25.1.4**

iii) He stated that, of the two accounts, he preferred his RMP statement, in part because it did not state that he was in the vehicle when he saw the gunman. **B1891.005 paragraph 25.1.5**

iv) He stated that he did not see any shots hitting the window and neither did he see Soldiers F or G firing any shots. **B1891.006 paragraph 27**

18.7.3.407 Soldier 147's oral testimony to this Tribunal demonstrated that the only real consistency between the various accounts which Soldier 147 has given about Bloody Sunday has been his consistent willingness to lie about the events of that day.

18.7.3.408 Soldier 147 account about witnessing a civilian gunman on Bloody Sunday is in our submission demonstrably untrue because, as Soldier

018 acknowledged in his statement to this Inquiry, **B1491.5 paragraph 42** from Soldier 147's location in the Pig he could not have witnessed that which he claimed to have witnessed on Bloody Sunday.

18.7.3.409 In his evidence to this Inquiry Soldier 147 accepted that he must have been sitting in the Pig when he witnessed the incident. **Day 359/4/17 to Day 359/4/22** In our submission, the reason Soldier 147 had told Eversheds that he was outside the Pig was because he himself realised, in the course of making that statement, that he could not have seen a gunman at a window in the Rossville Flats from the location he had given in his statement to the Treasury Solicitor.

18.7.3.410 He expressly acknowledged that fact in his statement to Eversheds when he said "it would be extremely difficult to see anything out of the window of a Pig. The windows are very narrow and give a restrictive view, particularly if you are sitting behind the passenger seat." **B1891.005 paragraph 25.1.4**

18.7.3.411 When giving evidence to this Tribunal he stated that he had made a mistake when speaking with Eversheds, and persisted in stating that his view from the rear of the Pig would have been sufficient to enable him to see a gunman, positioned inside a window, in a Flat two floors up. **Day 359/65/9 to Day 359/65/24** However not only is his assertion inconsistent with what he said to Eversheds it is also inconsistent with the explanation which Soldier 147 gave to this Inquiry when he was asked how he could have missed F and G firing live rounds. As he said himself the reason he would not have seen two soldiers positioned close to the Pig in which he was seated was:

> **"Well, a large steel door, sir, with a small window."**
> **Day 359/26/17 to Day 359/27/8**

18.7.3.412 Thus Soldier 147 wants the Tribunal to believe that while his view from the Pig was so restricted that he could not have seen Soldiers F and G firing, it would not have prevented him from being able to

confidently identify a gunman within a flat, two floors above ground from the inside rear of a Pig.

18.7.3.413 It is moreover absolutely clear from such objective evidence as exists that from his location in the rear of the Pig, Soldier 147 could not have been an eyewitness to the events he claimed to have seen. Photograph **P520.002** shows one of the vehicles from Anti-Tank Platoon parked on Rossville Street. It is clear from the accounts given by Soldier F that both himself and Soldier 147 were in the second vehicle. **B138 paragraph 10**, **B145D** In other words the vehicle on the far side of the vehicle shown in photograph **P520.002**. It is submitted that this photograph, without more, demonstrates the dishonesty of Soldier 147.

18.7.3.414 Moreover photograph **OS1.841** which has only recently become available and was not available when this witness gave evidence, shows the inside of a Pig. Again this photograph, particularly when one considers the position of Soldier 147's Pig relative to the Rossville Flats, demonstrates that Soldier 147 lied in every account he has given about Bloody Sunday in which he claims to have seen a civilian gunmen.

18.7.3.415 A factor which further undermines Soldier 147's credibility is the fact that as a radio operator he failed to report over the radio the fact that a gunmen had been seen at the window of the Rossville Flats. Again Soldier 147 could advance no explanation for that failure, the reality of the situation being that the true explanation is that he had nothing to report. **Day 359/74/16 to Day 359/74/19**

18.7.3.416 It is our submission that Soldier 147's oral testimony demonstrates the truth of Soldier 018's written testimony:

> ". . . I was not in a position to see whether there was a gunman in the flats when the shots were fired, nor could I see that they went through the window." **B1491.5 paragraph 42**

18.7.3.417 Like Soldier 018 in 1972, Soldier 147 was prepared to lie in order to "substantiate details that had been provided by his colleagues" **B1491.5 paragraph 42** and to justify the circumstances in which they had fired live rounds.

18.7.3.418 In the statements made to this Tribunal, Soldier 147 did not persist with his assertion that he seen a body being removed from the Rossville Flats, minutes after he had seen a gunman. **B1887** It is our submission that this reference was included in his RMP statement for the express purpose of making a link between the shooting by members of his Platoon of a gunman and the removal of Kevin McElhinney's body from the Rossville Flats. While he rejected that suggestion **Day 359/69/1 to Day 359/69/4** it is noteworthy that Soldier 036 also described this in his 1972 RMP statement and the wording used in his RMP was identical to that used by Soldier 147. **B1630** According to Soldier 147, the Tribunal should accept that this is mere coincidence. **Day 359/69/1 to Day 359/69/17**

18.7.3.419 All of the evidence demonstrates that Soldier 147 lied about his sighting of a civilian gunman in 1972, Soldier 147 invites this Tribunal to reject the only sensible interpretation of the evidence because he did not like Soldier F. **B1891.005 paragraph 25.1.4** However, given the statement made by Soldier F on the 31 January 1972, in which he identified the radio operator as the person who has pointed out the gunman to him **B123** Soldier 147 was one of only 2 soldiers who could have provided the corroboration necessary to justify Soldier F's firing of live rounds. Had Soldier 147 refused to provide the requisite level of corroboration, Soldier F's credibility would have been substantially undermined. In our submission the fact that Soldier 147 was willing to lie, even for a colleague whom he disliked, merely demonstrates the extent to which members of the Parachute regiment were prepared to lie in order to justify the use of lethal force by their colleagues. It also tends to suggest that the impetus for the fabricated accounts given by soldiers on the 4 February 1972 was orchestrated and co-ordinated by

the RMP as part of a clear strategy to obstruct the search for the truth about Bloody Sunday.

18.7.3.420 It is not without significance that in relation to the shooting by F and G, on Rossville Street, more soldiers participated in providing corroboration for that shooting than for any other single incident.[55] While there is disputed evidence about whether or not a ceasefire order was given at the Kells Walk Wall prior to Anti-Tank Platoon entering Glenfada Park North, there is no doubt that an order to ceasefire had been given when Soldiers F and G fired these rounds. Any shooting after the ceasefire needed to be demonstrably justified, hence the queue of soldiers, lining up to state that a gunman/gunmen were shooting from the Rossville Flats at the troops when the vehicles had moved up Rossville Street. Moreover this incident involved two soldiers who were undoubtedly guilty of murder on Bloody Sunday. The RMP thus went to considerable lengths to protect the actions of Soldier F and Soldier G from further scrutiny. In this respect we would refer to a Table prepared of the order in which soldiers from Anti-Tank Platoon made their RMP statements, attached as Table **6** to this Section.

18.7.3.421 Soldier 147 manufactured an account of the events of Bloody Sunday in 1972, in particular he claimed to have seen a civilian gunman in circumstances which would have lent support to the actions of two of his colleagues who fired rounds at a photographer.

18.7.3.422 Moreover in the statement he made to Eversheds he went to considerable lengths to sustain and reinforce his account. Soldier 147 was guilty of lying for his colleagues in 1972, in 2003 he was guilty of perjury.

[55] In all, Soldier 018, Soldier 147, Soldier 036, Soldier J provided statements on the 4 February designed to corroborate the accounts of shooting given by Soldier F and G.

Soldier 036

18.7.3.423 Soldier 036 is another soldier from Anti-Tank Platoon who made an RMP statement on the 4 February 1972 which provides some level of corroboration for the accounts given by Soldier F and Soldier G firing shots at the Rossville Flats (**B1629**, **B1630**). His statement was made at 19.30, half an hour before Soldier 147 had made his statement (**B1886**, **B1887**) and 15 minutes after Soldier 018 made his statement (**B1487**).

18.7.3.424 As with Soldier 147 it is our submission that Soldier 036 fabricated the account he gave in 1972 of hearing shots coming from the Rossville Flats and connecting those shots with the movement of a window at which Soldiers F and G fired. **B1629**, **B1630**

18.7.3.425 Soldier 036's testimony to this Tribunal Soldier amounted to an interview, conducted outside the jurisdiction, with John Tate, solicitor to the Inquiry.

Soldier 036's RMP Statement

18.7.3.426 Soldier 036 only made one statement in 1972 which was the statement made on the 4 February 1972 to the RMP and can be summarised as follows:

i) He was the driver of one of the Pigs and was accompanied by Soldier 147 when the Pig came under fire from the Rossville Flats.

ii) He saw a window being moved and as he looked at the window he heard the sound of a high velocity weapon and the window shut. "I did not see a flash or any part of a weapon as it happened so quickly. I heard the round pass over the vehicle, very close to the roof." **B1629**

iii) He heard a second shot and the window moved again. "I did not actually see the weapon on either occasion." **B1629**

iv) F fired 2 shots and G fired 1 shot "I saw all three rounds strike this particular window but I did not see anyone being hit by those rounds." **B1630**

18.7.3.427 In relation to the statement by Soldier 036 we rely upon the submissions made previously in relation to the statement-taking exercise on that date. We moreover rely specifically on the testimony of Soldier 018 about the circumstances in which he came to make his RMP statement, just 15 minutes prior to the statement, on the same topic made by this witness. **B1491.5 paragraph 42**

18.7.3.428 In common with Soldier 147 Soldier 036 does not, in the account given in his RMP statement describe the process whereby the vehicles stopped, Anti-Tank Platoon debussed, and the vehicles were at some time after that moved forward to park beside the Rossville Flats.

18.7.3.429 There are significant discrepancies between the account given by Soldier 036 and the accounts given by Soldiers F, G and 147 about the circumstances in which he maintains that he witnessed Soldiers F and G firing live rounds.

18.7.3.430 In their RMP statements both Soldier 147 and Soldier 036 place themselves in the same vehicle, consequently they were in the rear of the two Anti-Tank Platoon vehicles parked near the Rossville Flats. **B145D**[56]

18.7.3.431 Soldier G's statement to the Treasury Solicitor describes an incident, similar to that described by Soldier 036, in which he states that we spoke to the driver of his vehicle and the driver pointed out the window from where firing was coming from.[57] **B187 paragraph 10** According to Soldier G's evidence to the Widgery Inquiry when he fired his shot

[56] Soldier F's evidence to the Widgery Inquiry makes it clear that he fires his first 3 shots from the front of the rear vehicle and then moved forward to the front vehicle, from where he fired 2 further series of shots at two different gunmen.

he was at a different vehicle to that from which Soldier F fired, Soldier F having gone to the front of the other vehicle. **B196F** It appears to follow that if Soldier 036, as he claims to have done, witnessed this incident, he is claiming to have witnessed Soldier F firing from the vehicle in front of his own, rather than his own vehicle.

18.7.3.432 F also maintained that G fired his round from the second vehicle, that is the vehicle driven by Soldier 036, **B146F-G** albeit it is not clear how F could have seen Soldier G firing from a position behind him when he was supposedly facing forwards, focusing on the actions of a gunman who was threatening his life. It also appears from the transcript of Soldier F's evidence to the Widgery Inquiry that Soldier G fired his round when Soldier F was firing at his second target in the Rossville Flats. **B146A-G** That would tend to suggest that Soldier 036 saw Soldier F firing 2 of the 3 rounds he fired while positioned at a vehicle in front of him,[58] having missed Soldier F fire at his first target from the front of the vehicle of which Soldier 036 was the driver, and at a time when Soldier 036 was sitting in the driver's seat.

18.7.3.433 It is also of course the case that on F's account it was Soldier 147, seated behind the passenger seat, who pointed out the first of his targets to him. **B123** Soldier 036 makes no reference to this despite having been seated in the front of the same vehicle.

18.7.3.434 The discrepancies between the accounts given by the soldiers are significant:

i) If Soldier G is correct then Soldier 036 neglected to mention that he spoke with Soldier G and F and pointed out the window, from which the gunman was firing, to them. **B187 paragraph 10**

[57] It must be assumed that the reference to 'we' in his transcript is a reference to himself and Soldier F.
[58] According to F, he fired 3 rounds at his first target, 3 at his second and 2 at his third.

ii) If Soldier 036 is correct, then he could not in any event have pointed out a gunman, but only a suspicious window, not having seen either a weapon or a person at the window. **B1630**

iii) If Soldier F is correct, then Soldier G fired his round when Soldier F was firing at his second target. **B146A-G** It follows that Soldier 036 witnessed Soldier F firing from the vehicle in front of his, having missed him firing 3 shots at the front of Soldier 036's own vehicle. Also of course Soldier F had eyes in the back of his head as he was able to "see" Soldier G when Soldier G was located at a position to his rear and while he himself was firing at a target. **B146F**

iv) If Soldier F is correct Soldier 147 pointed out F's first target to him and Soldier 036 was completely unaware of this conversation. **B123**

18.7.3.435 In our submission, it has already been amply demonstrated that the statement-taking exercise involving Soldier 036, Soldier 147 and Soldier 018 was a completely bogus exercise in which the soldiers in question either fabricated, or had accounts fabricated for them, in order to justify the circumstances in which Soldiers F and G fired live rounds at the Rossville Flats. The complete inconsistency in the accounts given by this Soldier, Soldier F and Soldier G, merely serves to highlight the fact that this account is a complete fabrication.

Transcript of Interview taken by John Tate

18.7.3.436 The process whereby Soldier 036 gave evidence to the Inquiry was unusual. Soldier 036 apparently resides outside the jurisdiction and refused to come to London to give evidence to the Inquiry where he would have been subject to questioning about this incident by lawyers representing the families. Rather he gave an interview to John Tate, the solicitor to the Inquiry, at which our clients were not represented.

18.7.3.437 It will be our submission that the circumstances in which Soldier 036 gave evidence are such that no or no significant weight can be attached

to any evidence he gives hostile to the next of kin of the Deceased. This is dealt with in further detail below.

18.7.3.438 It is our further contention that issues arise as to the manner in which the interview was conducted by John Tate, that on a number of issues the transcript is ambiguous and certain issues were not clarified with the witness. By way of example, Soldier 027 has made a very serious allegation against Soldier 036, albeit not related to events on Bloody Sunday, again for reasons which have never been made clear, that allegation was never put to Soldier 036. As will be evident from the submission below, other matters, pertinent to Soldier 036's evidence were never put to this witness and the failure to question the witness about these matters, undermines the whole process.

18.7.3.439 It was suggested to Soldier 036 that the Pig he drove stopped by Kells Walk, which of course is not the case, and his evidence at that stage was that soldiers were under fire "the rounds were coming at us at the time". **B1631.17** Soldier 036 gives no further detail about coming under fire and his evidence in this respect is contradicted by his later testimony when asked about whether there had been Irish gunmen on Bloody Sunday "Meself, I didn't believe there was Irish gunmen, no." **B1631.22**

18.7.3.440 Soldier 036 was the driver of one of the two Anti-Tank Platoon vehicles and the evidence of Soldier 147 would tend to suggest that Soldier 036 must have remained with the vehicle the whole time. However this witness gives evidence about being at the Kells Walk Wall and observing the Rubble Barricade. **B1631.17**, **B1631.22**

18.7.3.441 Soldier 036 was asked about the conduct of the people behind the Rubble Barricade:

> "And you saw the same barricade, the rubble barricade. What were people doing? - - - There were just people in front there. That's all I could see." **B1631.15**

18.7.3.442 He was also questioned about whether he saw people behind the Rubble Barricade with weapons:

> "But at any stage did you see anybody at the barricade with anything which appeared to be a nail bomb or a appeared to be a pistol? - - - No, I don't think so. Did you see anybody being – in terms of the soldiers shooting, did you see any of the civilians being hit?"

Again the witness did not believe he had seen anyone hit behind the Rubble Barricade.

18.7.3.443 On the one hand the testimony of Soldier 036 undermines completely the testimony of those soldiers who claimed that they came under hostile fire from the Rubble Barricade. However if Soldier 036 was at the Kells Walk Wall he could not have missed civilians behind the Rubble Barricade being shot and killed as a result of the actions of his colleagues. This matter was never pursued with the witness.

18.7.3.444 Moreover the evidence of Soldier 147 to the effect that the reason he remained with the vehicle was in order to take messages or to move the armoured vehicle to another position if ordered to do so **B1889** suggests that Soldier 036, as driver, remained in the vehicle. However Soldier 036's current testimony clearly contradicts that. Again the witness was not questioned about this matter but as things stand his testimony undermines the evidence from Soldier 147 to the effect that Soldier 147 remained with the vehicle and did not debus with his colleagues.

18.7.3.445 It is also not entirely clear from the transcript whether the incident during which he saw, "blinds or curtains being moved", **B1691.18** at a window in the Rossville Flats, occurred when he was at the Kells Walk Wall, as opposed to in his vehicle. In the transcript Soldier 036 maintained that he was at the Kells Walk Wall the whole time. **B1631.19**

18.7.3.446 When being questioned about the incident in respect of which he had made a statement in 1972 the transcript contained the following exchange:

> "At any stage did you see any movement in that block? - - - Not that I can remember. There was movement in the windows but that was all.
>
> You saw a window move, did you? - - - I saw blinds or curtains being moved at the time but - - -
>
> Was this pointed out to you or did - - - No, no I just saw it.
>
> Asked whether he pointed it out to anyone – "No, I think we heard a lot of people shouting "Keep your eyes on the top windows" and that's about all." **B1631.18**

18.7.3.447 Soldier 036 was then shown his RMP statement and was directed to the paragraph which stated "As we parked here we came under fire from Rossville Flats. I distinctly saw a window being moved upwards". **B1629** In response to this Soldier 036 stated: "I can remember that now" to which John Tate's rather surprising reply was "Good". **B1631.18**

18.7.3.448 Soldier 036 was then shown the paragraph in his RMP statement wherein it was stated "As I looked at the window there was the sound of one shot from a high velocity weapon whereupon the window immediately shut. I did not see a flash or see any part of a weapon as it happened so quickly." **B1629** Soldier 036 then stated:

> "I can remember it now, or I understand what you're talking about on the statement but I can't really remember it at the moment." **B1631.18**

18.7.3.449 It is our submission that taken at its height Soldier 036's testimony amounts to testimony that he believes he saw blinds or curtains being moved in a window in the Rossville Flats and that he heard people shouting "Keep your eyes on the top windows." He did not hear shots

coming from the Rossville Flats and his evidence does not justify the use of lethal force. Moreover the incident he described may have occurred when he was positioned behind the Kells Walk Wall.

18.7.3.450 Our submission that Soldier 036's testimony does not suggest that soldiers were coming under fire from the Rossville Flats at the time is supported by his testimony at a later stage when asked whether he believed that there had been Irish gunmen on Bloody Sunday to which he replied "Meself, I didn't believe there was Irish gunmen, no." **B1631.22** Soldier 036's also testified that he did not hear nail bombs exploding on Bloody Sunday and that he was familiar with the sound of nail bombs exploding. **B1631.22**

18.7.3.451 It was never suggested to Soldier 036 that he had fabricated the account of events given to the RMP on the 4 February 1972 and Soldier 018's statement was not put to this witness. However Soldier 036 did give evidence which tends to support the testimony of Soldier 018 to the effect that he could not have seen that which he claimed to have witnessed in his RMP statement. Soldier 036 was asked about the view from the driver's cab, which would of course be the best vantage point from within an APC.

> "What could you see from the driver's cab? - - - Not a great deal – small slit, perhaps 6 inches, 12 inches long once you've down – battened down." **B1631.5**

18.7.3.452 This evidence undermines the testimony of Soldier 147 about what he claims to have witnessed from inside the APC.

18.7.3.453 Soldier 036's evidence:

i) Completely undermines the justification for the use of lethal force by soldiers from Anti-Tank Platoon firing at the Rubble Barricade, in that, on his own account he did not see anyone with a weapon.

ii) Completely undermines the justification for the use of lethal force by soldiers on Rossville Street in that, he states that "Meself, I didn't believe there was Irish gunmen, no." **B1631.22**

iii) Confirms that no nail bombs exploded on Rossville Street. **B1631.22**

iv) Confirms that he could not have seen a gunman from the driver's cab in an APC **B1631.5**

v) At best now has no recollection of hearing a shot from a weapon connected with the movement of a window. **B1631.18**

18.7.3.454 Nonetheless he still failed to account for the circumstances in which Michael Kelly, John Young, Michael McDaid, William Nash and Hugh Gilmore were shot and killed while members of his Platoon were firing over the Kells Walk Wall.

18.7.3.455 It is our contention that Soldier 036's evidence provides no justification for the circumstances in which Anti-Tank Platoon used lethal force on Bloody Sunday. Inasmuch as his evidence may be relied upon to justify the use of lethal force on Bloody Sunday, this Tribunal should not attach any or any significant weight to that testimony. There was no medical or other good reason why this witness could not have testified in front of the Inquiry.

18.7.3.456 The manner in which Soldier 036 gave evidence, was significantly more informal than the way any other witness gave evidence to this Inquiry. The formality of the courtroom setting is devised to impress upon a witness the solemnity of the occasion and the vital importance of the obligation to tell the truth. Removing lawyers and the Tribunal from that environment operates to undermine the obligation to promote truthfulness in a witness

18.7.3.457 By giving evidence to John Tate, outside the jurisdiction and in the absence of even a video-link, Soldier 036 avoided:

i) Giving oral evidence in sight and hearing of the families of the Deceased;

ii) Questioning by the legal representatives of the families;

18.7.3.458 Important questions were not asked of this witness and important matters not pursued with the witness and in the circumstances our clients rights were not adequately safeguarded by the procedure put in place by the Tribunal. Inasmuch as the Tribunal is minded to give weight to the suggestion that this witness heard civilian gunfire on Bloody Sunday his evidence should be rejected.

Conclusion

18.7.3.459 In the first instance it is alleged that in 1972 this witness fabricated an account of hearing gunfire on Bloody Sunday in order to justify the circumstances in which Soldiers F and G used lethal force. In making this allegation we rely upon:

i) The statement of Soldier 018;

ii) **Section 5** of these submissions wherein we make the case that a significant number of soldiers made statements on the 4 February 1972 which were expressly designed to corroborate and justify the use of lethal force by other soldiers. That pattern is particularly evident in relation to this incident with Soldiers J, 018, 147 and Soldier 036 all making statements about this incident on the 4 February 1972.

iii) The glaring contradictions in the accounts given by Soldiers F, G, 147 and 036 about this incident.

iv) The fact that as has been demonstrated in relation to Soldier 147 and as appears from the evidence of this witness and the evidence of Soldier 018 that it would have been impossible for them to have witnessed the incident which they describe from the inside of the APC.

18.7.3.460 Soldier 036's testimony in 2002 demonstrates that the use of lethal force by members of his Platoon on Bloody Sunday was unjustified

and his testimony does not justify the decisions of Soldiers F and G to fire live rounds while on Rossville Street.

Soldier 018

18.7.3.461 Soldier 018 made an RMP statement in 1972, although he did not give evidence to the Widgery Inquiry. He has also made a statement for this Inquiry, although again he did not give evidence.

18.7.3.462 Both accounts given by Soldier 018 are demonstrably inaccurate in significant respects, and because he has never given oral evidence, there has never been an opportunity to evaluate whether the discrepancies in his statements are born of confusion or deceit.

18.7.3.463 It is not proposed to deal with each aspect of Soldier 018's evidence but to rather to focus on the salient issues. In particular in relation to: his claims of hearing civilian gunfire; seeing a civilian gunman; his account of the firing of live rounds by Soldiers F and G; his explanation of how he came to make his RMP statement; and dealing with some aspects of his evidence which demonstrate the unreliability of his overall account.

Soldier 018's Reliability

18.7.3.464 On a general level, it is submitted that Soldier 018's account of the events of Bloody Sunday is so confused that it is questionable what weight can be attached to his description of the day. While his RMP statement is not as demonstrably confused, in part that is because of the lack of detail contained therein. The detail, provided in his second statement, serves, on its own to undermine both accounts. Moreover, as we know from his own account, that on the most crucial aspect of his evidence, his corroboration of Soldiers F and G, his account to the RMP was adapted in order to support the military case. **B1491.005 paragraph 42** In those circumstances, it is questionable what reliance can be placed upon aspects of this statement supportive of the military case.

18.7.3.465 According to Soldier 018, he became separated from his colleagues at an early stage, **B1491.001 paragraphs 16 to 17** yet if he was actually positioned at the location he places himself, at the north gable end of Kells Walk, then he simply could not have been alone on Rossville Street. From his location he should have been able to see: soldiers from Mortar Platoon, in the car-park and on Rossville Street: soldiers from his own Platoon at the Kells Walk Wall before they advanced up Rossville Street; soldiers from Composite Platoon, at a later stage at the Kells Walk Wall. Soldiers at all of these locations fired live rounds, yet if either of Soldier 018's accounts were to be accepted, from his vantage point not only did he not see the soldiers, he missed their firing live rounds and did not see any of the civilian casualties on Rossville Street. **B1491.004 paragraph 32**

18.7.3.466 His account of events behind the Rubble Barricade is also inconsistent with the evidence available to the Tribunal. On his account when soldiers first debussed the crowd was at Free Derry Corner and they then advanced to the Rubble Barricade. **B1491.001 paragraphs 16 to 17** All the available photographic evidence shows that when soldiers debussed on Rossville Street, there was a large crowd of civilians at the Rubble Barricade and it is not the case that upon soldiers debussing civilians came back down Rossville Street from Free Derry Coroner, in either the numbers or the manner described by Soldier 018. The Tribunal is referred in particular to Colman Doyle's photographs **EP27.6** to **EP27.9**.

18.7.3.467 In both statements Soldier 018 deals with an incident involving a TV camera crew coming under fire from civilian gunmen. This matter is dealt with in more detail below, but is in our submission, further evidence of the unreliability of both soldier 018's RMP and Eversheds statements.

18.7.3.468 In both statements Soldier 018 describes a woman throwing liquid at soldiers from a window of the Rossville Flats, at who he fired a baton round. No soldier describes himself as being on the receiving end of liquid/objects being thrown from the Flats at the location at which Soldier 018 identifies the window. In view of Soldier 018's general lack of reliability, it is submitted that no real weight can be attached to his account of this incident. **B1491.010**

Civilian Gunfire

18.7.3.469 In the account Soldier 018 gave in 1972 he speaks about coming under fire on one occasion, shortly after debussing and he also gives an account of Soldiers F and G engaging a civilian gunman. The latter incident will be dealt with separately.

18.7.3.470 According to the account given by Soldier 018 in 1972, he deployed from his Pig, south of the Kells Walk Flats and whilst at that location he was fired on by a gunman "located on the ground beside the doorway of Block 1 of the Rossville Flats". **B1491.007**, **B1491.008** According to Soldier 018 he did not see anyone engage the gunman as he was operating from behind a crowd of people at a barricade **B1491.008** and the gunman's shots fell short of his position and nearly hit a camera crew which immediately ran to cover. **B1491.008**

18.7.3.471 In his statement to this Tribunal Soldier 018 describes a number of different incidents of civilian gunfire. According to his Eversheds statement:

i) As they debussed he heard 3 or 4 high velocity shots. Although he could not hear were they came from he assumed they came from gunman and not from the military. The rounds he heard were not automatic. **B1491 paragraph 15**

ii) He took cover behind the gable end wall at the north end of Kells Walk, he saw a TV crew close by him, he heard more incoming fire, which caused the TV crew to disappear. **B1491.001 paragraph 16**

iii) After firing a baton round at the Rubble Barricade he noticed a group of men at the Rossville Flats side of the Barricade and then saw a gunman appear from the doorway at the corner of Block 1 of the Flats. The gunman fired 2 quick shots from an M1 carbine and moved back into the Flats. According to Soldier 018 there were no soldiers on Rossville Street at this time. **B1491.002 paragraphs 25 to 26**

18.7.3.472 There are clear discrepancies between the two accounts. In his 1972 statement Soldier 018 describes a single incident after debussing in which he saw the gunman at Block 1 of the Rossville Flats. In his later account, he describes three separate incidents. Firstly, he hears fire upon debussing which he "**assumes**" to be civilian gunfire. He then hears further incoming fire and at a later stage he sees the gunman, who, according to his first account, was there as he debussed.

18.7.3.473 In relation to his second statement, Soldier 018's first account of civilian gunfire, could, on his own account, as easily be a reference to army gunfire. The shots were high velocity rounds and Soldier 018 was unable to state where they came from. **B1491 paragraph 15** Mortar Platoon had debussed prior to Anti-Tank Platoon and Lieutenant N, in particular, was involved in firing live rounds at a very early stage. This Tribunal has heard evidence about the difficulty in distinguishing between different types of fire and identifying the source of fire in the Rossville Flats area. We know that Lieutenant N and shortly thereafter soldiers from Mortar Platoon used live fire, within a short period of debussing. The shots Soldier 018 heard are as likely, if not more likely to be shots fired by the army on Bloody Sunday than civilian gunfire.

18.7.3.474 In both statements, references to civilian gunfire are linked to the description of a TV camera crew having to run for cover. **B1491.008 paragraph 16** However, no TV camera crew came under fire in the circumstances described in either of Soldier 018's statements. It is

submitted on that basis alone, the account in his first RMP statement of the civilian gunman, and in the second statement of incoming fire are inherently unreliable.

18.7.3.475 In both statements Soldier 018 gives an account of a civilian gunman at the doorway of Block 1 of the Rossville Flats. **B1491.007, B1491.008, B1491.002 paragraphs 25 to 26** The timings in both statements are significantly at variance, and while in the first statement this account is linked to the TV camera crew, in the second statement, according to Soldier 018, there is not a single soldier on Rossville Street. It is submitted that, not merely the discrepancies between the two statements, but the demonstrably inaccurate contexts in which this incident is said to have occurred means that no weight can be attached, by the Tribunal, to either account.

Soldiers F and G

18.7.3.476 Soldier 018 was one of the soldiers who in 1972 gave a statement to the RMP on the 4 February 1972, the sole purpose of which was to lend support to the accounts already given by soldiers of their use of lethal force. Again the Tribunal is referred to **Section 5** of our submissions on this issue.

18.7.3.477 In particular, Soldier 018 is one of the soldiers from Anti-Tank Platoon identified as having made a statement designed to support the accounts given by Soldiers F and G in relation to their firing at a window in the Rossville Flats.

18.7.3.478 In 1972 Soldier 018 stated as follows:

i) An order was given to withdraw and he mounted the front vehicle positioned on Rossville Street facing south and level with Block 1 of the Rossville Flats. **B1491.009**

ii) From that position he saw Soldier F and Soldier G engage a gunman at a window 5th from the south corner of Block 1 on the second floor. The gunman fired 3 shots all of which went high

over the vehicles. He saw Soldiers F and G fire 3 shots, all of which went through the window, he was unable to say of the gunman was ht. **B1491.009**

18.7.3.479 In his statement to this Tribunal, Soldier 018 again gives as account of this incident:

i) After escorting prisoners to another of Support Company's Platoons, he returned to his Pig and while in the Pig he heard 2/3 high velocity shots. "I was in an enclosed position, and therefore I cannot say where the shots came from." **B1491.003 paragraph 30**

ii) At the time the shots were fired, Soldiers F and G were standing to the rear of his Pig. After he heard the shots he saw both soldiers fire their rifles in the general direction of the Rossville Flats, he does not recollect how many rounds they fired but he does recollect that both fired at least once. **B491.003 paragraph 30**

18.7.3.480 In relation to witnessing this incident and the discrepancies between his RMP statement and his Eversheds statement Soldier 018 states:

> ". . . I was not in a position to see whether there was a gunman in the flats when the shots were fired, nor could I see that they went through the window. The RMP told me that he needed to include this to substantiate details that had been provided by my colleagues to show that when they fired, they did not hit anybody. As the time I made my statement, I was led to believe the details about the location of the gunman in the flats and the area to which fire was returned were true. I had also heard the shots being fired from my position inside the pig. I therefore agreed to include the details in my statement". **B1491.5 paragraph 42**

18.7.3.481 On his own admission, therefore, Soldier 018 fabricated an account of seeing a gunman and seeing the location at which Soldiers F and G fired because this information was presented to him by the RMP as accurate.

18.7.3.482 On the account he currently gives, it cannot be said that the 2/3 high velocity rounds heard by Soldier 018, before he looked out of the Pig and saw Soldiers F and G firing, were not the initial shots fired by Soldiers F and G. We know that these soldiers, between them, fired a total of 7 shots into McCrudden's window in Block 1 of the Rossville Flats.

18.7.3.483 In our submission, the account given to Eversheds, does not provide any corroboration for the suggestion that soldiers came under fire from the Rossville Flats as the Pigs were parked at the gable end of Block 1. Moreover, it is clear that the RMP did try at the very minimum manipulate the information provided to them by soldiers in order to lend support to the military case and to provide corroboration for individual shooters.

18.7.3.484 It is our submission that the evidence of Soldier 018 in relation to the events of the day is inherently unreliable and little or no weight can be attached to his account. In relation to his evidence about the manner in which his RMP statement was doctored, it is our submission that this evidence is consistent with, the objective evidence of what occurred on 4 February 1972. As per **Section 5** the process of statement-taking on that date demonstrate a clear pattern of soldiers making statements to corroborate the shooters. Moreover in the context of the shooting by Soldiers F and G, the clear discrepancies which have emerged as the evidence of soldiers has been tested in oral examination, demonstrates that the accounts given were fabricated.

INQ 1581

18.7.3.485 INQ 1581 was one of the drivers of the two Anti-Tank Platoon vehicles. He did not give a statement about Bloody Sunday in 1972.

18.7.3.486 In INQ 1581's statement to this Tribunal he described 1 Para's objective in entering the Bogside:

> "One thing I do remember is there being a general feeling that everyone wanted to go into the no go areas of the Bogside to break them. I have a recollection of us having to wait where we were parked up for some time for permission to go in to be sought up the chain of command, I remember someone saying "We've had to seek permission from PM", which I assumed meant the UK Prime Minister. As we did not end up going into the no go area, I presume no permission was ever received." **C1581.4 paragraph 11**

18.7.3.487 In his oral evidence INQ 1581 explained what he meant by no-go areas as follows:

> "Q. Who operated in the no-go areas?
>
> A. Irish citizens who erected them.
>
> Q. When you speak of the general feeling of breaking the no-go areas, were you thinking at all about the IRA?
>
> A. Yes, I would have been, in my thoughts." **Day 338/5/5 to Day 338/5/9**

18.7.3.488 He explained that what he meant by 1 Para breaking the no-go areas was:

> "A. To enter a no-go area.
>
> Q. And do, what?
>
> A. Stop it being a no-go area." **Day 338/5/11 to Day 338/5/15**

18.7.3.489 INQ 1581's account gives an insight into the mindset of 1 Para prior to their going into the Bogside on Bloody Sunday and is in our submission one of the factors which led to the loss of life on Bloody Sunday.

18.7.3.490 INQ 1581's does not have a clear recollection of driving the Pig into the Bogside. He did however give important evidence in relation to the visibility from a Pig:

> "Q. We know there were hatches on the driver's door and the passenger's door. Can you recall if those hatches were down when you drove into the Bogside?
>
> A. I cannot recall whether they were down or whether they were open, but I would have thought that as we were going into a hostile area, they would be closed.
>
> Q. **But all of that would mean that there was quite a restricted view from the Pig; is that right?**
>
> A. **Yes, with the side hatch closed, my view would be forwards only.**
>
> Q. Which would make spotting troublemakers from the Pig as it was moving, quite a difficult job?
>
> A. Yes.
>
> Q. As you drove into the Bogside, do you have any recollection of seeing anyone there who was engaged in activity that would define them as a trouble-maker?
>
> A. No." **Day 338/13/1 to Day 338/13/13**

18.7.3.491 INQ 1581's evidence in relation to the limited visibility from a Pig is consistent with that of Soldier 036 **B1631.5** and also Soldier 147 in his Eversheds statement **B1891.006 paragraph 25.2.4** but completely undermines the oral testimony of Soldier 147 on this issue. **Day 359/65/9 to Day 359/65/24**

18.7.3.492 According to INQ 1581 he did not debus from his Pig on Bloody Sunday as it was his job as driver to remain with the Pig. **C1581.4 paragraph 9**

18.7.3.493 INQ 1581 describes incoming fire from a sniper in the Rossville Flats. According to INQ 1581's recollection a soldier stated that there was a gunman in the flats and he recollects hearing 2 cracks like rifle shots. He claims that upon hearing the shots he "closed the shutter on the front of the Pig, grabbed my weapons, opened the door and got out. I would have been on the right hand side of the Pig, with the Pig between me and what I have been told is Block 1 of the flats." **C1581.4 paragraph 21** He then took cover behind the door of the Pig **C1581.4 paragraph 22** He states that he concentrated in the windows of the flats and an open window attracted his attention, he failed to identify any target.

18.7.3.494 In terms of the details about the 2 shots which INQ 1581 claims to have heard:

i) He was unable to assist as to whether the shots were high or low velocity; **Day 338/23/13**

ii) At the time he saw the window open, he has no recollection of any other Support Company vehicle being near his vehicle; **Day 338/23/23 to Day 338/24/4**

iii) He did not see strike marks and he did not hear return fire. **Day 338/24/5 to Day 338/24/11**

18.7.3.495 INQ 1581 maintains that these two shots, were incoming fire and were the only shots he heard fired that day. His explanation for being confident that it was incoming fire was "Because I was not conscious of any soldier being close to me or any of my platoon firing." **Day 338/21/22 to Day 338/21/25**

18.7.3.496 The account of Soldiers F and G shooting at the Rossville Flats was put to INQ 1581 and he stated that the incident did not ring a bell with him.

Day 338/39/14 to Day 338/39/15 According to INQ 1581 he never saw any soldier engage a gunman.

18.7.3.497 INQ 1581 was the driver of one of the two Anti-Tank Platoon vehicles, as such he would have been in the drivers seat of the vehicle shown on **P520**, although he rejected that proposition during the course of his evidence.

18.7.3.498 Over a 100 high velocity rounds were fired by soldiers in the Bogside on Bloody Sunday, 23 of them fired from soldiers from Anti-Tank Platoon, Mortar Platoon and Composite Platoon in Rossville Street, while 29 shots were fired by Mortar Platoon in the forecourt of the Rossville Flats car park.

18.7.3.499 Moreover INQ 1581's vehicle was the nearest of the two Anti-Tank Platoon vehicles to the Rossville Flats at the time F and G fired their rounds. **P520** According to Soldier F he fired at his second and third targets, 5 rounds in total, from a position right behind INQ 1581's vehicle. **B147F** While a further 4 shots were claimed by Soldiers F and G from positions close to the second Anti-Tank Platoon vehicle.

18.7.3.500 Yet if INQ 1581's evidence is correct he never heard any of those shots and the only shots he heard were the two shots he described. Thus despite the evidence of a large number of live rounds fired by soldiers, some fired proximate to his vehicle, INQ 1581 invites the Tribunal to accept that the two shots he claims to have heard were incoming shots, because "I was not conscious of any soldier being close to me or any of my platoon firing." **Day 338/21/22 to Day 338/21/25**

18.7.3.501 It is submitted that INQ 1581's evidence on this issue is inherently unreliable. His account of the incoming fire is inconsistent with the accounts given by Soldiers F, G and 147 of shots coming from the Rossville Flats and is not consistent with evidence from any other soldier. Thus in our submission no weight can be attached to his

account of hearing incoming fire directed at soldiers on Bloody Sunday.

David Longstaff – INQ 023

18.7.3.502 David Longstaff was a member of Anti-Tank Platoon on Bloody Sunday and claimed in a documentary made after Bloody Sunday that he fired one live round on Bloody Sunday.

18.7.3.503 In the event that he fired a live round it has never been accounted for. He claims that he told his Platoon Sergeant that he had fired a live round but that his Platoon Sergeant failed to pass that information on up the chain of command. He was never interviewed by the RMP and did not make a statement for the Widgery Tribunal. The first account he gave of the firing was when he was interviewed in 1994 over 20 years after the events of Bloody Sunday.

18.7.3.504 Dave Longstaff claims to have fired the shot at the west side of Block 1. In the account he gave in 'A Tour of Duty' he claimed that he fired the shot at a window, **X1.22.2** but in the account he gave to this Tribunal he claims to have fired the shot at a parapet. **C23.7 paragraph 42**

18.7.3.505 No soldier claims to have witnessed Mr. Longstaff fire that shot, although given the failure of soldier witnesses to admit to having witnessed shots which were undoubtedly fired when they were accompanying the shooters this does not particularly assist the Tribunal in assessing the truthfulness of Dave Longstaff's statement.

18.7.3.506 There is however no independent evidence to verify the shot fired. Both the circumstances in which the shot was claimed and Mr. Longstaff's evidence to the Tribunal, raise more than a suggestion that the witness was fabricating his account of having fired a shot when he gave his interview in the 'Tour of Duty' and has found himself stuck with that account ever since.

F, G and J

18.7.3.507 The more significant aspect of David Longstaff's evidence relates to his role as an observer accompanying Soldiers F, G and J. According to Dave Longstaff he was very close to F, G and J throughout the operation **Day 374/87/7 to Day 374/87/13**.

> "Q. . . . your job as you made your way up Rossville Street, was to observe and to keep an eye out for any threats?
>
> A. Yes, sir.
>
> Q. At all stages you had to be close enough so that you could communicate, in particular, with F and G.
>
> A. To communicate, yes" **Day 374/152/14 to Day 374/152/18**

18.7.3.508 Between them these soldiers account for the firing of 21 rounds on Bloody Sunday. Soldier F even on his own account is responsible for the deaths of at least Michael Kelly, William McKinney, Barney McGuigan and Patrick Doherty, while Soldier G is responsible for the death of Gerard Donaghey and Gerard McKinney. In addition these soldiers are suspects for the shooting of John Young, Michael McDaid, William Nash and Hugh Gilmore at the Rubble Barricade and Jim Wray in Glenfada Park North. That is without reference to any of the persons whose injuries they may have caused.

18.7.3.509 It is evident, from photographs **P1119**, **P1121** and **V48/11.35 to 11.55** that soldiers from Anti-Tank Platoon were in close proximity to each other while positioned at the Kells Walk Wall and must have occupied that position for some period prior to advancing further down Rossville Street. This was at a time when members of Anti-Tank Platoon and Mortar Platoon undoubtedly fired down Rossville Street over the Rubble Barricade and when 5 young men were killed behind that Barricade. Thus when Anti-Tank Platoon were on Rossville Street, Dave Longstaff, particularly if working closely with F, G and J, could

not have missed the shooting from Kells Walk Wall behind the Rubble Barricade and the persons shot and killed at that location.[59]

18.7.5.510 Moreover the evidence of James Kelly establishes that Dave Longstaff was in Glenfada Park North and was positioned at the gable end of the Glenfada Park North wall **Day 145/60/4 to Day 145/60/25** and was thus undoubtedly present when Soldier F shot Barney McGuigan. **Day 374/185/12 to Day 374/185/17** While this is a matter which will be dealt with more comprehensively in Sector 4, it supports our submission that Dave Longstaff was in a prime position throughout the day to witness the actions of his colleagues.

18.7.3.511 Dave Longstaff's role as observer with Soldiers F, G and J meant that he was in a key position to have witnessed the circumstances in which these soldiers fired live rounds and to have witnessed the consequences of their having fired live rounds. He was in a position, if their accounts of the events of that day were true, to have provided corroboration of their accounts and justification of the circumstances in which they fired live rounds. If their accounts were false he was in a position to assist this Tribunal to establish the truth about the actions of Soldiers F. G and J in particular and the actions of Anti-Tank Platoon on Bloody Sunday.

18.7.3.512 It is evident that Dave Longstaff's evidence to this Inquiry provides no corroboration of the circumstances in which his colleagues fired, nor justification for their shooting.

> "Q. And your evidence to this Inquiry is that as you made your way up Rossville Street, you did not see any threat at all to either you or your mates?
>
> A. I was unaware of any threats towards me and my mates from my area, sir.

[59] Although of course Dave Longstaff claims to have no memory of the Rubble Barricade, not to mind the people who were shot and killed by the soldiers whom he accompanied on Bloody Sunday. **Day 374/61/5**

Q. And you personally, despite the fact that as you made your way up Rossville Street, you must have been in a pretty good position to monitor what was going on around you and that was part of your job, of course?

A. Yes, sir.

Q. To observe?

A. Yes, sir" **Day 374/153/9 to Day 374/153/20**

. . .

"you yourself did not personally hear or see anything which would have justified the shooting of any civilians?

A. In my position, no, sir." **Day 374/154/4 to Day 374/154/7**

18.7.3.513 Dave Longstaff's failure to provide corroboration or justification for the firing by his colleagues, who on his account were close friends, lends support to the conclusion that they fired in circumstances which were totally unjustified.

18.7.3.514 However, while unwilling to put himself in the frame by perjuring himself to this Tribunal in order to justify the circumstances in which his colleagues murdered innocent civilians, and despite his proximity to these soldiers Dave Longstaff's evidence is that:

"Q. . . . as far as the soldiers are concerned, you did not see them doing anything; you did not see them firing any shots at all?

A. I did not see them fire shots, sir.

Q. Whether it is on Rossville Street or whether it is in Glenfada Park North.

A. Correct, sir.

Q. You are quite sure about that?

A. Yes, sir." **Day 374/155/7 to Day 374/155/15**

18.7.3.515 Thus while positioned sufficiently close to soldiers who fired 21 rounds between them, and this without referring to the fact that there was more

firing by soldiers from Anti-Tank Platoon, Dave Longstaff has sought to distance himself totally from the circumstances in which they fired live rounds. He is unwilling to provide corroboration for the circumstances in which Soldiers F, G and J fired but is also unwilling to assist the Tribunal to establish the truth about the circumstances in which they fired.

18.7.3.516 At the conclusion of his interview in 'A Tour of Duty' he stated: "I am not prepared to say yea, nay, whatever, there were some good men there and they were not all cowboys, gun-happy, they were professional soldiers." He also referred to the fact that "We may have had one or two rotten eggs" or "mis-errors of judgment". **Day 374/123/6 to Day 374/123/17**

18.7.3.517 However in his evidence to this Inquiry he has been unwilling to explain those references beyond stating that Soldiers H and 027 were the soldiers to whom he was referring as "cowboys".

18.7.3.518 The truth of the matter is that Dave Longstaff's evidence to this Tribunal has been riddled with lies and deceit. As he acknowledged himself, he was prepared in 1972 to lie about the circumstances in which he claimed to have arrested George Roberts and James Kelly. He was prepared to go to Fort George and stand next to these to men, lying about the circumstances of their arrest and lying about the details completed in the arrest form. **Day 374/111/19 to Day 374/112/10** and **Day 374/121/15 to Day 374/122/3** [60]

18.7.3.519 It seems likely that he was prepared in 1994 to lie in a television interview about whether he fired a live round on Bloody Sunday and has persisted with that lie to this Tribunal.

---

[60] Dave Longstaff's role in relation to the arrests will be dealt with in more detail in sector 4. The Tribunal is also referred to Chapter x on Arrests

18.7.3.520 While he has been unwilling to go so far as to perjure himself in order to provide justification for the circumstances in which his colleagues fired live rounds, there is credible evidence that as a member of Anti-Tank Platoon he was present when his colleagues fired live rounds both in Rossville Street and Glenfada Park North.

18.7.3.521 Dave Longstaff demonstrated his willingness to lie about the events of Bloody Sunday in 1972 and 1994 and it is submitted that he has lied to this Tribunal when he states that he never saw a single soldier from Anti-Tank Platoon fire live rounds and never saw a single casualty consequent upon those live rounds.

18.7.3.522 As with the rest of his colleagues Dave Longstaff has sought to hide from this Tribunal the truth about his conduct and the conduct of his colleagues on Bloody Sunday and in particular his role as an eye-witness to murder.

INQ 1237

18.7.3.523 INQ 1237 did not make a statement about the events of Bloody Sunday in 1972 and did not give evidence at the Widgery Inquiry. The first statement ever made by him in relation to the events of Bloody Sunday is dated May 2000.

18.7.3.524 The witness gives a very detailed account both about the build-up to Bloody Sunday and the events of that day. That said there are clear inaccuracies in his statement and during the course of his evidence he was unwilling to shift his position even when shown photographs or evidence which showed that he was demonstrably wrong.

Actions of the crowd when Anti-Tank Platoon debussed

18.7.3.525 In relation to the initial events upon Anti-Tank Platoon debussing INQ 1237's evidence was to the effect that upon debussing Anti-Tank Platoon turned to "face an angry and hostile crowd" of between 600 and 1,500.**C1237.5 paragraph 39** and **C1237.5 paragraph 44** The

crowd was throwing a hail of missiles including stones, bricks, bottles, concrete and anything they could get their hands upon. **C1237.5 paragraph 45** He has no recollection of a Rubble Barricade. **C1237.5 paragraph 39** INQ 1237 also claims that more than one petrol bomb was thrown and that he had a specific recollection of seeing a petrol bomb go up in flames. **C1237.5 paragraph 45**

18.7.3.526 INQ 1237 was questioned in detail by counsel for the Tribunal in relation to what happened as Anti-Tank Platoon debussed. **Video 48** and **EP28.5**, **P1116**, **P203**, **EP 24.1**, **P1016**, **EP27.6**, **EP27.7**, **EP27.8**, which depict events as soldiers from 1 Para enter the Bogside and debussed from their vehicles were shown to the witness, following which it was pointed out to the witness that:

> "The photographs tend to suggest that there were considerably less than 600 to 1,500 people in that area. Do you think that the passage of time might have caused you to overestimate the number of people that you saw when you de-bussed on that day? A. Um, no, sir." **Day 366/14/16 to Day 366/14/21**

18.7.3.527 INQ 1237 was also specifically directed to **EP27.8**:

> "Q. . . . in the photograph in the left-hand side of the screen, you can see the wasteground is clear of individuals. Does that raise any doubt in your mind about what you were confronted with when you de-bussed? A. No, sir." **Day 366/14/25 to Day 366/15/6**

18.7.3.528 INQ 1237 was also shown **P256**, **P203**, **EP33.7** which are photographs of arrests:

> "none of these photographs show the burst of flames from petrol bombs that you have described in your statement. They also – and the photograph we have on the screen is an example – suggest that fellow soldiers from Support

Coy appeared to be willing to move closer to the rubble barricade.

Given that, does that raise any doubt in your mind that petrol bombs were thrown that day? A. No, sir." **Day 366/16/6 to Day 366/16/15**

18.7.3.529 Throughout his evidence in relation to the initial stages of the day, after 1 Para had entered the Bogside and despite the large body of objective evidence which completely undermined his account of events INQ 1237 was unwilling to concede the possibility that he may have been mistaken about the events of the day. Whether his belief in his own account is genuine or otherwise, it is clear that his evidence in relation to these matters is completely unreliable.

Soldiers Firing down Rossville Street

18.7.3.530 INQ 1237 has no recollection of the Rubble Barricade, he also has no recollection of the Kells Walk Wall, rather his recollection is that immediately upon debussing a crowd of 6-8 soldiers some lying, others kneeling positioned themselves in a rough line facing the crowd and fired between 30-40 shots. These included Soldiers F, G and J. **C1237.6 paragraph 48** Up until this point he had not heard any civilian gunfire. **C1237.6 paragraph 47**

18.7.3.531 INQ 1237 specifically asserts that these soldiers fired between 30-40 shots down Rossville Street during which time, he never saw any civilian gunmen, he never heard any incoming fire and he never saw anyone wounded or killed as a result of that shooting. **C1237.6 paragraph 51**

18.7.3.532 While INQ 1237 is of the view that his colleagues were justified in firing he acknowledges that he was unable to see any person engaged in action which would have justified the use of lethal force.

18.7.3.533 INQ 1237 is undoubtedly correct in that more shots were fired over the Rubble Barricade than has been admitted. Moreover he has correctly identified 2 of the persons who fired over the Rubble Barricade and it is probable that Soldier G also fired shots while at that location. His account provides some corroboration for the account given by Soldier 027. While we accept that neither account can be completely relied upon it is our submission that both accounts are closer to the truth than the evidence given by other soldiers from this Platoon to this extent. More shots were fired over the Rubble Barricade than have been admitted by Anti-Tank Platoon, those shots were fired at unarmed civilians and resulted in the deaths of Michael Kelly, Michael McDaid, John Young, William Nash and Hugh Gilmore all of whom were unarmed.

18.7.3.534 The inaccuracies in terms of the location at which INQ 1237 places these soldiers, his description of the crowd and his failure to see any civilians fall lessens the weight which can be placed upon this witnesses account.

Glenfada Park North

18.7.3.535 INQ 1237 maintains that Anti-Tank Platoon were then ordered to seal off an area to the right, although throughout his evidence he rejected the contention that this area was Glenfada Park North. While this topic will be addressed in more detail in Sector 4, it is submitted that to this extent his evidence is consistent with the video evidence at **V48/11.35 to 11.55** in that Anti-Tank Platoon clearly did move, as a Platoon to the right and off Rossville Street.

18.7.3.536 INQ 1237's confrontation with a priest would suggest that contrary to his evidence he was involved in the arrests in Glenfada Park North.

Soldier 027

18.7.3.537 INQ 1237 knew Soldier 027 and appears to have a clear recollection of him. He stated that his view of Soldier 027's document was that:

"he is probably being naïve and has exaggerated what he remembers. That would be consistent with his personality. Soldier 027 was always a romanticist and could get carried away. He was a nice lad but did not belong in the army."
C1237.12 paragraph 78

18.7.3.538 It is noteworthy that INQ 1237 uses the term exaggerated rather than lied. It is our contention that INQ 1237's assessment of Soldier 027 is entirely accurate. There is no doubt that Soldier 027 exaggerated incidents, but there is also little doubt that there was more than a grain of truth in the accounts he gave. While his account of the assaults on two Catholics in Belfast was undoubtedly exaggerated, it was nonetheless true that soldiers from 1 Para brutalised two Catholic men and then left them to be murdered by Loyalists in the Shankill Road. To similar effect Soldier 027 may have exaggerated his account of the events of Bloody Sunday but it is undoubtedly true that his colleagues were engaged in the deliberate murder of unarmed civilians.

18.7.3.539 INQ 1237's evidence is also important in that he confirms that Soldier 027 kept a daily diary while he was in the regiment. Thus Soldier 027's evidence that he had a contemporaneous account of events is true. Significantly INQ 1237 was never challenged about this.

18.7.3.540 It is clear that this witness has some recollection of the events of the day and the individuals involved, albeit confused, however there is a clear difficulty in discerning those elements of his evidence which can be relied upon and those which cannot. It is our contention that, while confused this witnesses evidence is accurate in some respects. We accept that not much weight can be placed upon his evidence because of his demonstrable unreliability on some issues and his unwillingness to accept the errors in his account. However where his evidence tends to support other objective evidence and is not expressly contradicted by the objectively discernible facts some weight must be given to his account. His evidence supports the civilian evidence that there was a

great deal more firing over the Rubble Barricade than has been admitted. It also demonstrates that there was no justification for this firing.

INQ 635

18.7.3.541 INQ 635 did not give an RMP statement in 1972 nor did he give evidence to Lord Widgery. He has however been identified by 2 soldiers from 1 Para as having fired live rounds on Bloody Sunday. Soldier 027 in his 1975 statement maintained that INQ 635 fired live rounds from the Kells Walk Wall over the Rubble Barricade, **B1565.006** he also suggested that INQ 635 had extra ammunition and fired 10 dum dum bullets into the crowd. **B1565.008** INQ 2003 maintained that INQ 635 had admitted shooting someone in Glenfada Park North. **X.1.41.27 (A - B)**

18.7.3.542 Soldier 027 now states that with the passage of time he has no recollection of INQ 635 firing from the Kells Walk Wall, however he stands over the accuracy of his earlier statement. INQ 2003 states that INQ 635 never made such an admission.

18.7.3.543 INQ 635 denies firing from the Kells Walk Wall **Day 352/18/23**. He denies having had access to a private supply of ammunition. **Day 352/22/9 to Day 352/22/23**. He also denies ever having stated that he shot someone in Glenfada Park North. **Day 352/26/6 to Day 352/26/12**

18.7.3.544 INQ 635's account of the day can be summarised as follows:

i) In his statement to this Inquiry he stated that he came under fire as he debussed **C635.3 paragraph 20** however in his oral evidence he stated that he had no recollection of having heard shots but that because he saw the Rubble Barricade and everyone else took cover he made the assumption that they were under fire. **Day 352/5/5 to Day 352/5/23**

ii) He states that while positioned behind Kells Walk Wall he saw two and possibly three men with weapons. These men

moved out from the south gable end wall of Glenfada Park North he recollects "seeing clearly the wooden stocks of two weapons. I am absolutely certain it was weapons with wooden stocks that they were carrying." **C635.3 paragraph 21** In his oral testimony he remained adamant that the wooden stocks were weapons not sticks and that the behaviour of the men was obvious to all watching or "blatant" as he described it. **Day 352/7/15 to Day 352/7/19, Day 352/9/3 to Day 352/9/8** He did not accept that there were as many men behind the Kells Walk Wall as are shown on **V48/11.35 to 11.55. Day 352/85/25 to Day 352/86/2**

iii) He did not see the men fire shots, he did not see anyone shoot at the men and he did not see the men again after he took cover.

iv) INQ 635 does not recollect seeing anyone with a pistol, petrol bomb or nail bomb behind the Rubble Barricade, nor has he any recollection of fire coming from either the Rossville Flats or the Rubble Barricade, or petrol bombs or nail bombs being thrown from those locations. **Day 352/12/13 to Day 352/12/15, Day 352/13/2 to Day 352/13/8**

v) "The next thing I remember is that high velocity shots were fired towards the barricade. I do not know how many rounds were fired. The shots were coming from one or more of the soldiers to my right at the small wall. I do not know if more than one soldier fired shots towards the barricade." **C635.4 paragraph 28**

vi) He did not see anyone fall as a result of the shooting over the Rubble Barricade.

vii) In his statement to this Inquiry he states that the next thing he recollects is a Ceasefire order, **C635.4 paragraph 31** however his oral evidence to the Inquiry was to the effect that he is no longer clear about that matter and he is now uncertain as to whether he heard that on the day or saw it on television. **Day 352/2/2**

viii) INQ 635 then has a recollection of being in a car park or courtyard, he cannot explain how he got there as he believes that he never moved further forward than Kells Walk Wall, but he states that no shots were fired in the car park area and that he escorted over 20 prisoners back to the holding area. **C635.5** INQ 635 was shown the portion of **V48/11.35 to 11.55** which shows Anti-Tank Platoon advancing forward from Kells Walk Wall and was unable to assist the Tribunal.

ix) INQ 635 had his photograph taken with three arrested persons,[61] two of whom were arrested in Glenfada Park North. INQ 635 denied having arrested any of the prisoners – none of whom he had seen do anything illegal. **Day 352/34/25 to Day 352/35/6** INQ 635 denied having advanced forward of the Kells Walk Wall and stated that he had no recollection of the circumstances in which he signed arrest forms, although he accepted that the signature at the bottom of each of the arrest forms was his. **Day 352/84/1 to Day 352/84/18**

Gunmen behind the Barricade

18.7.3.545 According to INQ 635 the only conduct witnessed by him which might have justified the use of lethal force by soldiers from 1 Para was the actions of the two alleged gunmen behind the Rubble Barricade. He saw no further gunmen, he saw no bombers, he heard no incoming fire and he heard no explosions.

18.7.3.546 As INQ 635 accepted during the course of his testimony, the conduct of the two men, whom he describes as being armed and walking from Glenfada Park North to the Rossville Flats, was strange behaviour from armed men. **Day 352/9/3 to Day 352/9/8**

18.7.3.547 If INQ 635 is to be believed two or three armed men decided to move from the shelter and protection of Glenfada Park North and walk,

[61] **ARR25.1, ARR25.2, ARR25.3**

behind the Rubble Barricade towards the Rossville Flats, in full view of over 20 armed soldiers.[62] They made no apparent attempt to take cover and neither did they appear to be in a particular hurry:

> "They were walking towards the flats. Not walking, but they were – at a reasonable pace they were moving." **Day 352/62/25 to Day 352/63/2**

18.7.3.548 These men did not apparently engage in any offensive action, they did not take up firing positions. **Day 352/62/17 to Day 352/62/24.**

18.7.3.549 INQ 635's conduct with regard to these gunmen was also bizarre, he never shouted a warning to his colleagues, taking the view that there was no need for him to shout a warning because these men were visible to all and he did not engage the gunmen. **Day 352/63/15 to Day 352/63/24**

18.7.3.550 Despite the fact that the conduct of these men was so blatant no other soldier from either Anti-Tank Platoon or Mortar Platoon, with the possible exception of Soldier H, observed them. Although Soldier H's gunmen were also carrying rifles or machine guns, in contrast to INQ 635's gunmen Soldier H's gunmen fired at soldiers and were engaged by soldiers behind the Kells Walk Wall. **B238E-G** As we know no soldier from Anti-Tank Platoon positioned behind the Kells Walk Wall claims to have engaged gunmen and Soldier H can no longer recollect these gunmen, although of course he still maintains that what he said in 1972 was correct. **Day 377/29/1 to Day 377/29/8**

18.7.3.551 If INQ 635's description of the actions of the gunmen and his justification for not warning his colleagues about the gunmen is to be accepted then other soldiers should be in a position to corroborate his account of events. Their failure to do so entirely undermines INQ 635's credibility on this issue.

---

[62] This incident is alleged to have occurred as Anti-Tank Platoon comprising 17 men reached the Kells

18.7.3.552 INQ 635 accepted that the only part of the weapons he saw were the wooden stocks but rejected the possibility that he might have been mistaken. **Day 352/7/7 to Day 352/7/19**

18.7.3.553 It is submitted that INQ 635 is at best mistaken as regards his observation of gunmen behind the Rubble Barricade and at worst has chosen to lie about observing gunmen in the vain hope that it may in some way assist the army case.

Arrests

18.7.3.554 INQ 635 describes going into a car park but rejects the possibility that it was Glenfada Park North. He does accept however that he escorted prisoners[63] and that at some latter date he was photographed with three prisoners and signed statements alleging that he had witnessed them being engaged in unlawful behaviour in Rossville Street. **Day 352/34/25 to Day 352/35/6**

18.7.3.555 INQ 635 sought throughout his evidence to minimise his involvement in the arrest of these men. He denied being in Glenfada Park North, while he accepts that he was in a car-park, in effect denying that he could have conducted arrests. He accepted that he had been photographed with the three arrested men, although this could not seriously have been denied, but nonetheless sought to distance himself from the arrest process by stating that the writing on the statements was not his. **Day 352/36/16 to Day 352/36/17** Once the original statements were produced he accepted that it was his signature at the bottom although he failed to advance any explanation for the circumstances in which he had signed the arrest forms. **Day 352/84/16 to Day 352/84/18**

Walk Wall, while soldiers P, U and 017 were already positioned on Rossville Street.

[63] **ARR25.1, ARR25.2, ARR25.3**

18.7.3.556 Consistently with virtually all soldiers involved in arrests, INQ 635 cannot explain why he was willing to be photographed and sign statements making allegations of unlawful behaviour against civilians in respect of whom he had no evidence that they had engaged in illegal activity. His willingness to make these statements and involve himself in, what was in effect, a conspiracy to pervert the course of justice by making false allegations against innocent civilians, demonstrates his willingness to participate in unlawful and dishonest conduct in 1972. His reluctance to acknowledge or accept any responsibility for this behaviour in 2003 further undermines his credibility before this Tribunal.

18.7.3.557 It is submitted that inasmuch as INQ 635's statement provides a measure of justification for the firing by soldiers from Kells Walk Wall over the Rubble Barricade his evidence must be rejected as either mistaken or dishonest. In respect of the allegations made by INQ 2003 and Soldier 027 against INQ 635 we do not seek to advance the case that there is sufficient evidence before the Tribunal to justify a finding that INQ 635 was himself involved in the use of lethal force on Bloody Sunday. However, as with other soldiers from his Platoon, we would contend that INQ 635 in fact witnessed the unlawful use of lethal force and failed to come forward either in 1972 or in 2003 to tell the truth about the events of Bloody Sunday.

Soldier 027

18.7.3.558 Soldier 027 was Lieutenant 119's radio-operator on Bloody Sunday. His evidence is a matter of considerable controversy because he gives a damning account of the conduct of his colleagues in Anti-Tank Platoon on Bloody Sunday. On Soldier 027's account of events, soldiers from Anti-Tank Platoon went into the Bogside, dangerously over-excited and having been briefed by Lieutenant 119 that "we want some kills tomorrow". **B1565.014.1** He accuses unidentified members of his

Platoon,[64] and Soldier F, of having fired live rounds over the Rubble Barricade in circumstances where the crowd behind the Rubble Barricade were unarmed, and thus accuses them of murder.

18.7.3.559 Soldier 027's allegation against Lieutenant 119 has been expressly denied by Lieutenant 119, and has also been denied by other members of Anti-Tank Platoon who attended the briefing. Given Soldier F's claimed memory loss Soldier F has been unable to recollect events as opposed to denying the matters put. **Day 375/86/19 to Day 375/90/15**

18.7.3.560 Those acting on behalf of Lieutenant 119, Soldier F and other members of Anti-Tank Platoon, have forcibly challenged Soldier 027's credibility. Serious questions have been raised about Soldier 027's credibility. While he has made other very serious accusations, against members of Anti-Tank Platoon, some have been shown to be exaggerated. Issues have also been raised about the financial benefits he has sought in connection with appearing before this Tribunal. We acknowledge that the Tribunal's assessment of his evidence must give due weight to those issues which tend to undermine his credibility and we have no doubt those issues will be fulsomely addressed in the submissions made on behalf of those representing Soldier F and Lieutenant 119.

18.7.3.561 As has been set out above, the accounts of Lieutenant 119, Soldier F and other soldiers of Anti-Tank Platoon are riddled with inconsistencies and lies. Ultimately, these accounts fail entirely to explain how John Young, Michael McDaid or William Nash met their deaths, and the justification advanced for the killing of Michael Kelly is, in our submission demonstrably untrue. The reality is, that while the account given by Soldier 027 has undoubtedly been exaggerated it

[64] INQ 635 and Soldier G were two of the soldiers identified by Soldier 027 as having fired live rounds over the Rubble Barricade on Bloody Sunday. In relation to INQ 635 he states that "I am not confident enough in my memory to state in any clear way that the particular soldier was firing." **Day 246/69/11 to Day 246/69/13** In relation to Soldier G while he can no longer specifically recall Soldier G firing, he believes it is probable that he did so. **B1565.056 paragraph 177.7**

is probably as close to the truth as this Tribunal has heard from any soldier in Anti-Tank Platoon.

18.7.3.562 In these submission while not seeking to dismiss in any way the credibility issues which fall to be determined ultimately by the Tribunal, we would point the Tribunal to those factors which tend to suggest that, while Soldier 027 was a witness prone to exaggeration, there is some measure of truth in his accounts.

1975 Statement

18.7.3.563 The starting-point for Soldier 027's evidence is the statement made by him in 1975 which sets out the serious allegations made by him against his colleagues in Anti-Tank Platoon, some of which he no longer stands over.

18.7.3.564 Soldier 027 claims his 1975 account was based upon a diary he kept while in the army. INQ 1237 has confirmed to this Tribunal that Soldier 027 did keep such a diary. **C1237.12 paragraph 77** Sometime in 1975 Soldier 027 drafted a document in statement form which sets out his recollections of various events, including Bloody Sunday. In that account he deals with the shooting over the Rubble Barricade and states that when they reached the Kells Walk Wall:

> "lance corporal F went into the kneeling position and fired at the centre of the crowd . . .Soldier G immediately jumped down beside him and also opened fire. Just beyond the wall on the pavement INQ 635 also commenced firing. Looking at the centre of the barricade I saw two bodies fall. I raised my rifle and aimed but on tracking across the people in front of me could see women and children although the majority were men, all wildly shouting, but could see no one with a weapon, so I lowered my rifle. I can best describe my feelings as amazed . . . I remember thinking looking at my friends who had know grown to half a dozen in a line side-by-side, do they know

something I don't know? What are they firing at? Opposite us I could see members of machine-guns[65] helmeted and lack faced in a standing position also pumping off rounds at quite a rapid rate. In the initial 30 seconds I would say that a 100 rounds were fired at the crowd. A thing which struck me was the time which elapsed from the commencement of firing to the time when the people in the crowd began to realise what was happening. Several people had dropped, bodies were being dragged away,. men were lying on their faces crawling along the pavement in front of Rossville Flats in an effort to get away. After an eternity of timeless moments and sights Lodens voice came on the radio and ordered a ceasefire. I knew the blokes were getting in while the going was good as people with gleeful expressions were running up from the rear and elbowing their way through to get into the firing line. I shouted the order 'cease-fire' and ran along the line tapping them on their shoulders. The firing slacked and the crowd dispersed." **B1565.014.4 – B1565.014.5**

18.7.3.565 In his statement to this Tribunal, Soldier 027 has stood over his account in relation to Soldier F. **B1565.056 paragraph 177.6** In relation to Soldier G he has stated that he cannot specifically recall him firing, but as Soldiers F and G also worked closely together he believes that it is likely. **B1565.056 paragraph 177.7** In relation to INQ 635 he states that "I am not confident enough in my memory to state in any clear way that the particular soldier was firing." **Day 246/69/11 to Day 246/69/13**

[65] Soldier 027 has since acknowledged that references to Machine-Gun Platoon should actually be a reference to Mortar Platoon.

18.7.3.566 He believes that his claim of 100 rounds in 30 seconds is on the high side and instead gives a description of "continuous and sustained firing over a period of several minutes." **B1565.056 paragraph 177.8**

18.7.3.567 He asserts that "it has always been my clear view . . . Lance Corporal F and Soldier G initiated what happened on that day, as far as my platoons involvement was concerned." **B1565.057** Or as he stated in oral evidence to this Inquiry "if there was an opportunity to fire their weapons, they were in a mood to exploit that opportunity." **Day 246/70/10 to Day 246/70/11**

18.7.3.568 He states that he saw nothing behind the Rubble Barricade which could have justified the firing over the Rubble Barricade. **Day 246/70/22 to Day 246/71/9**

18.7.3.569 Soldier 027's credibility was undoubtedly challenged on behalf of Lieutenant 119 and Soldier F. However it was never put to Soldier 027 that he was lying when he gave an account of Soldier F and other soldiers from Anti-Tank Platoon engaging in sustained and continuous firing over the Rubble Barricade, at a time when there were no identifiable targets at the Rubble Barricade.

18.7.3.570 Soldier 027's 1975 statement also describes a brutal assault on two Catholic men which he claimed occurred in February 1972, after Bloody Sunday. That incident is addressed in some more detail in Sector 4. **B1565.014.11, B1565.014.12, B1565.014.13** This incident was also described by INQ 1243 in a Praxis interview, although he now denies it. **C1243.63, C1243.64**

18.7.3.571 This Inquiry has received statements from Francis Creagh **AC146.1 to AC146.17** and Raymond Muldoon **AM496.1 to AM496.4** whose evidence about an attack on them by soldiers is reported in the Irish News report dated 4th February 1972 at **L152** and appears very similar to the incidents described by Soldier 027 and INQ 1243.

18.7.3.572 When Mr Creagh was shown the account of the incident given by Soldier 027 he said

> "it is entirely possible that this diary describes the actual incident that Raymond and I were involved in, albeit that no-one was castrated. My impression at the time was that the soldiers were trying to beat us up without marking us. They were going to leave that to the people in Shankill Road. If there was no similar incident that week in Belfast, then I am pretty sure that this diary refers to what happened to us." **AC146.4 paragraph 24**.

18.7.3.573 Thus an assault described by Soldier 027, albeit in exaggerated terms, was corroborated independently by INQ 1243, although he now seeks to deny this. More significantly, it is corroborated in relation to significant details by the two victims and it was an assault in respect of which the Ministry of Defence made a payment of compensation. Soldier 027's account of this incident and its independent verification lend support to the credibility of this witness, albeit, the Tribunal can not ignore his tendency towards hyperbole and exaggeration.

18.7.3.574 In his 1975 statement Soldier 027 also claimed that when parked behind the Rossville Flats a civilian got in "a P.R. man, and came out with the profound statement "you will need some public relations work around here after this". We all laughed, feeling very pleased with ourselves." **B1565.014.8** Soldier 028, who was in the area of the Support Company Pigs after the operation was over, who was in civilian clothes and who was the Unit Press Officer for the 22nd LADR was asked about this. While he stated that he had no recollection of this, he did not deny that it had occurred. **Day 356/78/16 to Day 356/79/2** It would be our contention that, contrary to the evidence of Soldier 028, this is precisely the type of thing he would have said on Bloody Sunday.

1972 Statements

18.7.3.575 When assessing Soldier 027's account, the Tribunal should also have regard to the statements made by Soldier 027 in 1972, albeit he no longer seeks to stand over these accounts.

18.7.3.576 Soldier 027 made statements in 1972 to the RMP and to the Treasury Solicitor. Given the allegations he now makes, the contents of those statements, inasmuch as they relate to Soldier 027's account of firing by soldiers over the Rubble Barricade are not with out significance:

i) Soldier 027 states that upon arriving at the Kells Walk Wall someone shouted 'sniper' and "almost immediately members of my platoon fired at the barricade **I saw several strikes at the Barricade**". **B1565.082, B1565.083**

ii) His RMP statement was made on the 5th February 1972. In this statement he claimed that Soldier F fired live rounds over the Rubble Barricade. **B1565.083**

iii) It also seems apparent from this statement that Soldier F **and** 4/5 other soldiers were firing from behind the Kells Walk Wall, as he states "Taking shelter behind the wall at the time were Soldier F and four or five others but I cannot say precisely who they were. The target **they** appeared to engage". **B1565.083**

iv) The target engaged was a "male civilian who I **believe** was carrying a firearm possibly a rifle. I saw him fall almost immediately." **B1565.083**

v) He also saw two men of the machine platoon, in fact Mortar Platoon, in position at the North East corner of Block 1 of the Rossville Flats who also "appeared to be firing at targets located behind the centre section of the barricade." **B1565.083**

vi) There came a shout of "cease fire", following which Soldiers E, F, G and H went to Glenfada Park North. **B1565.083**

18.7.3.577 Soldier 027 also gave a statement to the Treasury Solicitor, and stated as follows:

i) At the initial stages he saw a solid block of civilians at the barricade and did not see anyone with a weapon. He heard the shout sniper and then saw "'F' and others open fire in the direction of the barricade." **B1656.086 paragraph 3**

ii) He identified one man who "had something in his hands which appeared to me to be a weapon." He was shot and killed by another soldier. **B1656.086 paragraph 3**

iii) He also saw a "group of our men" who were standing around a Pig positioned at the corner of Block 1, he remembers seeing "SLRs firing. By this time the crowd on the other side of the barricade were running away." **B1656.086 paragraph 3**

iv) He saw shots from his troops striking the "centre of the barricade" and "did not see any other civilians with weapons." **B1656.086 paragraph 3**

18.7.3.578 There are a number of very significant issues arising from the accounts given by Soldier 027 in 1972.

i) On his RMP account "immediately" upon arriving at the Kells Walk Wall, a number of members of his Platoon commenced firing at the Rubble Barricade. That number appears to comprise Soldier F and 4 or 5 more soldiers, suggesting that 5 or 6 soldiers from Anti-Tank Platoon, were firing at the Rubble Barricade. Thus Soldier 027 on the 5th February 1972 accounted for more soldiers from Anti-Tank Platoon firing live rounds over the Rubble Barricade than have ever admitted firing. **B1565.083**

ii) The date of his RMP statement is significant in that on 5th February 1972, when Soldier F had yet to admit firing live rounds, Soldier 027's RMP statement had identified him as firing more than one live round over the Rubble Barricade. **B1565.083** It also appears to be the first account given by anyone of Soldier F firing live rounds over the Rubble

Barricade. The statement to the Treasury Solicitor also suggests that Soldier F fired more than his admitted single round. **B1656.086 paragraph 3**

iii) Soldier 027's identification of the target is in both statements equivocal, moreover, no soldier from Anti-Tank Platoon claims to have shot a man with a rifle behind the Rubble Barricade. **B1565.083**, **B1656.086 paragraph 3**

iv) Soldier 027's RMP statement appears to identify Soldier U and another Soldier from Mortar Platoon positioned at the North West corner of Block 1 of the Rossville Flats, firing at the centre of the barricade. It suggests that Soldier U fired more rounds than he admitted firing. Both statements also suggest that unidentified soldier/s from Mortar Platoon fired live rounds over the Rubble Barricade. **B1565.083**, **B1656.086 paragraph 3**

v) Soldier 027's 1972 account suggests that Soldiers E, F, G and H went into Glenfada Park North after and in breach of a cease-fire order. **B1565.083**

18.7.3.579 Thus even in 1972 Soldier 027's account of events undermined the case been made then and now by soldiers from Anti-Tank Platoon. It suggested that: Soldier F had fired live rounds that he had not admitted; other soldiers from Anti-Tank Platoon and Mortar Platoon had fired live rounds in circumstances which were not admitted; andfar more live rounds were fired over the Rubble Barricade than was being admitted by his colleagues.

18.7.3.580 Soldier 027 has always claimed that when he gave his account to the lawyer from the Treasury Solicitor the lawyer said "We can't have that can we Private? That makes it sound as if shots were being fired into the crowd". **B1565.053** In fact Soldier 027's RMP statement does suggest that large numbers of rounds were being fired in the direction of a crowd at the Rubble Barricade and his account at one stage

appears to describe firing at a "fleeing" crowd. **B1656.086 paragraph 3**

18.7.3.581 Soldier 027 has undoubtedly demonstrated a tendency to exaggerate. Nonetheless there is a degree of consistency between the accounts given by Soldier 027 in 1972 and today:

i) He has consistently asserted that Soldier F fired live rounds over the Rubble Barricade, his first statement to that effect coming at a stage when Soldier F had failed to make such an admission and had not been identified as firing by his other colleagues.

ii) He has consistently asserted that more rounds were fired over the Rubble Barricade than have been acknowledged by Anti-Tank Platoon.

iii) He has consistently asserted that soldiers had access to extra ammunition and were thus able to hide the fact that they had fired so many rounds, or claim not to have fired any rounds.

iv) He has consistently asserted that more soldiers from Anti-Tank Platoon fired live rounds than has been admitted.

18.7.3.582 What is striking is that, independently of Soldier 027, the evidence before this Tribunal suggests that there is a core of truth to his allegations.

i) Soldier F did fire, at least one live round over the Rubble Barricade.

ii) Given the numbers killed behind the Rubble Barricade it is beyond dispute that more rounds were fired over the Rubble barricade by soldiers than have been admitted.

iii) The civilian evidence, particularly about the extent of the shooting after Michael Kelly was killed also suggests that more rounds were fired over the Rubble Barricade than has ever been acknowledged.

iv) If more rounds were fired over the Rubble Barricade, than is admitted, and given the number of rounds undoubtedly fired by soldiers from Anti-Tank Platoon in other locations, the availability of extra ammunition must be a real probability, particularly given the absence of any meaningful ammunitions check.

v) The availability of extra ammunition inevitably raises the question of soldiers firing who have not admitted firing.

18.7.3.583 While Soldier 027's testimony has been undermined by his own tendency to exaggerate, by the changes he has made in the accounts given, and by the questions raised about the financial benefits he may seek to gain. Nonetheless the essential elements of Soldier 027's account are true:

i) Soldiers from Anti-Tank Platoon were dangerously hyped-up when they entered the Bogside.

ii) Soldiers from Anti-Tank Platoon, including Soldier F, fired over the Rubble Barricade, without justification, at an unarmed crowd of civilians, murdering Michael Kelly and probably one or more of John Young, Michael McDaid and William Nash.

iii) The firing by soldiers from Anti-Tank Platoon over the Rubble Barricade was "continuous and sustained firing over a period of several minutes" **B1565.056 paragraph 177.8** and was without justification.

18.7.3.584 These essentials have been known by the soldiers from Anti-Tank Platoon over the last 32 + years and all have engaged in a conspiracy of silence, designed to prevent this Tribunal from ever establishing the circumstances of the shooting of John Young, Michael McDaid and William Nash. Whilst Soldier 027 in his account may be the victim of exaggeration and hyperbole, his colleagues in Anti-Tank Platoon are guilty of murder.

18.7.4 Composite Platoon

Introduction and Summary of Submissions

18.7.4.1 Composite Platoon also known as Guinness Force was drawn mainly from H.Q. Company. The 1972 January Edition of Pegasus, described the company in the following terms:

> "Guinness Force is the nickname given to Admin Company, when it turns out as a rifle company. This stalwart body consisting of quarter master staff, orderly room clerks, pay clerks, bandsmen, off duty dog handlers, spare drummers and not infrequently volunteer drivers and signallers from command company was first formed during severe rioting in Bligh's Lane, Londonderry, in July this year (sic)". (**See R24**).

18.7.4.2 They were largely comprised of the most seasoned and experienced NCO's in the regiment. On Day 304 Edwin Glasgow QC, informed the Tribunal that of the forty six members of HQ Company who had served in the Composite Platoon only twelve occupied the rank of Private and there was a high disproportion of NCOs to Private soldiers **Day 304/9/8 to Day 304/9/22**.

18.7.4.3 The Composite Platoon consisted of 36 men and travelled in two Bedford 4 tonne soft skinned lorries. Each lorry comprised one half platoon. The first lorry comprised the half platoon known as Call Sign 71, commanded by Captain 200 who was in overall command of the unit and also two Colour Sergeants, INQ 147 and INQ 1318. Call Sign 71 debussed in the lee of the buildings at the north end of Rossville Street on the eastern side of the road. The second lorry contained the

other half platoon known as Call Sign 71 Alpha, commanded by Colour Sergeant 002. Call Sign 71 Alpha debussed immediately behind the first lorry at the corner of Rossville Street and William Street. The ABC footage at **V/48/12.43-12.53** shows Composite Platoon's position when they debussed.

18.7.4.4 Upon debussing Captain 200 sought advice from Major Loden in respect of how his platoon should be deployed. He was instructed to "Go and assist the Mortar Platoon" **B2002 at E**. Whilst Captain 200 was receiving his orders, Composite Platoon remained positioned at the lorries and buildings at that location and were "leapfrogged" by Anti-Tank platoon who advanced south to Kells Walk. 200 then deployed his troops away from the buildings. Call Sign 71 remained under his direct command. They deployed east to assist the Mortar Platoon in Sector 2 and then advanced across Eden Place, along the rear of the houses of Chamberlain Street and finally ended up near Block1.

18.7.4.5 A section of Call Sign 71 Alpha, including Soldiers K, L and M advanced south under the command of Colour Sergeant 002 and took up a position at the low wall at Kells Walk which had previously been occupied by the members of Anti-Tank platoon. A photograph of these soldiers can be found at **EP2/8** at a stage where they were joined by Colonel Wilford.

18.7.4.6 Between them Soldiers K, L and M murdered Kevin McElhinney. It is very likely that Sergeant K fired the fatal shot. This murder was carried out in front of a significant number of their colleagues and may have been witnessed by Colonel Wilford.

18.7.4.7 A further section of Composite Platoon remained at the north end of Rossville Street and dealt with civilians who had been arrested

18.7.4.8 After speaking to Major Loden for a second time whilst at the north end of Block1, Captain 200 deployed Call Sign 71 back across to the

west side of Rossville Street at Kells Walk and into the Columbcille Court area **B1981,B1987, B2007 at B2022.008 paragraph 47**. Some members of Composite Platoon, including Soldiers C, D and 024 took up position on the veranda at Kells Walk at a very late stage in the events. C and D fired a number of shots in the Rossville Street area that are likely to have been the last shots fired by 1Para on Bloody Sunday. It is not contended that these soldiers shot or wounded anybody. Rather in our submission they fired shots at a time when already terrorised civilians were attempting to put the dying and the dead into Ambulances in Rossville Street.

18.7.4.9 In our submission the evidence of the Composite Platoon soldiers, like the other platoons attached to Support Company of 1Para are replete with lies. They have shown contempt for this Tribunal in respect of its task of finding out the truth of what happened on Bloody Sunday and they have shown contempt for the Families of those killed who have sought to learn why their relatives were murdered.

18.7.4.10 **Table 1** at **Appendix 2** shows the soldiers who fired and their claims as to where they fired from, what and where they fired at, the number of shots they fired, by whom they were seen to fire, whether they struck their targets and the most likely victims.

18.7.4.11 **Table 2 Appendix 2** shows the accounts of the soldiers as to when they first heard shots.

18.7.4.12 **Table 3 Appendix 2** suggests a possible order in which shots were fired by soldiers. Relying, as it does, on admittedly unreliable soldiers' evidence, the contents of this table are highly speculative.

18.7.4.13 **Table 4 Appendix 2** represents an attempt to provide a quick-reference tool which allows ready comparison of the accounts given by all the soldiers in Composite Platoon about certain material matters, such as whether they saw any civilians with weapons or heard any nail bombs.

18.7.4.14 **Table 5 Appendix 2** outlines the number and dates of statements given by the members of Composite Platoon to the Royal Military Police

Captain 200/SA8

18.7.4.15 Captain 200, a relatively young and comparatively inexperienced young officer, was given command of arguably the most experienced force in the first battalion of the Parachute Regiment **Day 367/42/1, Day 367/114/7 to Day 367/114/10**. Shortly after the events, this witness made a statement to the Royal Military Police, the Treasury Solicitor and eventually gave evidence before the Widgery Inquiry. More recently he provided a statement to Eversheds and gave evidence to this Inquiry on **Day 367** and **Day 368**.

18.7.4.16 Problems relating to the credibility and the reliability of this witness arose from the outset. On one view, his evidence lacked authentic precision, it was vague, very often confusing, contradictory and inconsistent. On another view he was an inherently deceitful individual prepared to lie when he believed the need arose. While feigning co-operation with the Inquiry his evidence when taken at its height only served to provide a confused, if not opaque image of the events that occurred that day.

Briefing

18.7.4.17 On Saturday 29 January 1972 he attended Colonel Wilford's Order Group Conference at 10.30 am at which he says that Colonel Wilford provided "a clear and detailed intelligence picture of the situation". According to his Treasury Solicitor statement, he then recalled clearly that the Colonel stated:
"Your mission is to arrest as many rioters as possible" **B1984**

18.7.4.18 Interestingly however he later recorded the objective in his handwritten notes in the following way:

"The Mission to prevent illegal march" **B2022.056**

18.7.4.19 If the task as given to Composite Platoon was simple, namely that they arrest as many rioters as possible, it is unclear why the witness recorded the mission as being the prevention of an illegal march. The confusion which is created by these competing objectives is repeatedly illustrated throughout the evidence of individual members of Composite Platoon. The true nature of the risk however lies in the fact that this confusion permeates at all levels through a group of men whose training and reputation for aggression is a matter of public record. By failing to emphasise the distinction between marchers and rioters the planners and those in command ran the risk of ignoring the fact that such a distinction actually exists.

18.7.4.20 Later that day at 5.50 p.m. he attended the Support Company orders given by Major Loden **B1984**. The witness later made a series of notes in respect of these meetings. It is submitted however that the elements of confusion were accordingly being sown from the outset.

18.7.4.21 When questioned about the materials available such as maps, plans, photographs etc the witness provided inconsistent and confused recollection. In his Treasury statement the witness made no mention of maps:

> "We had not seen the ground though of course we did have the aerial photographs." **B1984**

18.7.4.22 When asked by Counsel to the Inquiry about this matter the witness dealt with the issue in the following way:

"Q. Do you know whether, at your briefing of Guinness Force on the Saturday, either maps or aerial photographs of the location were available?
A. Maps were available. I am not sure about photographs." **Day 367/48/1 to Day 367/48/4**

18.7.4.23 When Counsel to the Inquiry pointed out the potential inconsistency of this recollection the witness accepted that his earlier statement was in all likelihood the most accurate. While it is accepted that in terms of the issues under investigation the Inquiry were not misled or otherwise prejudiced, the incident illustrates a predisposition by this witness to make confident yet erroneous assertions.

18.7.4.24 In addition to the meetings with Colonel Wilford and Major Loden, the witness recorded that the task given to all Companies was quite simple "to arrest as many rioters as possible". It was precisely this order that was supplied to Composite Platoon at 22.00hrs. Significantly, the witness also recorded that he supplied "clear orders to the effect, that individuals were not to open fire unless it was controlled by him or a Senior NCO or if it was in self defence" **B1978**

18.7.4.25 It should be noted that none of the other members of Composite Platoon remember this taking place. What one soldier under 200's command did recall was that Captain 200 put up a bottle of whiskey for whoever arrested Bernadette Devlin MP. Apparently she was regarded by the Platoon as a "trouble maker" **C739.1 paragraph 7**. It should be noted that Counsel for Captain 200 did not challenge this assertion when INQ739 came to give his oral evidence **Day 306/9/2 to Day 306/9/19**.

Events at the Presbyterian Church

18.7.4.26 In relation to the events on the ground the first element of confusion to arise is that this witness, in keeping with every other member of Composite Platoon, failed to mention when making statements to the RMP any of the shots discharged by soldiers A and B from the derelict Abbey Taxis building.

18.7.4.27 In respect of this witness however, further confusion arises in relation to whether he actually "heard or experienced" an incoming shot.

18.7.4.28 In his RMP statement the witness recorded the incident in the following way:

> "Not long after this warning, one HV round passed over our heads and struck the church wall, passing through a vertical drain pipe at GR43281708. I am absolutely sure that this shot was fired from the direction of Rossville Flats." **B1979**

18.7.4.29 When recounted the incident to the Treasury Solicitor this is what the witness said:

> "I'm quite certain from the noise of the round passing overhead that it was a high velocity round and that it came from the south. My impression at the time was that it came from the Rossville high flats. I did not hear the discharge of the rifle." **B1985**

18.7.4.30 During his testimony before Lord Widgery, he accepted that he had heard SLR fire but he maintained that he had only heard one shot. He did accept however that he was now aware that a total of 5 shots were fired:

"Q. Would it be right that that was the first firing that you heard this afternoon? A. No, sir.
Q. What firing had you heard before that? A. I was in the wire cutting party.
Q. And there was one high velocity shot fired? A. Yes.
Q. You are quite right about that. Apart from the high velocity shot you heard then, the first firing you heard was the shooting from the derelict building? A. This does not include the high velocity shots." **WT15.50 B - C**

18.7.4.31 This exchange illustrates two matters:

i) It provides an introductory insight into the deceitful disposition of this witness.

ii) It raises the question as to why he and all the other members of Composite Platoon never mentioned the SLR high velocity shots in their RMP statements.

18.7.4.32 It could of course be suggested that on one view the witness does not actually lie to Mr McSparran QC, however it must be acknowledged that at the very least, his answers serve to perpetuate a lie insofar as he permits Counsel to proceed upon an utterly misleading assumption.

18.7.4.33 The witness invites this Tribunal to accept that while he heard one high velocity SLR shot he failed to hear four others fired from the same location. Yet, he could nevertheless hear a bullet passing through air notwithstanding that the same noise level almost certainly existed.

18.7.4.34 When asked about this very point the witness offered the following explanation:

"A. (Pause). I certainly remember one SLR round being fired, but the only confusion I have there is that there could have been -- the reference I

did to the firing of baton guns, could have been SLR, I am not clear on my memory on that point." **Day 367/69/4 to Day 367/69/8**[66]

18.7.4.35 When asked by Christopher Clarke QC whether that was the first shot he heard that day, the witness said that he could not recall. **Day 367/69/13**

18.7.4.36 In relation to his failure to hear all 5 shots the witness said " I heard some shots". **Day 368/16/4**

18.7.4.37 At **B2022.004 paragraph 26**, the witness said that he learnt that two SLR shots were fired from this location although in oral evidence he was unable to say who told him **Day 368/17/9 to Day 368/17/15**.

18.7.4.38 The situation becomes even further confused by the fact that Captain 200 identified in his Treasury Solicitor statement that he heard the single SLR shot when he was positioned at Barrier 12. **B1985**

18.7.4.39 By suggesting that his failure to hear all the SLR shots whilst positioned in the Presbyterian Church might be explained by confusing those shots with the discharge of rubber bullet rounds serves only to challenge the reasonable expectation that someone in his position might be expected to know the acoustic difference between a rubber bullet and a 7.62mm SLR round. The suggestion is further undermined by the following assertion in his Eversheds statement:

"There is no doubt in my mind that we were under fire. Where it was coming from I hadn't a clue, but it was not the firing of our soldiers. I can tell the difference in sound of our weapons (single shot high velocity self loading rifles) and the

[66] See also **B2022.006 paragraph 39**

incomparable sounds of automatic or semi-automatic fire from lower velocity weapons." **B2022.006 paragraph 39**

18.7.4.40 It is respectfully submitted that the underlying explanation for providing these confused and inconsistent accounts is that the witness was motivated by the need to sequentially reverse the order in which the Army and incoming fire had occurred. Further, the failure by any member of Composite Platoon to identify the full extent of Army fire is consistent with the view that the official number of shots actually discharged had not been communicated to members of other platoons.

Orders in Queen Street

18.7.4.41 The witness claimed in his oral evidence to Lord Widgery that:
"I had given instructions at Queen Street how we should debuss and what to do when we debussed" **WT15.52. E**

18.7.4.42 In relation to the alleged instructions given to all members of Composite Platoon by Captain 200 at Queen Street it seems remarkable that this event is uncorroborated by any member of Composite Platoon.

18.7.4.43 When pressed by Counsel to the Inquiry as to the general nature of the instructions beyond arresting rioters, the witness was unable to provide any assistance. Indeed he was unable to recall whether he received instructions in respect of the limitations of distance, which had been imposed on the Company's entry into Rossville Street. **Day 367/77/25**

Deployment in Rossville Street

18.7.4.44 Captain 200 travelled in the first of the soft skinned 4 tonne Bedford lorries. In providing his original account of events in Rossville Street, the witness gives the very clear impression of a young, confident and talented officer who knew exactly what he was doing and who

although under fire acted in a manner that was at all times consistent with giving priority to the safety of his troops.

18.7.4.45 He said the following in his RMP statement made on 5th February 1972:

i) "I decided to split my force with 71 moving to the left to give support to the Mor Pl and 71A to move right flanking along the eastern side of Columbcille Court." **B1980**

ii) "At this stage, I heard the burst of automatic fire and one or two single shots fired in our direction, but I did not pay much attention to where they had come from except for the fact that we were under fire and my first concern was for my troops to get deployed from our debussing point as quickly as possible." **B1980**

iii) "My orders to "L1" (Colour Sergeant 002) in command of 71A were to move up the right flank of Rossville Street and act on his own initiative if we got separated." **B1980**

iv) "I went left with 71. On moving off I remember noticing the Anti-tank Pl overtaking 71A in their APCs and moving quickly through Columbcille Court and the long block east of the Court." **B1980**

18.7.4.46 In his statement to the Treasury Solicitor the witness described his deployment into Rossville Street in the following way:

i) Immediately after debussing, Captain 200 approached the Company Commander, Major Loden and asked what he wanted him to do. **B1985**

ii) He was told to assist Mortar Platoon. **B1985**

iii) The witness went on to record that as his men debussed he heard automatic fire. He immediately decided to deploy his force away from the buildings beside where the two soft skinned lorries were parked. **B1986**

iv) Half were sent to support the Anti-tank platoon and the other half were sent to support Mortar Platoon. **B1986**

v) It was at this stage that he saw "***at least three*** members from anti-tank platoon kneeling behind the wall on the right hand side of Rossville Street firing their SLRs" in a southerly direction (emphasis added). **B1986**

vi) 200 noticed at least two people immediately behind the barrier and approximately 30 others in or about the entrance to Glenfada Park. Others were observed in the distance. **B1986**

vii) Curiously 200 felt that the crowd was about to disperse and that gunmen were about to appear **B1986**. If this is so then his observation raises the question as what were these soldiers firing at in the first place?

18.7.4.47 Clearly there is a significant discrepancy between his RMP statement and his Treasury Solicitor statement in respect of how the decision to deploy the Composite Platoon came about. In his RMP statement the decision appears to be his own whilst in his Treasury Solicitor statement he appears to have spoken to Major Loden before the decision was made. This may have been due to the dramatic changes in the original operational plan such as the replacement of a pincer movement with a disorganised charge up Rossville Street in vehicles, as opposed to going in on foot.

18.7.4.48 It comes as little surprise that he ran forward for the purposes of obtaining fresh instructions as to what he should do in circumstances where the Mortar Platoon had gone deep into the Bogside having already reached the Rossville Flats car park and waste ground at Pilot Row. It is clear that this development was never envisaged or contemplated within the terms of the original operational order, *viz*:

> "(c) The Scoop-Up operation is likely to be launched on two axis, one directed towards hooligan activity in the area of William St/Little

Diamond, and one towards the area of William St/Little Janes St." **G95.570**

18.7.4.49 Lack of recollection might explain some aspects of his evidence, however his willingness to adapt evidence to certain questions suggests a greater motive for providing what amounts on occasion to misleading, contradictory and utterly evasive answers.

18.7.4.50 For example in relation to the advance of the anti-tank platoon Captain 200 stated the following in his RMP statement:

> "My orders to L1 in command of 71A were to move up the right flank of Rossville Street and act on his own initiative if he got separated. I went left with 71. On moving off, I remember noticing the anti-tank platoon overtaking 71A in their APC's and moving quickly through Columbcille Court and along block east of the court. I stopped and shouted quick orders to L1 to move up and support the anti-tank platoon." **B1980**

18.7.4.51 During the course of his evidence before this Inquiry Captain 200 remembered the anti-tank platoon, debussing in a position behind the two four tonne lorries, **Day 367/80/17** and moving up on foot **Day 367/88/22**.

Events in Sector 2

18.7.4.52 In summary, 200 in his RMP statement 200 said that:

i) He took Call Sign 71 and went left into the Sector 2 area **B1980.**

ii) During the move around to the left he shepherded four people who were not rioters to safety from the open ground **B1980**.

iii) Whilst at the northern end of Block1 he saw Sergeant O's pig arrive with at least two bodies. **B1980**

iv) Also at this time he saw one of his soldiers fire a rubber bullet gun into the back of a pig at point blank range. **B1981**

18.7.4.53 Captain 200 does not admit seeing any members of the Mortar platoon firing in Sector 2. By way of comment, it is clear that Captain 200 does not say that he came under fire from the Rossville Flats area anywhere in his 1972 evidence.

18.7.4.54 In his Treasury Solicitor statement, 200 said the following:

i) The witness was concerned about the bunched appearance and location of his men and he approached Call Sign 71 who were supposed to support Mortar Platoon. **B1986**

ii) En route he met two women who were sheltering behind a car and told them to move into Chamberlain Street via Eden Place. **B1986**

iii) By this time no less than four pigs inclusive of the Command Vehicle were parked on the northern corner of Block1 on the Pilot Row side. **B1986**

18.7.4.55 A number of additional points, though minor in nature, include his failure to make any reference to the single shots in his Treasury statement that he recalled to the RMP. It will also be observed that in his RMP statement he shepherded four people near the burnt out vehicle into safety from the open ground **B1980**. While in his Treasury statement that he told two women who were sheltering behind a car to move to the safety of Chamberlain Street. **B1986**

18.7.4.56 With characteristic subtlety the witness reconciled these differences in his Eversheds statement by describing a small group of people taking cover behind an old burnt out vehicle. There were between two and

four present and one of them was an elderly lady. The witness then stated that he sent them towards Chamberlain Street having accompanied them for five yards. **B2022.006 paragraph 38**

18.7.4.57 Curiously in his Eversheds statement he made no reference to the more serious incident concerning the discharge of the baton gun into the rear of the APC.

18.7.4.58 When asked by Counsel to the Inquiry why he had not intervened in relation to the incident when a rubber bullet was discharged into the rear of an APC, the witness replied that he remembered the incident clearly because he may have made a comment to him as the culprit moved off **Day 367/110/6 to Day 367/110/16**. When pressed by Counsel for the Families about the same incident the witness made the following reply:

> "A. I personally did not take any steps because I am reporting on what I saw as a fleeting thing as I was moving up to speak to Major Loden; I am talking about what I saw. I do remember, though, sir, the Company Sergeant Major 202[67], um, was in that location and he did say something to me, I cannot remember the exact words." **Day 368/34/23 to Day 368/35/3**

18.7.4.59 It is respectfully submitted that Captain 200's failure at the time to take appropriate steps in respect of an incident that involved the discharge of a rubber bullet gun at a defenceless prisoner at close range, serves to highlight a collective attitude of lawlessness and brutality. The alternative explanation may well be that in the prevailing circumstances, other soldiers were adopting greater levels of more

[67] Significantly CSM202 Lewis does not refer to the incident.

extreme violence and that there was a compelling need to bring these activities to the attention of Major Loden.

Events in Sector 3

18.7.4.60 In his RMP statement 200 said:

i) At the north end of Block1 both he and Major Loden noticed a considerable amount of fire coming from the Paras on the west side of Rossville Street. **B1981**

ii) Both he and Major Loden were concerned at that stage as the firing seemed unnecessary. **B1981**

iii) 200 then redeployed Call Sign 71 across to the west side of Rossville Street. **B1981**

iv) 200 went with his radio operator to the north west entrance to Glenfada Park North. He saw a casualty in Abbey Park who must be Gerry McKinney. **B1981**

v) Upon returning back to Rossville Street he says he noticed a gunman with a pistol firing from a window in the centre of the third storey of Block1 and one person behind the Barricade. His men engaged both targets but as he was on his radio he could not say if hits were made. **B1981**

vi) He witness heard automatic fire come from GR43141667(which is near Free Derry Corner). **B1981**

vii) Having consolidated his Force in the area of East kells Walk, between Columbcille Court and Rossville Street all firing had ceased. Four single rounds and five automatic rounds were then fired from the south. No rounds were returned. **B1981**

18.7.4.61 This is what he said in his Treasury Solicitor statement:

i) The witness clearly recalled that at the north end of Block1 when Major Loden was on the radio he said to him "There is a

lot of firing going on isn't there?" At this time the Sergeant O's pig pulled up with bodies in the back. **B1986**

ii) According to 200, Major Loden was "obviously concerned". At this point a pig arrived with two bodies in it and Major Loden shouted at soldiers on the opposite side of Rossville Street to stop firing. **B1986**

iii) The witness then decided to "move across Rossville Street to find out what my men were doing." **B1987**

iv) He went to the corner of Glendada Park North and saw a body lying in the open at the nearest corner of Abbey Park. **B1987**

v) Upon returning to Rossville Street he claimed to have seen a man take cover behind a wall near Free Derry Corner who thought was armed and might have been carrying a SMG but as he did not have binoculars with him he could not be sure. **B1987**

vi) When light was falling automatic and single shots were fired from the south end of Rossville Street. **B1987**

18.7.4.62 This aspect of the witness' original accounts has been extensively referred to demonstrate the differences which emerged in his statements within weeks of the event and also to highlight a number of highly significant events which the witness either failed to see or deliberately excluded from his later statements.

18.7.4.63 For example, when providing a statement to the Treasury Solicitor the witness excludes any reference to the incident in which a rubber bullet was fired into the rear of an APC.

18.7.4.64 The witness has also omitted his reference to seeing the pistol man firing from the 3rd storey of Block1.

18.7.4.65 It will be observed above that it is this witness who expressed concern to Major Loden about the number of shots being discharged yet in his RMP statement he records the following:

"Whilst speaking to the Company Commander, we both noticed a considerable amount of fire coming from our soldiers on the right hand side of Rossville Street. I can remember is both being concerned at this stage as it seemed at the time unnecessary." **B1981**

18.7.4.66 When asked before this Inquiry to identify "the apparent source and destination of the firing" which gave rise to the concerns of himself and Major Loden, the witness replied that he could not recall. **Day 367/113/1 to Day 367/113/9**

18.7.4.67 Even though in his Treasury statement the witness clearly recalled that Major Loden ordered troops at the other side of the street to cease firing, the witness obscures the issue of fault which attaches to this description by providing the following answers before the Widgery Inquiry:

"Question: Was he [that is the company commander] busy on the radio when you got there?

"Answer: Yes, he was.

"Question: Did you speak to him?

"Answer: Once he was finished on the radio I did, yes.

"Question: Did you make any observation about the firing that was occurring at that time?

"Answer: I cannot remember the exact words, but I did express concern at the amount of firing going on at that time and he agreed with me.

"Question: What sort of firing were you referring to?

"Answer: I was just referring to the general firing, including ourselves. I was not expecting our soldiers to fire.

"Question: Was there any except military firing that you observed?

"Answer: I am not experienced in hearing the weapons fired by the IRA. At that time I had only been out in Ulster for two months. I heard lots of bangs and I could not tell what they were." (emphasis added) **WT15.45.D-E**

18.7.4.68 It is difficult to reconcile this evidence as given before Lord Widgery with the evidence on the same point that he gave to this Tribunal on oath as he said that he was right up against the gable end and in considering the firing that was taking place at that time his impression was that "the situation had been contained." **Day 367/112/14 to Day 367/113/9**

18.7.4.69 In our submission it may also be inferred that the firing which apparently caused concern may well have been that of Soldiers F, G, C and D. We say this because according to Captain 200 it was at this time that the pig pulled up with the bodies and by this stage all the firing at the area of the Barricade and probably Glenfada Park was over.

Captain 200's attempts to find out what his men did

18.7.4.70 When Guinness Force returned to the harbour area in Clarence Avenue, 200 ordered an ammunition check and "preliminary questioned all those who fired their weapons." It emerged that Guinness Force were admitting to firing 14 rounds of 7.62mm and 2 rubber bullets. **B1982** In his Treasury Solicitor statement says that he questioned each soldier individually so he was clear as to why they had fired and what targets they had engaged. **B1987**. 200 in his RMP statement provided details

of his soldiers who fired and their alleged targets. **B1982 to B1983**. He set them out as follows:

> "Soldier K: 1 x 7.62 from GR43271691 to gunman at barricade 43231683 - missed.
>
> Soldier D: 2 x 7.62 from GR43261691 to gunman at window of Rossville Flats 43261684 – possible hit.
>
> Soldier C: 3 x 7.62 from 43261691 to gunman at window of Rossville Flats 43261684 and 2 x 7.62 from same position to gunman at corner of Rossville Flats 43231680 – possible hits.
>
> Soldier M: 2 x 7.62 from GR43271691 to gunman behind barricade 432317683 – possible hit.
>
> Soldier L: 1 x 7.62 rafters in ruin 43281696 at possible sniper on roof – deliberate miss after two warnings to come down. Man jumped down from roof (15 feet) and was arrested. Roof not searched for weapons. 2 x 7.62 from wall 43251688 at barricade 43231683 and 1 x 7.62 at same gunman as C and D." **B2022.0047**

18.7.4.71 Regrettably, detailed examination of the information supplied typifies the general character of this witness and the standards of his overall reliability. Close scrutiny reveals that the detail remains technically misleading and factually inaccurate. Rather than repeat verbatim the questions and answers that arose the reader is respectfully referred to **Day 368/60/2 to Day 368/76/2**.

18.7.4.72 For the purposes of convenience only, the following general observations are worth bearing in mind:

i) Firstly, K's alleged trajectory line as set out above is totally inconsistent with the statements that he made subsequently and the evidence he provided to both Lord Widgery and the present Tribunal.

ii) Similar trajectory problems arise in respect of Soldier M.

iii) In relation to L, this soldier denied ever supplying information in respect of the alleged shot into the rafters within the derelict house. The Inquiry received no assistance as to where exactly this information came from and who supplied it. The Tribunal are forced to rely on presumption or inference when deciding whether an incident which was not without controversy actually occurred. Also, it will be noted from the above that Captain 200 made no inquiry as to whether L was claiming a hit "at the barricade" and a conclusion one is left with is that L was loosing off shots at the barricade:

"Lord Saville: Forgive me interrupting Officer 200, is it a possible explanation, looking at what you have written about Soldier L, that the two 7.62 shots he told you he had simply loosed off at the barricade and at no particular target at all?

A. Yes, I accept that, that he did loose two shots off at the barricade, I mean that, that must be the, the possibility. If he was more exact, he would have said, "gunman at a certain point." **Day 368/67/15 to Day 368/67/23**

iv) Significantly Captain 200 made no enquiry as to whether L was claiming a hit at the barricade and the conclusion that one is left with is that he was simply loosening "or recklessly discharging two shots at this location. Captain 200 appears happy to accept this conclusion **Day 368/67/20**.

v) In relation to M a marked discrepancy arises in respect of whether he fired at two gunmen or one.

18.7.4.73 Finally and by way of providing further illustration of the unreliable nature of this witness' evidence it will be noted that he records the total number of baton rounds discharged, by Composite Platoon as amounting to only two. This figure stands in contrast to the evidence before the Inquiry that on one occasion alone, some four to eight rounds were fired towards the barricade **Day 368/70/1 to Day 368/70/11**.

18.7.4.74 200 on 5th February 1972 told the RMP:

> "I am absolutely satisfied that none of my soldiers fired 7.62mm rounds before being subjected to enemy fire. All rounds fired, except of one by "L" in the ruin, were controlled by senior NCOs and directed at gunman either in the Rossville Flats or behind the Rubble Barricade. I fully support the actions taken by my soldiers and I am satisfied that they reacted as required in the situation." **B1983**

18.7.4.75 It is contended that if Captain 200 was a man who took his command seriously and the provisions of the Yellow Card at all seriously he would have reported Private L for breach of same when he learned about his shot into the rafters of the derelict house. One can only speculate whether 200 was aware that Private L had provided a false

account to the RMP, Treasury Solicitor and Lord Widgery in respect of this shot but it is clear that Private L appears to have heard nothing further from within the military command in this regard.

18.7.4.76 In his Eversheds statement the witness explains why he was apparently able to stand over the activities of his men in 1972. Captain 200 admits to accompanying a large number of soldiers whilst they gave their interviews to the RMP. He claims that he was impressed:

> "by both the clear honest and truthful way in which all those soldiers gave their interviews and also by the instructions from the Commanding Officer that soldiers should cooperate fully and give their evidence truthfully. I can certainly confirm that there was no attempt by the battalion to ensure that those who were involved "got their stories straight" or altered their evidence in any way. There were no briefings on what soldiers were to say." **B2022.011 paragraph 72**

18.7.4.77 If Captain 200 judged the honesty and truthfulness of the men who he accompanied to the RMP by the same standards of honesty and truthfulness of his own character, it is respectfully submitted that this is a worthless assessment

Captain 200's willingness to lie / Civilian Gunmen

18.7.4.78 Further evidence of this witness' tendency of exaggerate his "perception" of events concerns his untruthful allegation that he saw at least two civilian gunmen. This evidence first appears in his RMP statement:

> "I noticed one gunman with a pistol firing from a window in the centre of the third storey of

Rossville Flats and one person behind the Barricade across Rossville Street. My men engaged the target in the window and also at the man behind the Barricade, but I was speaking on the radio at the time and cannot definitely say who fired and if hits were made **B1981**.

18.7.4.79 The first public occasion upon which this allegation was enthusiastically raised, occurred during the course of a Thames Television interview conducted on 2nd February 1972 **B2022.033**

18.7.4.80 The witness expressed characteristic uncertainty about some answers which were attributed to him on the transcript **B1993**, however he did provide a qualified acceptance in respect of others. This is illustrated by the following exchange:

"Mr McCARTNEY: "I saw at least two, one person was firing

from the third floor of the Rossville Flats -- pistol --

and one, at least one I saw with a weapon behind the

rubble ... which was going across Russell street."

Do you see that?

A. I do.

Q. Did you see a person firing from the third floor of Rossville Flats with a pistol?

A. You will probably note in my evidence that that was my perception at the time: I did think very hard later on this and I did withdraw this accuracy and, therefore, I accept on oath that I -- my perception at the time was wrong and that I have doubt in what exactly I saw then.

Q. Did you see a man with a weapon at the rubble barricade?

A. I saw a man at the barricade, but I did not see a weapon.

Q. Was that your perception at the time?

A. At the time I gave the interview?

Q. Yes.

A. (Pause). It is very difficult question to answer at this moment.

Q. I am going to suggest to you that if you saw a man firing from the third floor of the flats, you would remember that; it is nothing to do with perceptions; it has to do with reality. If you saw a man with a rifle at the barricade, equally, that has nothing to do with perception or imagination, that is reality and a truthful person says, "That is what I saw." But I am going to suggest to you that this was a dishonest attempt by you to weave a veil of mirrors and smoke, contradiction and deceit over what you alleged you saw and in particular over the events of that day.

What was being woven here was really a culture of mendacity, lies and deceit. This was a ham-fisted attempt by you and a handful of officers to provide a smokescreen to stall for time, and you are still doing it?

A. I am sorry, that is your view. I cannot accept that.

Q. A3:

"Question: How early in the action would this have been. Is it your perception that you went on to elaborate upon your perception?

"Answer: This was at least four or five minutes after the first shots that were fired at our company.

"Question: Are you satisfied that they were in position before your own troops had opened fire, in other words, that they were there with the intention of shooting (interruption)?

"Answer: Absolutely this ... everything points to a deliberate drawing in of the Army into that area. It could well be in fact a planned ambush."

"Absolutely," undoubtedly, a strong indication and as clear an example as this Tribunal or anyone else, looking at the evidence before it, needs that you were a willing participant in a conspiracy of deceit that was being woven immediately after these events." **Day 368/54/2 to Day 368/56/7**

18.7.4.81 The positive assertions made not only within his RMP statement but also his television interview are explained as remarks that were made "on the spur of the moment" and on the basis of what he had been told by an unnamed member of Composite Platoon that a person was firing a pistol from Rossville Flats. **B1988**

18.7.4.82 It is difficult to reconcile the expression "spur of the moment" with the provision of a signed declaration to the RMP to effect that he personally witnessed the presence of both gunmen. On the basis of this

explanation, "spur of the moment" lasted at least three further days until he signed his first statement on 5th February.

18.7.4.83 The extent of Captain 200's willingness to tell a lie can be measured by the fact he was prepared to tell a deliberate lie to the RMP notwithstanding that he knew he could be prosecuted for wilfully stating same.

18.7.4.84 The Tribunal are entitled to pause and place this witness' evidence and credibility on the scales. Three days after the events of Bloody Sunday this man looked the world in the eye through the medium of a television camera and lied repeatedly for the purposes of justifying the Army's use of high velocity weapons. Three days later, he repeated the lies again in the form of a signed statement that he himself drafted to the RMP without encouragement or duress he voluntarily repeated the same lies. Notwithstanding his later retractions the witness continues to this day to lie as to why he did so.

18.7.4.85 In our respectful submission in light of his willingness to lie repeatedly it would be folly for this Tribunal to attach any weight whatsoever to this man's evidence.

Members of Composite Platoon Call Sign 71

18.7.4.86 It is now proposed to consider those members of Composite Platoon who were attached directly under the command of Captain 200 and formed Call Sign 71. These soldiers were deployed initially in Sector 2 and then Sector 3. It will also be noted that a number of them appear to have stayed in the vicinity of the soft skinned lorries at the north end of Rossville Street.

Sergeant 106

18.7.4.87 This witness has provided a statement to the RMP and to Eversheds. He gave evidence to the Tribunal on **Day 299**. He was a section leader in Composite Platoon / Guinness Force. He claimed to be present in the

Presbyterian Church when the drainpipe shot occurred. He says in his Eversheds statement that he looked through Sergeant K's sniper scope and saw three men on the roof of the Rossville Flats who were not armed, though according to him, there were plenty of places were weapons could be hidden **B1713.003 paragraph 12**.

18.7.4.88 However in his 1972 evidence he makes clear that Sergeant K *himself* actually looked through the scope and told him that there were 3 men on the roof of the Rossville Flats **B1711**. This contrasts with K's own evidence. He said that he did not even look near the Rossville Flats after the incoming shot, as he was fearful for his safety **B311.005 paragraph 8**.

18.7.4.89 **Sergeant 106** refers to firing as the lorries were coming into the Bogside. He did not see or hear explosions or gunmen at any stage. He took his section of men in a leapfrogging advance along the back of the houses in Chamberlain Street and whilst executing this movement he heard a mixture of high velocity and low velocity fire from different types of weapons. He recalls incoming rounds from the Rossville Flats area. He then took up position near where Captain 200/SA8 and Major Loden would have been at the north end of Block 1 **B1713.003 paragraphs 17 to 22**. Sergeant 106 was ordered along with his section west across Rossville Street to the area north of Kells Walk. He later was involved in escorting prisoners to the William Street area.

18.7.4.90 **Sergeant 106** is another witness whose omissions from his evidence are significant in respect of his credibility. The witness failed to provide any assistance or explanation to the Tribunal in respect of what happened, how it happened or who was responsible.

18.7.4.91 When questioned by Counsel, the witness maintained that he didn't "really" experience a conflict between his loyalty to the Regiment and his duty to provide a full and frank disclosure to the Tribunal **Day**

299/84/20. Given the ambiguous nature of this reply it is hardly surprising that the witness failed to see:

i) Any Paratrooper firing at all;

ii) Any of the violence that was meted out to civilians on the waste ground;

iii) The rubber bullet that was fired into the rear Lieutenant N's pig that contained the prisoners William Doherty and Duncan Clarke;

iv) The evidence from the Anti-tank Platoon that caused concern both to Captain 200 and Major Loden. **B1981**

Sergeant INQ1318

18.7.4.92 This witness made a statement to Eversheds and gave oral evidence to the Inquiry on **Day 354**. He was a section leader in Guinness Force (possibly an acting Colour Sergeant for the day **Day 354/160/8 to Day 354/160/11**). Whilst he has a clear recollection of what happened at the Presbyterian Church, i.e. the plan to break through the wall and the drainpipe shot etc, his recollection of what occurred after his deployment is much more vague.

18.7.4.93 The nominal role **B2022.64** records that he was part of Call Sign 71 which would have been part of Captain 200/SA8's section but he makes no reference to being involved in any operational activity on the east side of Rossville Street. He says in his Eversheds statement that his task was to secure a modern council housing estate to the right (west) **C1318 paragraphs 16 to 17**. This sounds like the Columbcille Court / Kells Walk area where he probably ultimately ended up.

18.7.4.94 **Sergeant INQ1318** saw a man that sounds very like Alex Nash at the Rubble Barricade shouting that he had been shot **C1318.4 paragraph 20** Despite being able to hear the shouts of the man on the Rubble Barricade the witness claimed that he did not hear any of the shots fired

by his colleagues at the low wall or pram ramp of Kells Walk. Nor, it should be said, did he hear automatic fire or explosions **C1318.4 paragraph 20**. The extent of this witness' assistance and the value of his evidence to the Tribunal can be summarised in the following exchange with Counsel:

> "Q. You were close enough to see the events that occurred in the vicinity of that barricade?
>
> A. I was close enough, but I did not see it as I was concentrating -- after that, I turned my head when I heard him shout and concentrating on keeping the houses secure.
>
> Q. You see, members of your platoon, five of them, discharged no less than 14 shots whilst they were present in Rossville Street while you were there. Altogether somewhere between 30, 38 shots were fired in that location. Six people were shot dead in the vicinity of that barricade; one person was wounded. Ambulances came and went. At least 50 people were arrested. Thirteen people in total died; 14 were wounded, but yet you, as a ringside-seat-holder, did not see one of those incidents?
>
> A. No.
>
> Q. Is it a bit like going to a boxing tournament, getting the best seat in the house, right beside the ring, and you cannot talk about the fight as soon as you walk out because you cannot remember a thing; that is really your evidence; is it not?
>
> A. Yes." **Day 354/181/1 to Day 181/23**

Corporal INQ 739

18.7.4.95 This witness made a statement to Eversheds and gave oral evidence to the Tribunal on **Day 306**.

Mentality

18.7.4.96 **INQ 739** provides a useful insight into the Paratroopers' mindset on the no-go area in Derry, Bernadette Devlin and NICRA.

18.7.4.97 He said in his Eversheds statement:

> "By 1972, there was a no-go area in the Bogside in Londonderry. As far as the Parachute Regiment was concerned, no-go areas were unacceptable. They were all part of Britain. We knew that, sooner or later, it would probably be out job to go in and sort it out." **C739.1 paragraph 4**

Briefing

18.7.4.98 In relation to briefings, the witness said that he could not recall anything about the briefing except that he was to be part of a small Guinness Force team whose job was to arrest some of the ringleaders:

> "I do recall three officers had each put up a bottle of whiskey as a reward for whoever arrested Bernadette Devlin. She was well known as a trouble maker, and NICRA was generally understood to be controlled by the IRA." **C739.1 paragraph 7**

18.7.4.99 When asked about this in oral evidence the witness confirmed that the officers were Colonel Wilford, the HQ Company Commander and Commander of Composite Platoon, Captain 200 Day **306/9/2 to Day**

306/9/19. This assertion was not challenged by Counsel for either Colonel Wilford or Captain 200.

Events in Rossville Street / Waste ground / north of Kells Walk

18.7.4.100 He was a member of Call Sign 71 and therefore under the command of 200. This is another military witness who does not recall seeing any soldier firing on Bloody Sunday.

18.7.4.101 He claimed that he had heard the drainpipe shot earlier and believed it to be fired from a Mauser rifle, " a proper sniper's weapon" that he recognised from Aden **C739.3 paragraph 15**.

18.7.4.102 When he debussed from the soft skinned lorry he claimed in his Eversheds statement to have heard "a few bursts of what sounded to me like fire from an AK47" apparently from the Rossville flats in the witness' direction **C739.3 paragraph 22.** In his oral evidence however he changed this to say that it was "a small burst" **Day 306/21/22 to Day 306/22/9**.

18.7.4.103 The witness claimed to have heard a further burst of AK47 fire from the direction of the flats on his way from the waste ground to the Rossville Flats near the burnt out wreck of a car at **C739.7**. Before he got to the Rossville Flats he heard SLR fire.

18.7.4.104 When he was redeployed west across Rossville Street and somewhere in the area of Columbcille Court he claimed that there was a mixture of AK47 firing and "some" SLR though he was certain more AK47 than SLR **C739.4 paragraph 30**.

18.7.4.105 In order to re-enforce his confidence about this incident, he relied upon his ten years of service in the Paras, **Day 306/45/11**, and his belief that "640" colleagues were equally confident **Day 306/48/10**.

18.7.4.106 When Counsel pointed out that his own commander, 200, had been responsible for organising the firearms demonstration before Lord Widgery and that this had not included an AK47 and secondly that no reference to the weapon appeared in any of the original Composite Platoon RMP statements, or intelligence documents, his confidence evaporated and he accepted he could be mistaken **Day 306/49/5 to Day 306/51/21**. On one view, this was yet another example of the willingness of a witness to embellish fabricated evidence with a level of detail designed to give that evidence the veneer of authenticity. It is further submitted that his claims that the Paras came under sustained bursts of automatic AK47 gunfire are untrue and uncorroborated.

18.7.4.107 For a witness whose statement contains absolutely no reference to any discreditable Military activity **INQ 739** makes a strange but telling comment:

> "I thought the Widgery Tribunal was after a scapegoat but, having said that, I thought that Inquiry was too much of a whitewash" **C739.6 paragraph 39**

Private 203

18.7.4.108 This witness made a statement to the RMP and to Eversheds. He gave evidence to the Inquiry on Day 306 and was recalled on **Day 382**. He was HQ Coy's permanent ammunition store man. On Bloody Sunday he issued Guinness Force with their arms and ammunition. He says in his RMP statement that all the 9mm (SMG or pistol) ammunition was correct and accounted for and that 14 rounds of 7.62mm (SLR) ammunition had been expended. He reported this matter to his Company Sergeant Major **B2112**. His RMP statement was taken on 14th February 1972 but he does not include in it anything that he allegedly saw or did on Bloody Sunday.

18.7.4.109 It is submitted that on any view he has a seriously deficient memory and provides an unreliable account.

18.7.4.110 Whilst at the Presbyterian Church, he said that he "definitely" saw soldiers from the Royal Green Jackets and Royal Anglians there. We know that it was in fact the 22 LAD who were positioned in the area of Little James Street barrier. He also says that he was with Sergeant O of the Mortar Platoon on "apex of the roof" on the Presbyterian Church, notwithstanding the apparent precariousness of the position **Day 306/80/14 to Day 306/81/10**. Sergeant O told him to come up and have a look but that he should keep his head down. Whilst he was climbing up a saw the "downspout" shot **B2114.003 paragraphs 16 to 19**. This is completely contradictory to what Sergeant O says.

18.7.4.111 From the roof of the Presbyterian Church, Private 203 says that he heard explosions that he assumed were petrol bombs. He also claims to have heard "small arms fire" occurring during the riot **B2114.004 paragraphs 20 to 21**. It is unclear how exactly one is supposed to *hear* petrol bombs explode as this is much more of a visual occurrence.

18.7.4.112 He believes that he went into the Bogside on foot (which seems very unlikely in light of all the other evidence) with the rest of Guinness Force and that General Ford and Colonel Wilford both were at the barrier (which is plainly wrong). He says that there was no delay at barrier 12 (which again is incorrect) **B2114.004 paragraphs 24 to 25**. The witness stood over all of these claims when he gave oral evidence on Day 306. In our respectful submission, on this basis alone his evidence is inherently unreliable and should be given no weight.

Sector 2

18.7.4.113 He deployed to the east side of Rossville Street to a burnt out van (possibly at **EP/2.001**) and heard low velocity single shots come from his right followed by high velocity shooting. The witness was asked if

had any idea at all of the number of alleged low velocity hosts that he heard but he was unable to say **Day 306/98/5 to Day 306/98/19**.

18.7.4.114 Counsel to the Tribunal pressed him in relation to how he was so certain that he heard low velocity fire:

> "Q. What makes you so able to be certain on that point?
> A. There is nothing certain about the whole lot of my recollections. But because I went through this three years ago, and recalled my account of it, I could remember then. And I do remember now still, but not -- if you want me to swear to it, I could not swear to it. But, yes, I did hear." **Day 306/98/20 to Day 306/99/1**

18.7.4.115 He did not hear any explosions or see any civilians with weapons **B2114.004 paragraphs 26 to 31**. He appears to have been in the vicinity of Lieutenant N's pig which was near the burnt out van. He said that he "personally did not come under any effective fire and, therefore, did not return fire" **B2114.005 paragraph 32**. The witness was asked specifically whether he heard an AK47 fired. 203 said that he had no recollection of it **Day 306/98/4**. He also said that he heard no nail bombs exploding and that he saw nothing at the windows of the flats, which gave him "cause for alarm" **Day 306/104/10 to Day 306/105/8**.

18.7.4.116 Again, it has to be submitted that this was another witness who was in the area where there were a large number of Paratroopers firing in a relatively small area but somehow, if he is to be believed, managed to miss this.

18.7.4.117 After the witness gave his oral evidence, a possible reason for his failure to see any discreditable actions by his colleagues emerged **B2114.013**. During the period of 1976 to 1977 he was a Battalion Commander in the UDA/UFF and was convicted of possession of a

firearm and ammunition with intent to endanger life for which he received 10 years' imprisonment[68]. He claimed in his evidence that he was not involved with the UDA/UFF on Bloody Sunday or whilst a serving Paratrooper. Amazingly, Soldier 203 claimed to have been unaware that this organisation was responsible for the deaths of scores if not hundreds of innocent Catholics in the early 1970s **Day 382/35/13 to Day 382/35/22**. It is submitted that he joined the UDA/UFF because he sympathised with the murder of Catholics and Nationalists and further that he wanted to personally involve himself in either killing or facilitating the killing of Catholics and Nationalists. It is further contended that 203 would have been violently prejudiced against Catholics at the time of Bloody Sunday and is a witness who is predisposed to give false evidence that:

i) Covers up the murders of the Catholics and Nationalists who were killed on Bloody Sunday; and

ii) Assists the Army case in claiming that he heard non-Army fire.

For these reasons we urge the Tribunal to reject his evidence entirely.

Corporal INQ2047

18.7.4.118 This witness has provided a statement to Eversheds and did not give oral evidence. His recollection is whilst waiting at Barrier 12 he heard two short Thompson SMG bursts to his left and that he went through Barrier 12 on foot with the rest of Guinness Force and chased rioter **C2047.2 paragraph 10**. This alone renders him an unreliable witness. He makes no mention of any army vehicles going through at all. He was recalled soon after running through Barrier 12.

[68] It may be recalled that the Tribunal, wrongly in our respectful submission, refused to allow Counsel to question him about **Observer B** who was also a UDA commander in the Monkstown area at exactly the same time as Soldier 203. It was intended to inquire of the witness the extent to Observer B was involved in orchestrating the use of lethal force against Catholics on behalf of that organisation, a

18.7.4.119 Corporal INQ2047 did not see where any of the other soldiers went or what they did. He did not hear the sound of any explosions and only heard SLR fire when he went back through the Barrier **C2047.2 paragraphs 12 to 13**.

Corporal INQ468

18.7.4.120 This witness made a statement to Eversheds and admits to having "a very, very limited" memory of events. He has a snapshot of a drainpipe shattering but cannot recollect a shot at all on Bloody Sunday that he would associate with either high or low velocity fire **C468.2 paragraph 14**. He does not mention seeing any gunmen or seeing or hearing any explosions or incoming fire.

Private INQ 24

18.7.4.121 This witness was a radio operator and gave evidence on **Day 302**. Private INQ24 saw the drainpipe shot and was deployed, it would appear, with Captain 200. He initially went to the burnt out vehicle on the waste ground and then followed the officer up to the northern gable end of Block1. He says that the Paras were "dodging about" as if they were under fire but he could not say for sure as he wore headphones **C24.2 paragraph 8**. He followed Captain 200 across Rossville Street and seems briefly to have followed him into the Columbcille Court area. Though he does not remember, it is also likely that he escorted Captain 200 into the Abbey Park area before returning back to the Rossville Flats.

18.7.4.122 Private INQ24 claims not to have seen or heard any Paras firing (as he was wearing headphones) on Bloody Sunday despite being in an area where a considerable amount of firing was taking place **C24.3 paragraph 16**. Similarly he failed to see the Mortar Platoon firing rubber bullets immediately on debussing and the large amount of

---

matter that obviously iinpinges on the credibility and reliability of the evidence that Observer B has

violence that they inflicted on the persons arrested in the waste ground, the rubber bullet being fired into one of the Mortar Platoon pigs and also the firing from Kells Walk that concerned his Commanding Officer, Captain 200 **Day 302/48/2 to Day 302/50/7**.

18.7.4.123 The witness could offer no explanation as to why he could hear human voices but yet not hear a single high velocity shot while he was in the Bogside during the entire operational period **Day 302/60/11 to Day 302/61/21**. In our respectful submission INQ24's claim that because he was wearing headphones he was unable to hear shooting is as demonstrably implausible as it is untrue.

Private INQ 391

18.7.4.124 This witness made a statement to Eversheds. He did not give oral evidence. He was the driver of Captain 200's soft skinned lorry and he stayed with the vehicle throughout **C391.2 paragraph 9**[69]. He has a vague recollection of the day. He does not refer to driving through Barrier 12 or into Rossville Street at all. He believes he heard a round fired from an Armalite that seemed to come from the direction of the Rossville Flats **C391.2 paragraphs 12 to 13**. The other Guinness Force driver, Private INQ 405, would have been with him at this point as they had a brief conversation about the shot that he heard. INQ 405 however could not remember this when asked by Counsel **Day 363/20/4 to Day 363/21/9**. It should also be pointed out that none of the witnesses from either wing of the IRA including the two Quarter Masters say that they had an Armalite rifle in their respective arsenals on Bloody Sunday. It should also be pointed out that none of the Intelligence documents indicate that the IRA in Derry had by that stage acquired this weaponry either.

---

submitted to the Inquiry **Day 382/52/20 to Day 382/54/19**.

[69] We know this as Private INQ 405 says that he was the driver of the second lorry and he can recollect INQ 391 being the driver of the other one. Bundle **C405.2**.

18.7.4.125 Private INQ 391 then heard what he assumed to be rubber bullets and then "an escalation of shooting" from his right followed by one or two small bombs (possibly nail bombs) exploding **C391.3 paragraph 18**. The witness can only recollect the gunfire as being SLR shots in contrast to the evidence of Private INQ 405 at **C405.2 paragraphs 10 to 14**. He saw arrested civilians being frogmarched but witnessed no brutality towards them.

Lance Corporal 229

18.7.4.126 This witness made a statement to the RMP and to Eversheds. He gave evidence to the Tribunal on **Day 341**. He was a controversial witness in relation to the evidence that he was now prepared to give in respect of Private L and also in relation to the serious allegations of ill treatment that have been made against him by a number of the persons who were arrested and brought to Fort George.

18.7.4.127 Upon debussing he noticed a youth run across Rossville Street into a derelict house. The youth, Joseph Lynn, can be seen on the ABC footage running on the waste ground **V/48/12.43 to 12.53**. He chased the youth inside and saw him in the rafters. 229 conceded in his oral evidence that he might well have simply chased Lynn because he thought he could catch him and not because he saw him do anything wrong **Day 341/33/8 to Day 341/33/13**. It should be noted that there is no reference in his RMP statement to the youth throwing stones or indulging in riotous behaviour **B2211.014**. 229 was unable to explain this omission during his oral evidence **Day 341/34/20 to Day 341/34/22**.

18.7.4.128 Private L soon joined him and fired one warning shot into the ceiling to get the youth, Joseph Lynn, to come down[70]. 229 was said that he was certain that Private L fired this one shot in his oral evidence **Day 341/36/10 to Day 341/36/14**; **Day 341/39/3 to Day 341/39/9**. 229

omitted the fact that Private L fired this shot in his RMP statement. He says in his Eversheds statement that he did not withhold this information to protect Private L but would have assumed that Private L would have disclosed the warning shot in his statement to the RMP. Even though he was a Lance Corporal and L was a Private soldier and L had fired in breach of the Yellow Card 229 he denied that he and L got together and agreed that neither of them should mention L's shot **Day 341/44/19 to Day 341/44/20**.

18.7.4.129 Lance Corporal 229 says that he must, at some stage, have gone into Glenfada Park North to arrest two other youths **Day 2211.005 paragraph 38**. These were Patrick McGinley and Dennis McLaughlin. His arrest forms record that both youths were throwing stones in Rossville Street and that they were arrested at 16.15. Both of the civilians deny that they were rioting in Rossville Street. There are two possibilities:

(i) Either 229 was in Glenfada Park North which case he should have seen a lot more than what appears in his evidence; or

(ii) He was not in Glenfada Park and he did not arrest McLaughlin and McGinley but signed an untrue statement and picked the prisoners out at random at Fort George.

18.7.4.130 During his oral evidence, 229 admitted that he might have been willing to perjure himself in order to secure a conviction for riotous behaviour in respect of Dennis McLaughlin:

> "Q. The people you had arrested were facing prosecution; were they not, for riotous behaviour; were they not?
> A. I believe so, yes.
> Q. If you had made a false statement, you could be

[70] Joseph Lynn **AL39** gave evidence on Day 193 and said that he was positive that the soldier who arrested him fired 2 rounds but that only one soldier was in the derelict building.

responsible for someone's wrongful conviction?

A. I think I did it in good faith, on what people had told me.

Q. Were you willing to go to Court and say you had seen Mr McLaughlin throwing stones?

A. In light of what we are saying now, I do not believe I could have done.

Q. Would you have done that in 1972?

A. ***I may well have done***." (Emphasis Added) **Day 341/54/20 to Day 341/55/7**

Colour Sergeant INQ 147

18.7.4.131 This witness provided a statement to Eversheds but has a very poor memory of the day. He did not give oral evidence. He is referred to in the statement of Captain 200 at **B2022.001 paragraph 6**. He remembers the shot at the Presbyterian Church. He believes that he entered the Bogside in a pig and can remember hearing firing and getting the impression that it was both civilian and military gunfire **C147.2 paragraph 10**.

18.7.4.132 He clearly remembers Major Loden, who was about 50 yards in front of him shouting "Aimed shots only!" at troops aiming at the Rossville Flats and thinking that Major Loden had good control of the troops. He has no recollection of any of the soldiers in his platoon firing a shot on the day **C147.2 paragraphs 11 to 14**.

18.7.4.133 The witness however does not explain why Major Loden had shout at his men to only fire aimed shots.

Members of Composite Platoon Call Sign 71 A Present at the Kells Walk Low Wall

Colour Sergeant 002

18.7.4.134 This witness provided statements to the RMP, the Treasury Solicitor and to Eversheds. For reasons that have not been explained he did not give oral evidence.

18.7.4.135 He was in command of Call Sign 71 Alpha who were deployed on the west side of Rossville Street and who appear to have travelled in the second soft skinned lorry of Guinness Force. In his RMP statement he lists the following men as being in his platoon: 014, 035, K, 039, 010, L and 032 though undoubtedly there were considerably more **B1363.008**. It should be noted that the handwritten version of the statement records that other members of the platoon as INQ25, INQ812, INQ816, INQ24, M, INQ748, INQ1515 and INQ451. **B1351.001**

18.7.4.136 He was a weapons training officer but does not believe that one can differentiate between the sounds of different types of weapons firing in built up areas **B1363.002**[71].

1972 Statements

18.7.4.137 Colour Sergeant 002 made two statements in 1972, one to the RMP and one to the Treasury Solicitor. Colour Sergeant 002 made his first statement on 2nd February 1972. Inasmuch as it relates to Sector 3 he states as follows:

i) That his force debussed from its soft skinned lorry along side 123 Rossville Street when there was still some CS gas in the area. He then heard shots from the area of Rossville Flats, "well to the front of Support Company". **B1353**

[71] **B1363.002**. He also gave a weapons demonstration to members of the Widgery Tribunal in 1972 that included SLRs, SMGs, pistols and rubber bullet guns but "we (the soldiers present) could not differentiate between then and neither could the members of the Inquiry who were there." **B1363.007**

ii) He saw members of Support Company take cover behind the wall adjacent to Kells Walk. He does not recall how many shots were fired. **B1354**

iii) He witnessed Support Company making arrests in the area between his position and the car park in front of the Rossville Flats. **B1354**

iv) His platoon then deployed in the position previously used by Support Company. Soldiers K, L and M moved alongside the flats on the western side of Rossville Street taking position at the four feet high wall at the southern end of Kells Walk. **B1354**

v) As he was moving up to join K he saw K fire one round at two males who were behind a pile of rubble about half way along Block1 of Rossville Flats. **B1354**

vi) When he joined K he saw a male dressed in dark jacket and trousers performing a leopard crawl towards the south end of Block 1 with a rifle in the crook of his elbow. Colour Sergeant 002 pointed this man out to Privates M and L and "told them to fire at him". **B1354**

vii) Both Privates L and M fired two rounds each and the man was hit. **B1354**

viii) A second man then crawled from behind the rubble. As he could not see any weapon and as civilians were standing inside the door of Block 1, Colour Sergeant 002 ordered M and L to cease fire, which they did. **B1354**

ix) The second man then started to drag the man who had been shot towards the door. About four men then came out of the flats and dragged both men inside **B1355**

18.7.4.138 It should be noted that in this statement Colour Sergeant 002 does not say that he saw the man that Sergeant K fired at claiming he was carrying a weapon. Nor does he say that there were petrol, nail or acid bombs exploding in Rossville Street or that there was automatic fire

coming from the Barricade. He does not explain what happened to the man's rifle.

18.7.4.139 Colour Sergeant 002's Treasury Solicitor statement is undated **B1361**. He largely rehearses what he says in his RMP statement. Both this witness' statements are exclusively aimed at providing false corroboration and justification for the actions of Sergeant K and Privates L and M.

18.7.4.140 Notwithstanding this, Colour Sergeant 002's evidence causes problems for Privates K and M who claim both to have fired at the rear man alleging that he had a weapon.

Eversheds Statement

18.7.4.141 In his statement to Eversheds he seems to have confused the sequence of certain events e.g. when his platoon took charge of prisoners and brought them back to Little James Street. Nonetheless the theme of this account remains broadly in line with his evidence in 1972, namely that the men under his command only employed lawful lethal force, that they were under threat and that they acted with restraint in the circumstances.

18.7.4.142 He recalls "stacks" of bricks being thrown at his men in Rossville Street but cannot remember incoming shots though he does recall soldiers taking cover as if they were under fire from the roof of Block 1 where he saw some men moving around. He does not recall any explosions, nail or acid bombs though Rossville Street was "absolutely littered" with debris.

18.7.4.143 He now has no memory of Sergeant K being present but he can recall the man in front performing a leopard crawl wearing a long black crombie style coat with a rifle, possibly a .303, in the crook of his arm. He ordered two soldiers who were positioned to his right to open fire at

the man[72]. From his 1972 evidence we know that this order was given to Privates L and M. Colour Sergeant 002 now thinks they fired one shot each and then he ordered them to cease fire as the man at the rear was unarmed. Whilst 002 is now able to say that the rifle was taken from the man who had been shot by a group of up to six men at the doorway, this does not appear to have been a memory that he had in 1972. **B1363.004 at paragraph 30**

18.7.4.144 This evidence is inconsistent with that of Soldiers K and M who both fired at the **rear** man claiming that he had a weapon. Presumably Colour Sergeant 002 was sufficiently alive to this discrepancy by the time he prepared his Eversheds statement. This may account for the change that he has introduced to his recent evidence in respect of the second man that he saw. In relation to the second man he *now* says that he was *standing up* and *walking* (not crawling) towards the entrance to Block1 and the reason that this man was not fired upon was because he had no gun. **B1363.005 at paragraph 33**

Justification for opening fire

18.7.4.145 **002** has been clear throughout his evidence both in 1972 and to Eversheds that he instructed two of his soldiers to open fire on a man who was crawling away from them with his back to the troops. He is at pains to point out that Composite platoon did not fire indiscriminately, that he was familiar with the terms of the Yellow Card and that the firing by his men was within its terms. **B1363.004 at paragraph 31** He also stresses that the men at the wall at Kells Walk were "frightened" and that "we were the guys being attacked" but there is no evidence to suggest that this is so. **B1363.004 at paragraph 32**

18.7.4.146 As Colour Sergeant in command of one half of Guinness Force it would have been this witness' job to carry out an ammunition check

[72] Colour Sergeant 002 justifies this shooting at **B1363.004**. He says that this shooting was within the terms of the Yellow Card and was under his direction. He says that the soldiers in the area were frightened and "we were the guys being attacked".

shortly after the incident that would have involved his men making a declaration in respect of rounds fired along with the reasons why. In his Treasury statement he says that this check happened. Private L would have been one of the soldiers involved in this. We now know that Private L fired at least one shot in contravention of the Yellow Card in the course of making an arrest and then covered this up in his RMP, Treasury solicitor and Widgery evidence. However it seems likely that Colour Sergeant 002 would have known this as a report of this incident was made to Captain 200/SA8 and Colour Sergeant 002 would have been the obvious person to have informed the Captain. This incident was referred to in Captain 200/SA8's RMP statement but nowhere else in his 1972 evidence.

18.7.4.147 002 says that he does not believe that any of his platoon would have fired a rubber bullet on the day **1363.005**. However see the passage (below) in relation to Corporal 039 and the circumstances in which he discharged a baton round in an area very close to the Colour Sergeant.

18.7.4.148 This witness believes that "one of the worst things that happened with the British Army was using rubber bullets in Northern Ireland. If live rounds had been used when we very first deployed in 1969 there would have been no rioting" **B1363.004 paragraph 32**. It is submitted that is a telling remark that provides an insight into the mindset of not only this witness but also the attitude of the 1Para senior NCOs. It should be noted that he is referring specifically to the use of live ammunition in the context of riots in contradistinction to gunmen. It chimes with the type of sentiment expressed in Colonel Dalzell-Payne's paper describing "disperse or we fire" crowd control tactics that were employed by the British army in the colonies. That this witness apparently still holds these views 30 years after Bloody Sunday is evidence of an utterly entrenched unapologetic and blasé attitude towards the unlawful use of lethal force against unarmed civilians in Northern Ireland.

18.7.4.149 Colour Sergeant 002 has provided, in concert with the soldiers under his command (whose evidence is considered in detail below), a false exculpatory account about the circumstances in which three members of Guinness Force opened fire on Kevin McElhinney as he was crawling for his life from the Rubble Barricade towards the perceived safety of the doorway of Block1 Rossville Flats. By providing the authority under which Soldiers L and M to open fire he is almost certainly attempting to comply with a shared and misconceived interpretation of the Yellow Card. This of course provides the explanation why both L amd M are happy to claim that they struck both their targets, notwithstanding strong inferences to the contrary.

18.7.4.150 In all likelihood, Sergeant K shot Kevin McElhinney and this aspect of the evidence as provided by 002, L and M is intended to prevent a truthful account of this incident emerging.

18.7.4.151 It is to be regretted that the opportunity to question this witness in respect of the above matters has been denied. The importance of his role within the overall scope of events on Bloody Sunday cannot be overemphasised. Questions in respect of his standards of leadership, his accuracy of recall, his integrity and his willingness to provide the justification within which the rules governing the discharge of weapons would in our respectful submission have provided invaluable assistance to the Tribunal. Is it coincidence that Colour Sergeant 002 also avoided giving oral evidence to Lord Widgery notwithstanding, then as in now he has supplied a detailed and inconsistent account of his role and the role of others that day. The differences between the various accounts as between himself and the other relevant members of Composite Platoon are self-evident and well known to the Inquiry, the important issue is why these matters have arisen and the lingering uncertainty which this witness' absence creates.

18.7.4.152 That absence enables any reasonable Inquiry to draw the following inferences:

i) In 1972, the witness was then and remains to day a willing participant in a conspiracy to conceal the precise circumstances in which soldiers unlawfully discharged their weapons.

ii) The evidence supplied by 002 demonstrates above all others the pertinacious nature of strategy which perversely places the actions of 1Para above the twin virtues of truth and repentance.

iii) The collective nature of this approach is almost certainly motivated by the belief that he and others were at the material time engaged in a war with both the victims and their supporters. To acknowledge a mistake 30 years later would amount to handing a moral victory to the Families. It is better to relive a vainglorious lie than live with the shame of an event that attracts universal condemnation.

Sergeant K

18.7.4.153 Sergeant K gave oral evidence to the Tribunal on **Day 364 to Day 365**. It may be recalled that in his oral evidence the witness claimed that he was unhappy with certain parts of his Eversheds statement. Some of the matters that he expressed his unhappiness with related to very important aspects of his evidence. The witness was unable to give an explanation as to why he would have signed his Eversheds statement if it portions of it were inaccurate. **Day 364/125/3 to Day 364/129/17**.

18.7.4.154 When initially examined by Counsel for Madden & Finucane, the witness initially claimed not to remember how many drafts were prepared of his evidence or whether or not he had a solicitor advising him when he was preparing his statement for this Inquiry. **Day 364/173/9 to Day 364/174/23** Counsel to the Tribunal informed Madden & Finucane that the witness was in fact represented when he attended with Eversheds.

18.7.4.155 Sergeant K described himself as a "Battallion marksman" and "a member of the Battallion shooting team" (**Day 364/134/15**). Other descriptions confirmed that he had won awards at Bisley. Colour Sergeant 002 recalls that Sergeant K was a "Bisley championship shot" **B1363.006 paragraph 53**

18.7.4.156 Also in his evidence K defined his role on the day as a bodyguard to the platoon commander (Colour Sergeant 002). If this is so it is unclear why was he at the low wall at Kells Walk prior to the arrival of Colour Sergeant 002. **B1354, B1361**

18.7.4.157 K recalled that as he debussed from his lorry people were "milling around and throwing stones. The nearest stone thrower was approximately 200 metres away." **Day 364/141/19**

18.7.4.158 Unlike Colour Sergeant 002 this witness managed to identify SLR weapons being discharged although he was not in a position to say what the firers were shooting at. The witness further confirmed that the only weapons that he could distinguish were SLR weapons. **Day 364/142/18** However the witness was unable to assist or otherwise identify which members of Support Company were otherwise involved in firing.

18.7.4.159 Sergeant K makes no mention of coming under fire in any of his statements as the convoy made their way into Rossville Street or after the platoon debussed. He neither saw nor heard any explosions, nail bombs or petrol bombs.

1972 evidence

Events at the Low Wall

18.7.4.160 It will be recalled that in his RMP statement Sergeant K stated that as he advanced along Rossville Street he saw members of Support Company at the north east corner of Columbcille Court fire one or two shots towards "the flats area" **B290**. The witness at no time refers to

coming under intense fire during the course of this advance and, indeed, during the course of his oral evidence he confirmed that they did not come under fire at this point.

18.7.4.161 K provides a very brief description of two men crawling from behind the Rubble Barricade on Rossville Street. In his RMP statement he states as follows:

> "I saw the rear man who was crawling appear to have a weapon in his hands. I cocked my weapon and fired 1x7.62 round aimed shot at him. I didn't observe a strike. L and M of my unit also fired at this gunman. ***I didn't observe the rounds they fired strike***. The gunman disappeared into the flats. I fired no further rounds during this incident. I think that I may have hit the gunman when I fired at him."(emphasis added) **B290 to B291**

18.7.4.162 Later in his Treasury Solicitor statement made on 5th March 1972 the witness relates the following:

i) Soldiers L and M fired "almost simultaneously" with K. **B298**

ii) K goes on to say:

"By this time the first man had reached the doors of the flats and had been pulled in by people and the second man eventually got level with the door and several people came to the doorway and I saw them pull him in." **B298**

iii) K demonstrates a lack of comparative confidence in respect of whether his bullet struck the second man in his Treasury Solicitor statement:

"We saw two men doing a leopard crawl and I could see the rear man was carrying what I could clearly see was a rifle. I then cocked my rifle and fired one round at this man. I could not see this man too clearly except to say that he was wearing a dark suit. It is difficult to say whether in fact I hit the man." **B298**

18.7.4.163 Significantly, K's justification for firing has been strengthened but his confidence in respect of the outcome has been diminished. In our submission, the reason for this is that Sergeant K is not anxious to claim a hit that can be identified with any of the deceased or wounded when he knows perfectly well that the shot he fired in all probability was responsible for killing Kevin McElhinney.

18.7.4.164 In his evidence before this Tribunal Sergeant K, when being questioned by Counsel to the Tribunal, expressed confidence that he had hit the man at whom he was aiming:

> "Q. How confident are you that you hit the man at whom you were aiming?
> A. Because he appeared to lurch.
> Q. Should we understand from that that you are pretty confident that you did hit the man at whom you were aiming?
> A. Yes." **Day 364/163/3 to Day 364/163/9**

18.7.4.165 Sergeant K said that at all times he believed that his actions were within the terms of the Yellow Card but it will be recalled that the Yellow Card carried no legal weight and was purely for the guidance of the troops on the streets.

18.7.4.166 In order to provide enhanced justification for this shot K, during the course of this evidence before Widgery, testified that the second man was carrying a .303 rifle. Mr Hill BL, on behalf of the Families, asked the following:

> "Q. How much of the butt of the rifle do you think you saw?
> A good two thirds, sir.
> Q. Would that be 10"?
> Possibly a little bit more, sir.
> Q. Perhaps a foot?
> One cannot say the exact length.

Q. You fired as a result of seeing something which looked like ten or twelve inches of the butt of a rifle?

Yes.

Q And 150 metres away. Are you still sure that it was a rifle?

Yes, sir." **B308 A-B**

18.7.4.167 In his Eversheds statement for this Inquiry it will be recalled that the witness stated as follows:

"When he reached the doorway someone from within the crowd of people picked up the rifle and took it off him. It was then that I could see the whole length of the rifle through my telescopic sight. It was a No4 Lee Enfield rifle, known as the old .303. A .303 rifle is nearly 3 foot long and weighs approximately 14lbs. It has a wooden handguard and butt." **B311.008 paragraph 21**

18.7.4.168 It is unclear exactly how the witness was able to introduce this degree of specificity and tell this Tribunal that the alleged weapon was a **No4 Lee Enfield**[73] when he apparently was unable to provide this detail to the RMP or Lord Widgery.

18.7.4.169 The witness was further questioned about these matters. He agreed that he misled Widgery and this Tribunal when he claimed that the weapon was less than 3 feet in length when in fact it is 44.5inches long:

"Q. Can we look at paragraph 45, 311.013, please:
"I am asked at page 86 as to the basis of my belief that the weapon I saw the man carrying was a .303 rifle. My recollection now is that I am able to say that it was a .303 because I saw the rifle being carried into the Rossville Flats through my telescopic sight. I am asked at page 87 that although it is only the butt of the

[73] As opposed to e.g. a Lee Enfield Mark III or a Lee Enfield No 5 Mk1

rifle that I see before I fire, whether it could have been some other type of object. I was sure then, as I am sure now, that it was a rifle."

Do you understand?

A. Yes, I do.

Q. You are telling this Tribunal that you saw the entire length of that rifle in that paragraph being carried into the flats; is that not right?

A. Yes.

Q. In order to support, if we go to paragraph 21 of your statement, please, in order to support this account you give some technical information about the Lee Enfield mark 4 rifle; is that not right?

A. Yes, I do.

Q. This was a favoured weapon among marksmen and snipers, although I use the words interchangeably; is that not right?

A. Yes.

Q. You say there:

"The .303 is nearly three feet long and weighs approximately 14lbs"; is that not right?

A. Yes.

Q. I am going to suggest to you that the youth you hit this day, the boy you hit this day, approximately five-foot eight in height; he was of medium build and he has about a 38-inch chest, he certainly wore a 38-inch jacket; he had a light frame. I do not want to draw up the morgue photographs to illustrate this, but I do not think I am describing him in a misleading way; do you understand?

A. Yes.

Q. The point is this: that information is as misleading as the other evidence that you have supplied this Tribunal with, in this sense: the mark 4, .303 Lee Enfield rifle is actually 44.5 inches long, almost four feet, the size

of a good golf driver; do you understand?

A. Yes.

Q.And it weighs less than ten. You see, the reason you have mislead this Tribunal about a weapon that you would have had intimate familiarity with, is this: you in earlier evidence said you could not see the muzzle; do you remember that?

A. Yes.

Q. And in order to convince this Tribunal of the fact that a muzzle would not be visible, you had to reduce that weapon in size; did you not?

A. No.

Q. You reduced it to less than three feet, even though you would be aware as an experienced marksman that the .303 mark 4 is actually 44.5 inches long. This is information that could be independently checked by the Tribunal and I have no doubt if I was misleading you in any way, your counsel would be on his feet objecting furiously, so I want to be clear about this: this is a weapon which you have agreed you would have intimate familiarity with, 14 years at the time of this event; is that not right?

A. Yes.

Q. You would have fired it yourself; probably used it against human beings; would have been familiar with its workings, its accuracy, the type of sights you use, the type of ammunition you put in it; you would have known it inside out, you could have stripped it blindfolded. Why, then, did you attempt to represent it as something that was less than three feet?

A. I do not know.

Q. I am going to suggest to you again that this is an example of your cunning, you have a predisposition to be cunning, you see, just as most snipers do, concealing

themselves, hiding facts, distortion, this is just another example of the cunning method that you employ to subtly wriggle out of a shot that you took that day and with hindsight are ashamed to admit to; do you understand?

A. Yes.

Q. Because you know a youth of a slight frame cradling a weapon with 10 inches of his butt showing; do you understand?

Q. Yes.

Q. The muzzle would have to show across the 38-inch-chested youth or a youth as lightly made up as Kevin McElhinney was; do you understand?

A. Yes.

Q. What was the next thing you did after you made that shot? And I am going to tell you what that shot was and I want you to be clear about the allegation I am making against you. This is what I would call an exhibition shot; do you know what I mean about that?

A. Yes, I do.

Q. This was a shot taken by you that demonstrated your ability as a marksman and your willingness to take human life, the life of a young boy and in the sober light of a civilised human examination of those facts, you have cunningly wriggled your way round it, the history of it and wriggled in the account you have given in relation to it; do you understand?

A. Yes." **Day 365/8/13 to Day 365/12/15**

18.7.4.170 This lie became the fundamental basis for the taking of an innocent life. The added detail, which was intended to provide ever-increasing justification for the shot ironically, supplied the flaw, which ultimately exposed the inherently fabricated nature of the entire account. In case the point is completely lost, it would be impossible in the

circumstances described by K to see 10-12 inches of rifle butt without seeing the muzzle unless the weapon was of a nature very much smaller in size than a .303 rifle.

18.7.4.171 Another example of this witness' propensity to misled when it is convenient for him to do so concerns the inconsistent means by which his target was originally viewed. During his evidence before Widgery, Mr Hill BL asked the following:

> "Q. Do you still say that you believe that it was a .303 rifle?
> A. I do, sir.
> Q. Simply from a recollection of a butt?
> A. Yes, sir.
> Q. At over 150 metres away?
> One forgets that the sniper scope has a slight magnification on it as well.
> Q. Slight, though, is that correct?
> A. Yes.
> Q. The main point of that instrument is to have the "X" – is there a cross mark?
> A. No sir, it is a pointer." **B307 F - G**

18.7.4.172 Three points arise:

i) Why did K not say that he saw the full rifle as alleged above in his Eversheds statement? **B311.008 paragraph 21**

ii) Why at in his Eversheds statement **B311.007 paragraph 17** does K recall looking through a "cross wire" sight when he explicitly denied this to Mr Hill?

iii) If the witness is to be believed that the sight had a 2 ½ times' magnification then he would have been better placed that any of his colleagues to see that Kevin McElhinney was unarmed and crawling for his life. **B311.007 paragraph 17**

18.7.4.173 In our submission ultimately the Tribunal needs to ask itself:

i) What really compelled an expert marksman and Paratrooper of 14 years' experience to fire in circumstances that were without legal or moral justification?

ii) The real answer for this question can only be supplied by K but sadly that has not been forthcoming. An explanation is at best supplied by the objective evidence of the events that were occurring when K opened fire. Evidence suggests that of the 4 shots fired by L and M all missed. Indeed K himself in his original RMP statement confirms this fact. Civilian evidence also confirms that bullets were striking the pavement area around Kevin McElhinney, rather than Kevin McElhinney himself.

iii) The compelling indications are that K fired what he knew and understood to be "an exhibition shot" **Day 365/12/2**. The angle of entry and the position of the entry wound itself render it almost certain that the only person capable of making a shot of that quality, in those circumstances and with that accuracy was an individual with marksmanship capabilities and status. This proposition is evidenced further by the exchange with Counsel for the Families:

"Q. What was the first thing you did when you took that shot in what allegedly by you was a combat scenario?
A. Once I had taken the shot I would have fired at a man who was carrying a rifle, I continued to look through my sight.
Q. Did you? Can we look at letter E, B304 of your Widgery

testimony, please. I want to read from letters E to F, if I can:

"Question: You think you all three saw them on your own accord?

"Answer: Yes, sir.

"Question: What happened when you fired at the second man?

"Answer: I may have hit him, I do not know because after that I just fired the one shot and I applied the safety catch."

That is an interesting thing to do after you have made a kill; why apply the safety catch in a combat situation?

A. I do not know.

Q. Because you knew when you made that shot, you killed a youth and you also knew you had killed him in circumstances where there was absolutely no need to have, in your words "one up the spout" and ready to go again; is that not right?

A. No, it is not.

Q. You, within the limit of your training, brought that weapon back; you made your exhibition shot, dead simple for you, you have already a flat line trajectory for a busy champion, piece of cake, even 035 said for ordinary infantry men it was a piece of cake, for you, you could have made that shot in your sleep. You took that weapon back and you applied the safety in circumstances where you are alleging your life and the lives of others were under risk. This is a .303, mark 4, getting trailed through a doorway into a block of flats where you know, as a trained sniper, you know there is a continued risk in existence, but yet you in that situation apply your safety. That is a nonsense, that flies in the face of every combat soldier's

behaviour in an alleged combat situation. You know that.

Your discipline returned to you at that point in time, because you saw, just as other civilians have given evidence here, you saw the rounds bounce round that kid as he crawled, he crawled away from the dying and the dead behind that barricade because he did not want to join them; do you understand?

A. Yes, I do.

Q. He crawled, fighting for his life, a young boy; he worked in Liptons, stacking shelves, a 17-year old, stacking shelves in Lipton's supermarket, a citizen entitled to the same rights and protection. Your duty was to protect that kid, not use him as target practice; do you understand?

A. Yes, I do.

Q. And you knew in that instant that the patience and the skill that you had learnt had deserted you by making that shot and that is why you applied the safety catch; is it not?

A. No, it is not." **Day 365/12/16 to Day 365/15/1**

18.7.4.174 It is contended that by the hardened and aggressive standards of the Parachute Regiment, if Kevin McElhinney had escaped to safety from the Barricade it would have made a mockery of the shooting abilities of the Composite Platoon members present at the Kells Walk low wall.

18.7.4.175 It is respectfully submitted that the following observations summarise Sergeant K's activities on Bloody Sunday:

i) At no time during the day whilst he was deployed in the Bogside did K experience incoming or enemy fire. **Day 364/182/2 to Day 364/182/25** **Day 364/185/6 to Day 364/185/21**

ii) K was a highly trained and skilled professional who prior to his arrival in the Bogside had properly zeroed his weapon over the distance of anticipated use. **Day 364/178/9 to Day 364/9/24**. Before discharging the weapon he nursed his target for a period approaching 30 seconds. **Day 364/179/10 to Day 364/179/18**. He fired one shot that almost certainly struck and fatally wounded Kevin McElhinney.

iii) The witness confirmed both in 1972 and before the present Tribunal that he did not observe the rounds fired by Soldiers L and M strike their target. Interestingly he also had no recollection of any orders being given to fire. **Day 364/159/8 to Day 364/159/14**

iv) Sergeant K agreed that the central location of the entrance wound placed it in the category of "an exhibition shot". It is submitted that only he would have been qualified to strike his target with this level of precision. **Day 365/12/2 to Day 365/12/15**

v) Immediately after striking his target K adjusted his rifle to a position of safety. **Day 365/13/2 to Day 365/13/10**

vi) This would have been a highly unlikely act for an experienced soldier (14 years), during a combat situation or in circumstances where there was an immediate or future risk to him or his colleagues.

vii) Sergeant K was familiar with the likely attack positions that experienced gunmen or bombers would have taken up within the buildings and alleyways surrounding the Rossville Street area. **Day 364/181/9 to Day 364/181/25**

viii) Despite his skills and training in observation, Sergeant K confirmed that he saw no gunmen or bombers other than Kevin McElhinney. In fact the only weapons which K heard being fired that day were SLRs. **Day 364/142/14 to Day 364/142/24**

ix) Sergeant K's demeanour identified an individual who was quiet and resolute. However his standards of honesty still fell

short of a public expression of contrition or allowing for the possibility of a mistake. In short, his evidence was consistent with the obdurate attitude shared by all military witnesses. This approach appears to be dictated by the view that any concession by military witnesses would amount to an admission of wrongdoing.

Private L

18.7.4.176 The easy option would be to dismiss the entirety of Private L's evidence as unreliable and unworthy of belief. Such an approach, of course, would only serve to ignore the assistance of which L provides in understanding the mindset of the soldiers who entered Rossville Street, their understanding of their task and the manner in which they set about completing it.

18.7.4.177 At the outset of his evidence before the Inquiry the witness confirmed that his principal role on the day was to "eradicate the IRA's hold on Londonderry". **B343 at paragraph 13** In his oral evidence he goes on to explain that this was the sole of objective of the operation, as described by Colonel Wilford and Captain 200. **Day 381/4/9 to Day 381/5/22**

18.7.4.178 The confusion in the minds of ordinary troops on the ground is further indicated by an alleged belief that anyone who saw Bernadette Devlin should shoot her on sight. **B344 paragraph 16**

18.7.4.179 When asked about this matter by Counsel to the Tribunal Miss McGahy, Private L said the following:

> "MS McGAHEY: Later in your statement you say:
> "There was an order to shoot Ms Devlin."
> Was there an order to shoot her?
> A. It would not have gone amiss, um -- it would not have

been, um, a problem. It would have been part of our daily work to, um, eliminate terrorists.

Q. It would have been part of your daily work to eliminate Ms Devlin, whatever she was doing?

A. To eliminate terrorists, that is it.

Q. My question was: was there an order to shoot Ms Devlin?

A. Yes, through that battalion, yes, there was.

Q. Who gave that order?

A. No-one gave the order in particular, okay. See, the Parachute Regiment is a very, um, well-disciplined, well-trained -- we are trained even up to two men to be able to conduct ourselves in the field of battle and it is up to two men, what is its name -- can make their own decisions when they are in the field of battle. Um, you know, so it was down to any pairing or two men, four men, six men, eight men we work in and it was up to any of them, in those groupings, to carry out what he saw fit; we was trained enough to be reliable enough to take a proper decision at the time.

Q. Would that include a decision to shoot Ms Devlin on sight?

A. Any terrorist.

Q. And you took Ms Devlin to be a terrorist?

A. Yes." **Day 381/9/12 to Day 381/10/13**

18.7.4.180 Arguably this witness more than any other typifies the military attitude and approach to the events of this day *viz* that the concept of any individual or collective wrongdoing is not just unlikely but utterly unthinkable.

18.7.4.181 In relation to Private L's description of the events of the day, his evidence does not become any less controversial.

Private L's shot (or shots) into the rafters

18.7.4.182 In his initial account as provided to the RMP at 2.25am on 31st January 1972 Private L describes the event in the following way:

i) "We made our way down Rossville Street and we were under fire from the bottom end of the road. At one stage I was in one of the derelict houses at the side of the road when I heard some movement and I saw a man climbing along the ***rooftops***" (emphasis added). **B312**

ii) "I arrested the man at gunpoint and took him back to the Bn arrest team where he was processed". **B312**

18.7.4.183 In his Treasury Solicitor statement made on 5th March 1972 the witness alleges that he and another soldier took cover inside the building and while they were there they heard a noise in the rafters. Both shouted to the individual to come down. The civilian then stood up, told the soldiers that he was unable to come down and by way of persuasion, Private L cocked his weapon and the man immediately responded by jumping to the ground. **B320**

18.7.4.184 In the course of his evidence before Lord Widgery the witness provided an account which for the most part complies with the above, save that he states that he made two requests of the individual to come down before cocking his weapon. **B326 at A**

18.7.4.185 In his Eversheds statement at Private L alleged that he pursued "***a number*** of rioters into the building" (emphasis added). The witness goes on to say that one of these rioters was located by him in the rafters. In his own words he ordered him to "get the fuck down". The civilian replied that he could not and Private L told him that he "had better" and at this point the individual jumped down. **B345 paragraphs 25 to 27**

18.7.4.186 Significantly the witness has not only supplied two conflicting accounts in respect of the one incident but he has further deliberately

attempted to minimise the level of aggression demonstrated in the earlier accounts, viz, cocking the weapon. An explanation for adopting this approach is almost certainly to be found in the fact that the other soldier who was present, namely Lance Corporal 229 identifies Private L as having discharged one high velocity shot into in the general direction of the civilian (who was Joseph Lynn) in the rafters. It may be recalled that Mr Lynn was emphatic in his evidence to the Inquiry that two shots were in fact discharged by Private L **Day 193/13/14 to Day 193/13/16**. When Lance Corporal 229 was asked about this matter in his evidence, Counsel to the Tribunal Miss McGahy addressed the matter by putting Private L's evidence to Lance Corporal 229:

> "I have a vague recollection of another soldier being in the area of the doorway, but this is only the vaguest recollection and I do not remember who this might have been. Any soldier who says I fired in this derelict building is mistaken."
> Could you be mistaken?
> A. I am not mistaken.
> Q. The man who was in the building, a man called Joseph Lynn, has given a statement to the Inquiry and he has also given oral evidence. He confirms your recollection that a soldier fired, although his recollection is that the soldier fired two shots. Might Soldier L have fired two shots?
> A. One shot.
> Q. And you are certain about that?
> A. Certain." **Day 341/39/3 to Day 341/39/18**

18.7.4.187 Lance Corporal 229 further confirmed that Private L, at the material time was hyped up, had the appearance of someone who was very frightened and by nature was "very excitable". **Day 341/40/1 to Day 341/40/10**

When these matters were put to Private L in the course of his evidence he denied the allegation and referred in his evidence to the Yellow Card and that it did not permit firing shots into the air and further that when he would open fire that he would shoot to kill. **Day 341/29/4 to Day 341/29/12**

18.7.4.188 By of concluding this point the witness was also reminded that a record had been made by Captain 200 in his RMP statement dated 5th February 1972 as follows:

> "Soldier L: 1 x 7.62 in rafters of ruin at possible sniper in roof --deliberate miss after two warnings to come down. Man jumped down from roof (15 feet) and was arrested. Roof not searched for weapons." **B1983**

> Captain 200 further recorded:
> "I am absolutely satisfied that none of my soldiers fired 7.62 rounds before being subjected to enemy fire. All rounds fired, except for one by L in the ruin, were controlled by senior NCOs and directed at gunmen, either in the Rossville Flats or behind the barricade." **B1983**

18.7.4.189 In our submission the inescapable inference that the Tribunal should draw from this evidence is that:

i) Private L did fire at least one round in the derelict building in clear breach of the Yellow Card;

ii) It was well known within Composite Platoon that he had done so;

iii) It must have been known to Private L's superiors that he was lying to the RMP, Treasury Solicitor and Lord Widgery that L was providing untruthful evidence in order to cover up the circumstances in which he did fire on Bloody Sunday and nothing was done about it.

18.7.4.190 Another peculiar feature of this witness' evidence concerns Private's L reference to INQ1671 and his description of the shot fired by him at the gunman who was simultaneously struggling to remove a revolver from his waistband. The incident is set out in some detail in Private L's statement at **B346.1 paragraph 30**. We do not propose to examine this in any detail but rather to highlight the point that was made by Counsel to the Inquiry, namely, that the witness never recounted this dramatic and apparently memorable event to the RMP, Treasury Solicitor or the Widgery Tribunal.

18.7.4.191 When initially pressed as to why it was not mentioned to the RMP the witness apologised and said that he did not know. **Day 381/42/20** When pressed further the witness replied that he was told to leave certain things out which did not "pertain" to him. When reminded that during the course of his evidence to Lord Widgery that he provided he had provided evidence concerning the activities of other soldiers, (his colleagues who fired at the alleged leopard crawlers) Private L expressed himself in the following terms:

> "Q. In that case, why not report to Lord Widgery the killing that you had witnessed?
> A. Um, because, again, it was not in my statement. I only refer to which is mine. It is like this statement, I am only referring to pieces that is in this statement.
> There is many things in this statement that is left out as well, but I am not supposed to mention it, or you would not like to hear it, anyhow. If you really want to deal with the truth, you know what I mean, um.
> I could explain several things like, you know, but you would not like to hear that.
> Q. Soldier L, are you suggesting that you have relevant evidence to give about the events of Bloody Sunday that you have been asked not to give?

A. Yes, because it is nothing to do with me.
Q. Was it the solicitors for the Inquiry who took your statement who told you not to give those accounts?
A. There are certain things, yes, they told me, nothing to do with me, yes, keep out of it. Do not get myself involved, just stick to the facts of what I know, what I can remember, and that.
Q. Do you have anything in particular in mind which you think relevant that you were told not to tell the Inquiry?
A. I think there is many things relevant. Again, I must stick to the facts. It is nothing to do with me, that is somebody else's.
Q. Did you witness anything taking place on Bloody Sunday that you have been asked by anyone not to reveal?
A. You would need another two years on this Inquiry if I told you that. (Laughing). I know you want to wrap it up at the end of this month, you know, so. Sorry.
Q. What is it that you saw that you have not told the Inquiry?
A. There is all different things. The whole day was a cacophony of all sorts of different things happening." **Day 381/44/4 to Day 381/45/15**

18.7.4.192 In our submission there are certain conclusions that should be drawn from this evidence. Whilst it might be convenient for the Tribunal to dismiss L's evidence as untrustworthy and unreliable, certain aspects of his evidence add weight to the reasonable suspicion that all soldiers understood they should tailor their evidence in a manner designed to create and preserve a fabricated matrix of events devoid of controversy or culpability.

18.7.4.193 This witness supplies further evidence which when taken at its height presents a highly disturbing image of Soldier H completely out of

control, discharging an estimated full magazine into the prone body of a civilian in the middle of Rossville Street, **B345.1 paragraphs 33 to 35**. The incident may well serve to highlight a confused and highly inaccurate recollection, although it has echoes of evidence which may have some basis in fact, tenuous though it may be. For example, the Tribunal has heard evidence that Soldier H discharged more than a full magazine of ammunition in highly controversial circumstances, which have never been adequately explained. The Tribunal is aware that an allegation concerning the shooting of at least one of deceased on the ground has yet to be determined, while L's evidence may be visually confused, his memory is more than likely to have been adversely influenced by conversation, subsequent experience and his own colourful imagination.

Events at the low wall at Kells Walk

18.7.4.194 The most controversial incident involving this witness occurred shortly after his arrival behind a low wall at Kells Walk. In his initial statement to the RMP the witness described the event in the following way:

i) "I could see two figures lying on the ground behind the barricade. As I watched, the two men started to leopard crawl away from the barricades (sic) and they appeared to be cradling rifles in their arms. At that point 002 told us to fire at the two men and I aimed my rifle at one and fired. I am sure I hit the man that I aimed at, but after lurching, he continued crawling along with the other man. As the man was making for a doorway I again fired at him a single shot and again I think I hit him." **B312, B313**

ii) However, in the meantime, the second man, who had been fired on by other members of my force, had gained the shelter of the doorway and he pulled the first man into the doorway with him. A few seconds later, a shot was fired from the doorway into which the two men had vanished." **B313**

iii) The witness then goes on to relate that immediately following the event, he and his colleagues were ordered to withdraw. He

expresses the opinion that his second shot man well have struck ***both men***. He describes the first man as wearing a light grey suit and having fair hair. He describes the second man as wearing a dark blue suit. **B313**

18.7.4.195 On 5th March 1972 Private L made a statement to the Treasury Solicitor and described the same incident in the following way:

i) manner consistent with having been struck. **B320** His initial observation at the barricade now involved only one man acting suspiciously, ("the man was lying down behind the barricade"). **B320**

ii) The witness then brings this person's presence to the attention of the Colour Sergeant 002. At this time the man had begun "creeping" along the side of the flats. **B320**

iii) Private L believed that the man had a rifle cradled in his arms but he could not say what type of rifle it was. **B320**

iv) Colour Sergeant 002 ordered him to fire. **B320**

v) Private L discharged one round and the man lurched over in a

vi) At this point a second man left the vicinity of the barricade and very soon began pulling the wounded man along with him. A second member of Private L's platoon then shot the first man again but both men carried on moving. **B320**

vii) Private L then ***shot the first man for a third time*** but he believed that his bullet may have struck both men. **B320**

viii) It was at this point that Private L could see the second man cradling the rifle which had originally been in the possession of the first. The second man then dragged the body into the doorway of the flats. **B320**

18.7.4.196 Private L subsequently gave oral evidence to Lord Widgery in the following terms:

i) The witness confirmed that he could see the rifle and that when this happened it was he who pointed it out to the Colour Sergeant 002 who in turn ordered him to fire. **B327 D to E**

ii) He further stated he saw the man "jump" in a manner consistent with a strike.

iii) He then confirmed that "several, or one other soldiers fired at the man as well"

iv) Private L believed that this shot and a second shot fired by him struck the first man. At this point the witness said that he also saw the second man lurch up against the wall about the same time as the other man fell away. At this point he saw the rifle against the second man's chest. He stated that the rifle was either a carbine or an armalite. **B329 A**

v) Both men entered the safety of the doorway and within moments a man re-appeared and fired two to three rounds in their general direction. **B329 A to C**

vi) The witness confirmed that altogether three shots were fired in a matter of seconds. **B335 at G**

vii) Private L further confirmed that Colonel Wilford was present. **B327 at F**

18.7.4.197 In his evidence before the present Tribunal the witness initially alleged that both men were armed with either carbines, Kalashnikovs or .303s but later admitted that he was simply guessing because the .303 rifle was a common weapon used by the IRA in 1972. **Day 381/79/22 to Day 381/80/23**. Significantly when giving evidence before Widgery he stated that the weapon "definitely was not a .303". **B329 at A**

18.7.4.198 He now maintains that both men were cradling rifles across their arms as they crawled "professionally" to the door of Block1. Private L now says that he fired two shots at the second man first and that the first man, who was furthest away, then picked up the wounded man's rifle. This meant that the first man moved towards the door with two rifles and he fired at him causing him to smash through the glass at the door

on Block1. **B346.3 paragraphs 41 to 44**. As Counsel to the Tribunal pointed out, the door at Block1 had no glass. **P662** The witness then conceded that point. **Day 381/93/21 to Day 381/93/25**

18.7.4.199 It is submitted that this evidence is even more implausible and misleading than the evidence Private L gave in 1972. It is worth remembering that Private L admitted to having nightmares that were more real to him than what happened on the day. **Day 381/140/7 to Day 381/140/15**

Private L's last target

18.7.4.200 Private L concluded his RMP statement by saying that as they withdrew along Rossville Street he and his colleagues were fired upon from a derelict building. According to Private L he returned two rounds at this gunman. **B314** The witness however did not mark the position of this gunman on the trajectory map appended to his RMP statement. **B315** It is submitted that this is simply another example of Private's willingness to invent an incident which did not occur in order to explain the unlawful discharge of his weapon. The alleged incident is significantly undermined by the fact that no other witness corroborates this incident as having taken place. Moreover Private L actively avoided supplying details of where the alleged gunman was concealed at the earliest opportunity.

18.7.4.201 *Quaere* whether this might be Private L attempting to account for the *two* rounds that Lynn says were fired inside the derelict building[74]. To complicate matters even further, Captain 200 in his RMP statement, records one of Private L's 4 shots as being at the same gunman in Block 1 as Soldiers C and D.[75]

---

[74] See also the Eversheds statement of L/Cpl 010: "Shortly afterwards, somebody said that they saw a man with a rifle in the window of a derelict factory nearby. Someone called Sgt K who looked through the telescopic sight of his rifle to check the target. He identified the target as being another soldier from a different regiment. ***Therefore, nobody opened fire.***" **B1395.009 paragraph 71**

[75] See **B1983**

18.7.4.202 If one is to consider Private L's evidence as a whole, the Tribunal is confronted, *inter alia*, with the following:

i) Subject to the Tribunal's assessment in respect of Lance Corporal 229 and Joseph Lynn, Private L deliberately lied about the discharge of his weapon the derelict building at the north western corner of Rossville Street.[76]

ii) He ultimately misled both the RMP, Treasury Solicitor and Lord Widgery in relation to the total number of shots fired from the low wall at Kells Walk i.e. he said there were 3 shots when in fact we know that these soldiers have admitted between them firing 5. **B335 at G**

iii) Not only does Private L confuse the precise circumstances in which he discharged his shots from the low wall at Kells Walk but he also confused the number of weapons that justified his opening fire i.e. whether there was one weapon or two.

iv) Further, he confuses the very individuals against whom his unlawful acts were directed, *viz*, initially shooting the first man in his evidence before Lord Widgery and initially shooting the second man in his evidence before Lord Saville.

v) The underlying weakness of any deception or lie is invariably found in the detail. It is axiomatic, that Private L's evidence before this Inquiry is based upon a faulty and unreliable recollection of an event which was dishonestly represented 32 years ago. It is not surprising therefore that an event which would mark the psyche of any human being, whether military, civilian or otherwise and which is distorted for the purposes of justifying an unlawful act is destined to be reproduced over such a period of time in such an unreliable and confused

[76] "I had not fired my rifle up to that time". **B312**

manner. In our submission this is a witness who has extreme difficulty weaving any pattern of consistency around the very lie that he has cultivated for the purposes of concealing his true role in the commission of an act of murder.

vi) Setting aside the general inconsistencies as set out below between Soldiers K, L and M along with their co-conspirators the principal problem confronting this Tribunal involves separating the half truths from the half lies which have been woven into the overall pattern of the Army's explanation for the events of this day. Private L's account of this event is so manifestly inconsistent that no Tribunal of fact could rely upon any of exculpatory accounts that he has given in respect of the Composite Platoon's 5 shots that were fired at Kevin McElhinney.

Private M

18.7.4.203 This witness admits to firing 2 rounds on Bloody Sunday. He made two statements to the RMP, one to the TsoL, gave evidence at Widgery and has provided a statement to Eversheds. On Bloody Sunday he was armed with both a SLR and a riot gun. He was normally a driver in the Motor Transport section of the Battalion. He says that he now has no sense of time or a clear memory of the day. His role was to provide protection to Corporal 039 who was armed with a riot gun and Sterling SMG.

1972 Evidence

18.7.4.204 This witness made his first 1 RMP statement on 31st January 1972 at 12.35hrs:

i) "On our advance we came under fire from snipers located in the flats and from the main crowd contained behind the barricade." **B347**

ii) The witness continued by further stating:

"As we neared the main crowds location behind the barricade we came under attack from youths throwing nail bombs and petrol bombs. The weather conditions were good and visibility was clear. As I neared the barricade, about 130 yards, at GR43151675 I could see the barricade and the crowd behind it. We were being heavily stoned, bottled and shot at." **B348**

iii) At this point Private M asserts that he saw two males crawling along the western side of Block1 in a southerly direction. He claimed that both men were "pushing long black stick shaped objects in front of them and that they were heading for a good sniper location where they could have shot a number of troops advancing towards the barricade". **B348**

iv) The witness went on to say that he fired one aimed shot at each man and in response "both men jerked and rolled over". **B348**

v) According to M a crowd gathered around both men and dragged them into the Flats. This crowd had also managed, somehow, to keep the soldiers at bay and although the scene was examined afterwards nothing was found. **B348**

vi) Private M concludes his first account by expressing confidence that he hit both men and during the entire operation he fired only two rounds as outlined above. He described one man as wearing "a dark suit and the other in a grey suit". **B348**

18.7.4.205 Four days later, on 4th February 1972 M made another RMP statement. **B356**

i) In his account M alleges that he was "about 30 metres west of the junction of Rossville Street and Eden Place". **B356**

ii) He describes how bottles and stones were being thrown at his position. He was accompanied by 039 who carried an anti-riot gun. According to M he heard the sound of gunfire and saw approximately 3 bullets strike the ground at the

aforementioned junction. He located the gunman in Rossville Flats who was positioned "on the top floor balcony on the north east wall of Block2 about 15 metres from the south east corner of the Block, 200 metres from my position. The man was leaning over the balcony in the aim position and appeared to be holding a rifle. The man was wearing a dark coloured jacket and light trousers. I saw another member of my regiment engage the gunman from a position on the waste ground" **B356, B357**

iii) The witness then went on to relate how the gunman ran in a southeasterly direction out of sight. **B357**

18.7.4.206 Approximately one month later on 5th March 1972 Private M provided a further account of the incident described in both of these statements to the Treasury Solicitor. This can be found at **B359**.

i) In this statement, M states that there was a general order to go forward and disperse the crowd which was mainly behind the Barricade in Rossville Street. **B359**

ii) He explains that he was ordered to "make arrests where necessary". In this regard he provided cover to Soldier 039 who was armed with an anti-riot gun.

iii) He describes the incident outlined in his second RMP statement, and with the exception of some minor variations e.g. an increased number of shots possibly now from an automatic weapon, from "the upper storeys" as opposed to a precise location. **B360**

iv) The witness continues by outlining the circumstances by which he and Corporal 039 advanced along Rossville Street towards low wall at Kells Walk. In particular, he describes the combination of high velocity and pistol shots, which were fired from the Barricade itself. He also describes how he heard the sound of exploding nail bombs in the same area. Further, he describes seeing a petrol bomb explode. It was at this point that Corporal 039 pointed out two men behind the barricade

"crawling along the base of the wall of the block of Rossville Flats nearest to us". **B360**

v) Private M sets out his justification for firing in the following way:

"To me both men appeared to be each cradling something in their arms and from their shape and length and from their black colour was that they were rifles. There is no real doubt in my mind that these objects were anything but rifles. I then had a shouted conversation with Soldier 039 amidst all the noise that was going on. He had pointed out the men to me previously and now shouted to me "They're carrying something". He added "They look like rifles" and I shouted "They are rifles". I had by that time cocked my weapon and I then took an aimed shot at the first man who by that time was almost at the door of the flats. The man appeared to jerk and fall forward. Both his hands were forward with the rifle cradled in his arms just at the door of the Flats and he was dragged inside. By this time another soldier nearby had already taken another aimed shot at the second man crawling behind who was still crawling. I then took an aimed shot at this man. He gave a jerk and fell to his side and rolled slightly but he carried on crawling cradling the rifle in his arms. Another soldier took another aimed shot at the man but he still kept crawling." **B360, B361**

18.7.4.207 In his sworn evidence before Lord Widgery the witness was asked the following by Counsel for the Army:

"Q. You went forward there and it was then you heard some firing?

Yes

Q. Where did it appear to come from?

From the centre flat of the Rossville Flats.

Q. The centre block?

Yes, the centre block." **B365 B-C**

18.7.4.208 The reader will observe that this description contains a number of variations which when read alongside the account provided in his second RMP statement **B356, B357** and the Treasury Solicitor statement **B360** so as to approach this aspect of the witness' evidence in a circumspect and cautious manner. This is particularly so given that these variations become even more remarkable in the light of the contents of his Eversheds statement **B372.003 paragraphs 13 to 15**.

18.7.4.209 In his statement to this Tribunal, Private M was not only incapable of identifying the type and nature of fire allegedly experienced but also the location from which this fire was allegedly directed:

> "It was impossible to say from the way in which the bullet struck the road what particular type of weapon had just been fired in our direction, or where the weapon had been fired from but it was instantly obvious that we were under fire of some kind." **B372.003 paragraph 13**

18.7.4.210 It should also be recalled of course that the witness made no mention of this incident at all in his first RMP statement made within hours of the event.

039's actions at Kells Walk

18.7.4.211 Private M says that himself and Corporal 039 ran along maisonettes at Kells Walk and he can remember a woman screaming abuse at a window of one of the flats at Kells Walk **B372.003**. What he chooses to omit from this incident is important. We refer the Tribunal to the statement of Kathleen Kelly (Michael Kelly's mother) who was in her sister's house at 2 Kells Walk **AK 14.3 paragraph 16**. Mrs Kelly's sister Martha was apparently shouting at the soldiers to stop shooting and a journalist who was in the maisonette attempted to take photographs of the scene outside the flat. Corporal 039 discharged a

rubber bullet through the window smashing it. Mrs Kelly's niece, Mary Smith, had to be treated in hospital as a result as some of the glass went into her eyes. Unlike Corporal 039, Private M does not mention any missiles etc being thrown from this flat or indeed any of the other maisonettes in Kells Walk that might have justified the firing of the baton round. It seems unlikely that if Private M was indeed fulfilling his duty in protecting Corporal 039 that he could have missed this incident. In our submission we say that the Tribunal must conclude that Private M's omission could only have been motivated by a deliberate attempt to exclude any incidents which would not cast a good light on the activities of the Paratroopers on Bloody Sunday.

Events at the low wall at Kells Walk

18.7.4.212 The principal incident in which this witness was involved concerns the murder Kevin McElhinney. It will be recalled that when the witness provided his initial statement to the RMP he saw two men crawling "along the south west flats at GR43161663. They were pushing long black stick shaped objects in front of them." **B348**

18.7.4.213 In his Treasury Solicitor statement the witness, in keeping with all military witnesses concerned with this event, describes the movements of the two men away from the Barricade as being a "leopard crawl". Significantly however he asserts in this version that both men were actually cradling the weapons. **B360**

18.7.4.214 In his sworn evidence before Lord Widgery the witness asserted that "both men appeared to be carrying weapons in the crook of their arms". **B367 A** To add to this confusion the witness when providing a statement to Eversheds claimed that the men were both carrying or dragging rifles which were on their right hand side and accordingly totally visible to anyone in his position near the low wall at Kells Walk. **B372.004 paragraphs 23 to 24**

18.7.4.215 When asked about these discrepancies in the course of his evidence to this Tribunal the witness, clearly alert to the issue, supplied a number of explanations:

i) For example, in relation to the description "long black stick shaped objects" he blamed the RMP for recording a confident assertion that they were weapons in this uncertain manner. **Day 365/95/3 to Day 365/96/12**

ii) It will be recalled that the witness supplied a number of descriptions in respect of the manner in which the men allegedly carried their weapons. For the purpose of his evidence before the Inquiry Private M preferred the description of "cradling" which he maintained was much the same as "pushing". However in his statement to Eversheds, as outlined above, the witness alleged that this description was intended to refer only to the "butts" of rifles! **Day 365/125/11 to Day 365/126/10**. By way of comment, it is difficult to acknowledge Private M as an unfortunate individual who in addition to having his confident assertions reduced to expressions of visual uncertainty by the RMP, also being encouraged to supply descriptions to Eversheds of the obvious in a manner that is not only ambiguous but materially misleading. In other words, the RMP and Eversheds made errors when interviewing Private M but M, in the end was still content enough to sign both statements.

iii) A minor point arising from this concerns a description from Corporal 039 in respect of the second man "who appeared to be trailing a weapon with him". **B1642** Corporal 039 repeats this description in his statement to the Treasury Solicitor. **B1650** The fact that both soldiers are prepared to provide one description, namely "dragging" (as in the case of Private M) or "trailing" (as in the case of 039) and then re-interpret it in a

manner more consistent with the description provided by other soldiers, namely "cradling" (as in the case of Sergeant K and Private L) demonstrates a willingness to provide a convenient, if not totally dishonest, but similar account among the military witnesses concerned in the shooting of Kevin McElhinney.

18.7.4.216 In his RMP statement Private M makes no reference to Corporal 039 at all, including the alleged conversation that took place prior to the discharge of his SLR. When Private M then made a statement to the Treasury Solicitor in which he related the following:

> "It was then that Soldier 039 pointed out to me two men who were behind the barricade crawling along the base of the wall of the block of Rossville Flats nearest to us. I observed that both men were crawling along in what I assumed to be a leopard crawl position. To me both men appeared to be each cradling something in their arms and from their shape and length and from there (sic) black colour my opinion was that they were rifles. There is no real doubt in my mind that these objects were anything but rifles. I then had a shouted conversation with soldier 039 amidst all the noise which was going on. He had pointed out previously and now shouted to me "They're carrying something". He added "***They look like rifles***" and I shouted "***They are rifles***". (emphasis added) **B360**

18.7.4.217 In his sworn evidence to Lord Widgery his account of what his superior NCO said to him becomes a positive assertion rather than an assumption:

> "Q. Did you believe them to be in fact rifles?
> Yes, I did.
> Q. What did you do?

I then held a shouted conversation with Soldier 039. He shouted that they appeared to be carrying something. **Then he added *they were rifles***. I said they were and I had cocked my weapon by this time and I put an aimed shots down at the first man."(emphasis added) **B367 at B**

18.7.4.218 In our submission this provides a further indication of this witness' willingness to deceive whilst under oath. If he did this before a Tribunal of fact in 1972, it must only be concluded that he is willing to do this in front of this Tribunal.

Lance Corporal 010

18.7.4.218 This witness made one statement to the RMP and one to Eversheds. There are a number of significant discrepancies between both accounts. Lance Corporal 010 remembers being armed only with a riot gun. He described them as "lovely at knocking people over" **B1395.003 at paragraph 17**.

18.7.4.219 In summary, this is what he told the RMP at 15.10 on 4th February 1972[77]:

i) As he debussed he was amongst CS gas. As he put on his gasmask he heard shots fired but he did not see from where these came. **B1393**

ii) He then ran forward to where an APC and Ferret humber which was parked across the junction of Rossville Street and Eden Place. (This must be a reference to Major Loden's vehicle and the accompanying Ferret.) **B1393**

iii) Along with another soldier he moved to the low wall at Kells Walk. Whilst at this position he saw Private L fire two aimed shots towards a barricade in Rossville Street. Lance Corporal 010 "did not actually see his target but when I looked towards

[77] Both Soldier 10's RMP statements i.e. the handwritten and typed versions are recorded as "4 January 1972". Obviously this is an error and should say "February".

the barricade I saw a male person apparently dragging the body of a second male towards the flats". **B1393**

iv) A short while later they were withdrawn to a derelict building on the corner of Rossville Street and William Street. He heard a high velocity shot which seemed to come from Chamberlain Street and a short SMG burst although he was unable to say from which direction it came. **B1394**

v) He saw no civilians carrying firearms or offensive weapons. **B1394**

vi) Shots that he heard "did not come from British Army calibre weapons and they did not come from areas in which the Bn was deployed." **B1394**

18.7.4.220 It is submitted that even on this account Lance Corporal 010 saw nothing near the two men in whose direction Private L fired that could have justified that firing or else he would have said so. Moreover, by the stage that he claims to have heard a shot coming from the area of Chamberlain Street all of the firing would have ceased in that area for some time. It is further respectfully submitted that the burst of SMG fire did not occur. It is not referred to by any of the witness' colleagues who were in the aggro corner area and nor can it be heard on any of the actuality footage that the Inquiry has obtained.

18.7.4.221 It is not proposed to deal with every discrepancy between the accounts given by the witness to the RMP and Eversheds. However by way of example we summarise below some of the most glaring:

i) Upon debussing he heard incoming shots (probably rifle fire) from the general direction of the Rossville Flats and were aimed at Composite Platoon. **B1395.005 at paragraph 36**. In 1972 he was unable to say from where the shots were fired nor the type.

ii) In respect of deployment he now says that the whole of Guinness Force walked down Rossville Street in four sections

"in an extended line across the road, one section behind the other". . **B1395.005 at paragraph 44** In our submission this simply did not happen. It is contradicted by all of the photographic evidence available and is not corroborated by a single other witness.

iii) After 4-8 rubber bullets were fired at the Barricade as many as 20 rounds were fired at Guinness Force. **B1395.006 at paragraph 53** This was not mentioned to the RMP in 1972.

iv) A soldier to his right hit a man twice leaning up against the Rubble Barricade. This man "definitely" had a rifle. **B1395.007 at paragraph 62**. In 1972, Lance Corporal 010 said that he did not actually see any civilians with weapons.

v) A soldier to his left fired 2 rounds at a target in the doorway of Block1. The witness also now has a memory of seeing 2 or 3 pistol flashes come from the doorway that he did not appear to have in 1972. **B1395.008 paragraphs 64 to 65**

18.7.4.222 He commenced his oral evidence by pointing out that after having had a chance to read his RMP statement, he realised that he may have been confused in respect of matters set out in his Eversheds statement. He also said that he may have been confused by events that took place on other occasions and further by what he may have read or heard about Bloody Sunday. **Day 355/72/3 to Day 355/72/22**.

18.7.4.223 This was a particularly odd comment to make given the fact that the witness clearly had his RMP statement put to him during his Eversheds interview and he commented upon it in detail. **B1395.010 paragraph 84**

18.7.4.224 Lance Corporal 010 in his oral evidence said that he was "happy to stand by" the contents of his RMP statement as it was made closer to the time. **Day 355/77/19 to Day 355/77/25**. It was a feature of this witness' oral evidence that when these discrepancies were put to him that would reply that he must be confused with other incidents.

18.7.4.225 Crucially, when questioned about the two alleged shooting incidents referred to in his Eversheds statement, the witness said that he in fact did not have a memory of seeing any weapon:

> "Q. In the succeeding paragraphs that we see on this screen, you describe your recollection of seeing two soldiers, one on your left and one on your right, who fired shots from their SLRs. Like them, as you say, you would have been scanning the rubble barricade for any civilian with a weapon; that is right, is it not?
> A. I would have been scanning not only the barricade, the tall rise buildings as well.
> ***Q. As a result of that, did you see a civilian with a weapon?***
> ***A. At that particular time, to be able to verify 100 per cent, no.***
> ***Q. Sir, I suppose I make my question quite clear: before either of your two colleagues fired, you did not see a civilian with a weapon; is that right?***
> ***A. To my knowledge, no."*** (emphasis added) **Day 355/106/17 to Day 355/107/7**

18.7.4.226 When Counsel for the Families put the evidence concerning the actions of this witness' colleague Corporal 039, who was also armed with a baton gun and fired it through the window of 2 Kells Walk, Lance Corporal 010 appeared to draw some amusement from this incident and from his experience whilst in the witness box. **Day 355/116/25 to Day 355/120/3**

18.7.4.227 Like each and every one of his colleagues he denied knowledge of the wounding of Mary Breslin (nee Smith). Moreover, like each and every one of his colleagues he did not see, according to his evidence, the unjustified shootings of the unarmed civilians on the Barricade or his

colleagues use Kevin McElhinney as target practice as he crawled from that position for his life.

Sergeant 014

18.7.4.228 Sergeant 014 was an experienced member of the Parachute Regiment. He had served 13 years by the time of Bloody Sunday. He gave evidence to the Tribunal on **Day 372**. In keeping with all members of Composite Platoon who gave evidence in respect of events at the Presbyterian Church, he recalls only the one shot during that period.

18.7.4.229 Sergeant 014 supplies an additional illustration of the confused attitudes expressed by the majority of soldiers in respect of their principal objectives and duties on the day:

> "Q. If we look at paragraph 18, you say about the arrest operation, that you would go in and "grab who we could".
>
> What do you mean by "grab who we could"?
> A. Well, people that was on the illegal march.
> Q. Did you understand your task to be: go in, de-buss and just grab the first people you could find or were you going to grab people who were in the act of rioting?
> A. In the act of rioting." **Day 372/10/6 to Day 372/10/13**

18.7.4.230 The Tribunal will of course be aware that the weight to be attached to answers supplied to leading questions is significantly less than should be attached to information which is independently volunteered.

18.7.4.231 The real explanation for an experienced NCO failing to understand the difference between a marcher and a rioter exists because this man was never supplied with such a distinction before going to Derry. Support for this proposition is helpfully illustrated by recalling the broad objectives outlined in the operational order at **G95.566**:

"8 Infantry Brigade is, on 30th January, to prevent any illegal march taking place from the Creggan, and to contain it, together with any accompanying rioting, within the Bogside and Creggan areas of the city. It is also to disperse illegal marchers from other parts of the city and is to prevent damage by rioters and bombers to business, shopping and Protestant areas of Londonderry."

18.7.4.232 In addition to the gunfire, which this witness heard while debussing in Rossville Street, this was the only member of Composite Platoon who also heard gunfire and nail bombs explode before he debussed. **Day 372/21/20** . It probably does not come as too much of a surprise that the witness did not mention these nail bombs exploding when he made his statement to the RMP in 1972. **B1412**.

18.7.4.233 For the purposes of exaggerating the level of violence perceived by many of the advancing troops, this witness volunteered evidence to the effect that he could identify petrol bombs exploding in **V2/1.47**, **Day 372/18/2**; **B1412.015**

18.7.4.234 Surprisingly, the same witness failed to see any members of Anti-tank platoon occupy the position at the low wall before the arrival of Call Sign 71 Alpha. The witness, of course, failed to hear any shots fired by them while occupying that location:

"Q. Do you have a recollection of hearing any SLR fire before you reached the low wall?
No, I have no recollection." **Day 372/25/20 to Day 372/25/22**.

Events at the low wall

18.7.4.235 In his statement to the RMP he claims to have observed the following:

i) Two men, one dressed in a dark brown suit, the other dressed in dark clothing crawled southwards along the west wall of Block1. **B1412.011**

ii) The rear man (only) in the brown suit was trailing (as opposed to cradling or carrying) "what looked like a rifle being him." **B1412.011**

iii) Private L who was behind the wall and 5 yards east of Sergeant 014 fired two shots "**at the men**" (our emphasis). **B1412.011**

iv) The rear man jerked as if hit. The men continued crawling. **B1412.011**

v) The witness went on to describe how the men separately entered the entrance to Block1 and how at this point "The Commanding Officer" ordered Private L to cease fire. **B1412.011**

18.7.4.236 In his Eversheds statement Sergeant 014 recalled the following:

i) His attention to both men was drawn by an unnamed member of Call Sign 71 Alpha who said that both men were crawling along with weapons. Although unable to recall the precise position of both men, he believes that the first men was wearing light clothing and had long hair.

ii) The second man "was dragging what looked to me like a rifle behind him, on his right hand side, as he leopard crawled along. I didn't have a clear view of the weapon and I am unable to say exactly what type of weapon it was. All I can say is that I thought it was a rifle and the lads to my right thought so too. I think, but cannot be sure, that the man at the back was wearing dark clothing." **B1412.005 paragraph 26**

18.7.4.237 The confused nature of these accounts create further difficulties by reason of the witness' acceptance in the course of his evidence that it was he who said there were men crawling with weapons. **Day 372/30/4**

18.7.4.238 While this of course may amount to nothing more than a careless mistake by Counsel, it serves to illustrate the willingness of the witness

to exaggerate the circumstances which would justify opening fire. A further example can be found below:

> "Q. And there had to be a general and hurried justification given for this event. Let us just say they were armed.
>
> A. They were armed.
>
> Q. You are certain of that now?
>
> A. Just the rear man, yes." **Day 372/68/8 to Day 372/68/10**

18.7.4.239 The witness when further pressed could offer no assistance in respect of why none of the soldiers who allegedly saw the event or fired on the individuals concerned were prepared to express in positive terms the possession of weapons in 1972.

18.7.4.240 Beyond offering the excuse of a figure of speech, Sergeant 014 could provide no explanation why even he himself fell within the same category. **Day 372/69/11 to Day 372/70/15**

18.7.4.241 A recurring feature of the statements supplied by members of Composite Platoon, concerns the specific and singular nature of the way in which the events of the day have been recalled. The clear impression, is that soldiers were assigned certain events and although in a position to provide evidence about other matters, they have been discouraged from doing so. In fact some witnesses have confirmed as much[78]. By adopting this approach the following objectives are automatically secured:

i) Firstly, a collective restraint can be exercised over all the evidence, and in particular how it is recorded and reproduced.

ii) Secondly, the risk of inconsistency is dramatically reduced. For example, soldiers from Call Sign 71 are not likely to give contradictory evidence about events concerning colleagues in Call Sign 71 Alpha. The principal drawback of this approach however, became apparent during the course of their evidence.

[78] Evidence of Private L. **Day 381/45/9 to Day 381/45/12**

Witnesses who were literally yards from scenes of extreme violence and intense gunfire were for the purposes of their "evidential objectives", unable to hear, see or recall it. This contrasts with the spontaneous and detailed nature of the evidence supplied by civilians, media and clergymen.

18.7.4.242 As a further example of the compartmentalised nature of evidence supplied by Sergeant 014, as with all the other military witnesses, concerns the incident where a soldier under his command and in his presence, namely Corporal 039, unlawfully discharged a rubber bullet through the window of 2 Kells Walk, yet the witness claimed absolutely no rubber bullets were fired at this location. **Day 372/32/13 to Day 372/32/23**

18.7.4.243 In fact the witness claimed during the course of his evidence that this was the first time that he had heard of this particular event. If this answer is true, then the only reasonable inference to be drawn from that fact is that the incident falls within the acceptable code of behaviour shared by all Paratroopers when dealing with innocent members of the public. It was an incident neither worthy of comment nor any decent sense of condemnation. By alleging that he failed to witness this event, the witness avoids being placed in a position where he has to condemn the actions of a colleague.

Automatic Fire from Glenfada Park

18.7.4.244 In his RMP statement Sergeant 014 claimed that fire was opened up on the soldiers from Glenfada Park after the ceasefire order and after he saw what must have been Alex Nash on the barricade:

i) "I heard automatic fire coming from the area of Glenfada Park about a hundred metres South West of my position. The bullets from this fire struck the West wall of Block 1 of the flats near the Northern end." **B1410**

ii) In his Eversheds statement, the witness said that the burst may have consisted of 4-8 rounds. **B1412.005 paragraph 29**

18.7.4.245 It is submitted that this is simply an absurd and throwaway fabrication. Interestingly, Soldiers U and 006 of Mortar Platoon who were positioned at the north west end of Block 1 and who were observing the barricade make no mention of any shot striking the flats near their position. It goes without saying that not one of the civilians who were in Glenfada Park North or in the flats at the Northern end of Block1 refer to such an incident taking place.

Private 032

18.7.4.246 Private 032 made a statement to the RMP and to Eversheds. He identified himself in **P261**. He was under the command of Colour Sergeant 002 but in Sergeant 014's section. There are a lot of discrepancies in his evidence. He appears to blame much of the discrepancies and omissions on the RMP statement takers:

> "All of us who gave statements at the time were of the view that there was not nearly enough detail in them as we wanted, but we simply told the people taking the statements our stories and they decided what detail went in... We were pressurised into it." **B1616.009 paragraph 39**

18.7.4.247 The witness maintained this assertion in his oral evidence. **Day 362/33/3 to Day 362/33/16**. It is worth noting that his RMP statement was taken by Corporal J.L. Smith (deceased) in respect of whom Soldier 018 has made an allegation that Smith encouraged him to include details in his RMP statement about events that he did not witness for himself in order to corroborate the evidence of Soldiers F and G. **Day 362/39/7 to Day 362/39/20**

18.7.4.248 Private 032 provides an ongoing indication of the confused understanding shared among ordinary Paratroopers in respect of the objectives for the day. The witness states in his Eversheds statement that some of the people on the march wanted to make political statements and cause trouble and it was these people that "we were to deal with". **B1616.001 paragraph 3**. The witness went on to say that he thought Bernadette Devlin was there and the general feeling was that she was to be arrested as a ringleader. **B1616.001 paragraph 8**

18.7.4.249 Private 032 provided a statement to the RMP on 4th February 1972. Curiously it was witnessed on 5th February 1972 at 15.00 hours. In summary he says the following:

i) The witness states that he was a member of a section commanded by Sergeant 014 and that he was deployed along the west side of Rossville Street on waste ground in front of Columbcille Court. Upon debussing he alleged that he and other members of Composite Platoon came under automatic fire from a Barricade on a south westerly position in Rossville Street. **B1613**

ii) Private 032 went on to describe how he took up a defensive position at the low wall at Kells Walk and how he observed Private L occupying a position beside him at the easterly corner of the wall. It was at this point that he saw two men crawling in a southerly direction along Block1 of Rossville Flats. **B1613**

iii) The rear man was "definitely trailing what looked like a rifle behind him." **B1614**

iv) The witness went on to state that the man in front was dressed in a suit or overcoat which was mid-grey in colour and that the rear man was wearing a dark brown suit. **B1614**

v) He held the men in view for approximately 30 seconds and as the front man approached the doorway of Block1, Private L opened fire. **B1614**

vi) He observed the body of the rear man jerk as if it had been struck by a bullet. Simultaneously the front man disappeared from sight through the doorway. **B1614**

vii) As Private L fired, the witness also observed a man with a pistol run in front of the crowd which was assembled approximately 10 metres south of the south west corner of Block1. The man vanished into the flats at Glenfada Park. **B1614**

18.7.4.250 The Tribunal will recall that Kevin McElhinney was in fact dressed in a brown suit and that all the civilian evidence as well as the 1972 evidence of this witness clearly shows him to be unarmed. Private 032 refers to Private L opening fire at the rear leopard crawler who jerked as if hit. This is in contrast to what Private L was saying in 1972. According to Private L, he fired at the man who was crawling in front as he believed him to have a weapon and not the man crawling at the rear.

18.7.4.251 The following points arise from Private 032's statement to Eversheds:

i) Significantly, the witness' recollection of the automatic fire experienced whilst debussing became nothing other than a vague recollection, by the time he came to make his Eversheds statement. **B1616.005 paragraph 23**

ii) He told the RMP that after they debussed the crowd was rioting throwing stones and bottles at the soldiers. In his Eversheds statement he said that petrol or acid bombs were thrown and that his trousers actually had holes burnt in them. INQ 2026's trousers were also burnt. **B1616.005 paragraphs 19 to 21** None of this was mentioned to the RMP and in our submission is a deliberate embellishment.

iii) In our submission it is important to note that when describing the incident which almost certainly relates to the death of Kevin McElhinney, the witness expresses ongoing uncertainty

about whether it was in fact a rifle by describing the event in the following way:

iv) "The man crawling behind was trailing a long implement which I certainly thought was a rifle. We thought was a rifle." **B1616.006 paragraph 28**

v) It is difficult to reconcile this description as a more positive assertion of the fact that the person was carrying a rifle, yet the witness invites the Tribunal in the course of his Eversheds statement to make precisely this judgement. The method by which this invitation is made is by explaining that the earlier uncertainty of his RMP description is nothing but an unfortunate choice of words. In other words, "what looked like a rifle" means "it was a rifle".

vi) It is interesting that the man with the rifle is wearing a "dark overcoat" while the man in front is wearing the "dark suit" **B1616.007 paragraph 29**

vii) In relation to the alleged pistol man as referred to above it is significant the witness claimed in his Eversheds statement that whilst he could not remember the incident he had enough of a recollection to confirm that it happened. When asked by Counsel to the Tribunal how he was able to tell Eversheds that he could confirm it had happened if he had no memory of it, the witness said "I cannot really answer that question." **Day 362/14/12 to Day 362/14/18 Day 362/34/2 to Day 362/35/10** It may be reasonably inferred that the reason for this absence of memory is simply because the event did not happen. Support for this conclusion may be derived from the fact that no other member of Composite Platoon corroborates this account. It goes without saying that any pistol man who appeared at the area of the south west corner of Block1 and then proceeded to run west towards Glenfada flats would have been completely exposed to fire from the many soldiers present in Rossville Street who would have been looking south towards Free Derry Corner. In his oral evidence, Private

032 was unable to explain how he was the only soldier to allegedly witness this gunman. **Day 362/46/21 to Day 362/46/25**. It is submitted that this account is absurd, inherently implausible and is an embellishment.

Colonel Wilford's /Presence at the Kells Walk low wall

18.7.4.252 The witness now recalls Sergeant K being present although he cannot recall that Sergeant K fired alone or simultaneously with other soldiers. He did however recall Colonel Wilford shouting at them, to "stop shooting and fire only when told to do so". He further stated that the Colonel told them if anyone was going to fire it would be Sergeant K as he was the regimental sniper. Sergeant 032 apparently regarded this event as "moral boosting" at the time. **B1616.008 paragraph 34**. If this description of the event has some basis in fact it goes some way to explain how a highly trained and disciplined marksman such as Sergeant K might allow the standards of his profession to be compromised.

18.7.4.253 It will be recalled when Colonel Wilford who acknowledged his presence at the low wall at Kells Walk was asked about the shots fired by Soldiers K, L and M he maintained he had no recollection of the incident. He was reminded of his evidence before Lord Widgery to the effect that one soldier fired in his presence at an alleged gunman behind the Barricade although he could not recall who it was or what he had fired at:

> "Q. You have, as I understand it, no recollection now of seeing one of the soldiers at the wall fire a shot or shots, but, in the light of the evidence that you gave to Lord Widgery, you think that you probably did see a soldier fire a single shot; is that right?
> A. Yes.
> Q. What you said to Lord Widgery was that one paratrooper fired to his left front as you arrived. You asked him what he was firing at and he said a gunman lying behind

some rubble; that was your evidence?

A. Yes.

Q. And you identified the soldier who fired as being the one who appears in this photograph on the left with his rifle in the aim position; do you remember that?

A. Yes, I do.

Q. Am I right in thinking that you do not recall ever seeing what was the target of this soldier?

A. No." **Day 313/57/22 to Day 313/58/14**

18.7.4.254 If the Tribunal accept that Colonel Wilford was present when Soldiers K, L and M fired then we say it must address the following questions:

i) If, as the other witnesses suggest, that Soldiers K, L and M fired almost simultaneously why does Colonel Wilford only remember one shot being fired?

ii) Why did Colonel Wilford fail to see the shot that fatally struck Kevin McElhinney as he crawled to the safety of the entrance at Block1?

iii) Given that it almost certain that Kevin McElhinney was shot by Sergeant K, then why in light of Private 032's evidence, does Colonel Wilford fail to recall the incident?

iv) Could it be, that while Colonel Wilford is prepared to support his men, but not to the point of lying directly under oath. Better to create uncertainty by omission, poor memory or otherwise.

v) It is respectfully submitted that Colonel Wilford has been compelled to acknowledge his presence at the low wall because of photograph **EP2.8**. It is further submitted that if the most senior officer on the ground, namely Colonel Wilford, is incapable of recalling accurately controversial incidents unfolding before his eyes then his standards of integrity and reliability as a witness of the Inquiry must remain highly questionable. More importantly however, the Tribunal must

ask whether and to what extent these standards have influenced the men who followed his command and example.

18.7.4.255 Private 032 creates a final note of confusion in respect of the events surrounding the death of Kevin McElhinney. At **B1616.008 paragraph 34** he states that Colonel Wilford arrived at some point after the man with the rifle was shot. Colonel Wilford however said that he witnessed one shot being fired at an unidentified target behind the barricade. If this is correct then both assertions can only be reconciled upon the basis that Colonel Wilford is describing a member of Composite Platoon firing a single shot in circumstances that no-one has admitted to. Alternatively of course, the simple explanation is that Colonel Wilford has continued to supply an untruthful account about this event.

Sergeant 035

18.7.4.256 This witness made a statement to the RMP and to Eversheds. He was under the command of Colour Sergeant 002 but also commanded a section himself.

Sergeant 035, in keeping with some of the other members of Composite Platoon supplies some insight into the mindset and attitude of the Parachute Regiment in being deployed to Derry on that day. Even almost 30 years later when preparing his Eversheds statement 035's memory of his understanding of Derry in recalled in the following way:

> "We knew very little about Londonderry except that it was a nasty place... It seemed to us that the security forces there did not have as tight control of it as they might" **B1628.002 paragraph 7**

18.7.4.257 Sergeant 035 provides yet another example of the "collective recollection" of those witnesses who were at the Presbyterian Church

but yet only heard only one high velocity shot being fired. **Day 361/60/22**

Events at the low wall

18.7.4.258 In his statement to the RMP he recounted the following in respect of the two men crawling southwards along the western side of Block1:

i) "I had been in position for about a minute when I saw "M" from my unit, fire two shots at two men crawling south along the west wall of Block1. Both men were hit but continued crawling until they had reached a doorway at the southwest end of the Block. One man had on a brown coloured suit, the other wore dark clothing. The distance was about 100 metres." **B1626**

ii) "Both men appeared to be dragging along objects with them which looked like rifles and were crawling away from a pile of rubble." **B1626**

18.7.4.259 By way of comment, in his RMP statement, after Composite Platoon are deployed into the Bogside, Sergeant 035 does not mention a single shot being fired at them nor a nail bomb exploding.

18.7.4.260 When providing an account of the same incident to this Inquiry, the witness describes the relevant features in the following way:

i) "To me, both men were a unit moving together. They were crawling military style on their elbows and knees, keeping as low as possible to the ground. I was approximately 100 yards away from them and I could see what they were carrying. The were both dragging long thin dark objects which I knew immediately to be rifles." **B1628.004 paragraph 21**

ii) "They were each holding a rifle in their left hand which the hand nearest the wall of the flats." The witness then goes on to describe in detail how both weapons were clearly visible to his position. **B1628.004 paragraph 21**

18.7.4.261 The witness provides an even more updated insight into the grounds justifying shots being discharged at the men, *viz*:

i) The crawling men needed to be stopped in case the weapons were used against the other military personnel. **B1628.004 paragraph 22**

ii) The weapons were needed for forensic tests and upgrading intelligence in respect of what weapons civilians had. **B1628.004 paragraph 22**

iii) Curiously the order to fire provides the final limb of justification. **B1628.004 paragraph 22**

Sergeant 035's current recollection

18.7.4.262 In the course of his oral evidence Counsel to the Tribunal explored the accuracy of the detailed account contained in his Eversheds statement concerning the crawling men. Quite a bizarre exchange ensued:

> "Q. Do you have any independent recollection today of what you saw?
>
> A. No.
>
> MR TOOHEY: Soldier 035, were you conscious of any sort of
>
> an informal barricade across the street in the area
>
> where these two men were?
>
> A. I cannot remember today.
>
> MS McGAHEY: At the time that you made your statement, you
>
> gave quite a detailed description of the way in which
>
> the men were carrying the rifles. You say:
>
> "They were each holding a rifle in their left-hand
>
> side, which was the hand nearest the wall of the flats.
>
> They had the butts of the rifles under their armpits and
>
> were holding the rifles so that each time they brought
>
> forward their left elbows, the muzzle of each rifle was
>
> pushed forward and became visible."

Do you have a recollection today of seeing the men carry the rifles in the way you have described?

A. No.

Q. Did you have that recollection at the time you made your statement?

A. My military police statement, you mean?

Q. No, your statement to the Inquiry?

A. If I could explain: I saw two men on that day moving from left to right carrying what I saw to be rifles. When I made my statement, the one we are referring to on the screen, the only way you can do that is by the way I explained how you can do it, I hope that makes it clear, or rather unclear.

Q. In the statement you were not seeking to give a description of what you had seen, but simply a description of the way in which a soldier carries a rifle when he is crawling?

A. That is correct.

Q. The impression that is created by this paragraph: "They had the butts of the rifles under their armpits, they were holding the rifles so that each time they brought forward their left elbows, the muzzle of each rifle was pushed forward."

It gives the impression you are describing something you have seen?

A. I am sorry if I am giving that impression. What I intended -- that is the way it is done, that is the way it is carried out. I am not trying to, or I was not trying to mislead you in any way, I can assure you, it is just that is how it happens.

Q. Do you have any recollection of these two individuals carrying rifles in this way?

A. I can only go back to what I said in my -- I am sorry, it is 31 years ago and I cannot really remember.

Q. You say in the final sentence of that paragraph:
"The wooden part of the guns between the butt and the muzzle were visible."
Do you have a recollection now of seeing that?
A. No, and what I should have said, "they would have been visible." That is what I really meant. I am sorry if I confused you.
MR TOOHEY: Just going back to that statement, which is on 1626, you do say about halfway down the page:
"Both men appeared to be dragging long objects with them, which looked like rifles, and were crawling away from a pile of rubble."
What are you saying, that you have no recollection now of that rubble?
A. What I am saying now is I cannot remember actually seeing it, I cannot see it in my mind or in my head." **Day 361/66/1 to Day 361/69/4**

18.7.4.263 This is yet another example of a witness who is prepared to attend this Inquiry and provide testimony which amounts to nothing more than silhouettes of half-truths and deceit where the exchanges becomes a battle of wits rather than pursuit of the truth. It is almost as if these witnesses have been rehearsed and programmed to advance an "official" rather than truthful recollection of events.

18.7.4.264 Lord Saville highlighted a further example of this willingness to incorporate a fabricated recollection of events:

"Q. Do you now have any recollection of the order to fire being given?
A. I am still unclear in my mind.
LORD SAVILLE: I am not sure what you mean by that answer: do you have any recollection of an order to fire

being given?

A. No.

LORD SAVILLE: If it had been you who gave an order to fire,

is that something you would have told the RMP?

A. Oh, yes.

LORD SAVILLE: Because we can see from the RMP statement

that nothing is said about an order to open fire being given at all, is there?

A. No.

LORD SAVILLE: Would it be reasonable to draw a conclusion

from that that at all events you did not give an order to fire?

A. I will have to agree with you on that.

LORD SAVILLE: Is it possible that no order to fire was given at all?

A. It is possible because I, as I say in my statement,

I cannot be sure that I gave it, so I cannot be sure that someone else gave it." **Day 361/77/2 to Day 361/77/24**

18.7.4.265 Counsel to the Inquiry further explored the witness' preoccupation of the need for an order to fire before doing so:

"MS McGAHEY: Would it be acceptable for a soldier in your section to fire without the order to fire having been given?

I do not think so.

Why not?

Because soldiers can only open fire normally when they are ordered to, ***but if he thought, under the Yellow Card, that he was the only person who could see the threat and he was the only person who could deal with it***

and there was not time to inform anyone else, perhaps under those circumstances it might be possible.
Does the Yellow Card require a soldier to fire only when he is the only person who can deal with the threat?
I would assume so. If I was a soldier and I could see a threat and I have not got time to tell anyone else and I felt that I had to deal with it, then I would have dealt with it.
But in other circumstances, if say there is an NCO present, is it your understanding that a soldier must wait for an order to fire?
He should do." (emphasis added) **Day 361/77/25 to Day 361/78/20**

18.7.4.266 It is our submission that this exchange appears to suggest a thread of misunderstanding among the relevant soldiers, to the effect that, an order had to be given before opening fire. This of course is intended to ensure that the shooters, at all material times acted within the Yellow Card guidelines.

18.7.4.267 By way of conclusion it is remarkable that Sergeant 014, in keeping with the other witnesses relating to the murder of Kevin McElhinney claimed that he never discussed this incident with anyone. **Day 361/108/3 to Day 361/108/6**. If this is true (which is unlikely), it serves to underline the sense of collective shame and guilt that normally decent and experienced soldiers would have shared following their involvement in these events.

Corporal 039

18.7.4.268 In 1972 Corporal 039 made a statement to the RMP and the Treasury Solicitor. He also provided a statement to Eversheds and gave oral evidence on **Day 362**. He was armed with a riot gun and a Sterling SMG. **B1649**. Private M was acting as his bodyguard.

1972 evidence

18.7.4.269 Corporal 039 made his statement to the RMP at 16.30hrs on 2nd February 1972. **B1640, B1641, B1642, B1643** In summary his statement dealt with two events, namely: (i) the circumstances in which he discharged a rubber bullet into No2 Kells Walk; and (ii) the shooting by members of his platoon at civilians crawling from the Rubble Barricade that resulted in the murder of Kevin McElhinney. Corporal 039 states that he regards his RMP statement as being "an accurate record of my experiences on the day". **B1651.6 paragraph 36**

Corporal 039's discharge of the Rubber Bullet Gun

18.7.4.270 039's account can be summarised as follows:

i) After debussing he crossed Rossville Street saw a first floor window open (in what must be Kells Walk). Two women appeared and started to throw missiles at the soldiers. A photographer was present in the flat and was trying to take photographs of Composite Platoon moving into the area. **B1640**

ii) O39 fired one rubber bullet through the main window. After the smoke cleared the three persons described above had also disappeared. He was then able to see a female figure being supported by another and it appeared as if she had been struck in the face by the baton round. These people then disappeared from the window and 039 took off his gas mask. **B1641**

18.7.4.271 His evidence to Eversheds, in summary, was that he must have considered it a threat for him to fire and "Someone may have been throwing something out of this window." **B1651.3 paragraphs 15 to 17** However in his oral evidence he could not recall this and he agreed that in 1972 that he was unable to provide the RMP with the detail of the nature of the alleged missiles. **Day 362/60/24 to Day 362/61/25**

18.7.4.272 It seems clear that this is a reference to the incident involving Mrs Kathleen Kelly, her niece Mary Smith (now Breslin) and a photographer at 2 Kells Walk. Mary Breslin was injured in the eye by flying glass. Her sight returned about a week after Bloody Sunday. **AB80.2 paragraphs 11 to 18**. Mrs Kelly makes no reference to any missiles being thrown from the flat but rather the occupants shouting from the window at the soldiers to cease firing at the "wee'uns" on the Rubble Barricade at which point the rubber bullet was fired at them **AK14.3 paragraph 16**. Also present in the flat were Brian Power **AP18.4 at paragraph 18** and Maura Power **AP19.2 paragraph 19**. All of those persons present say that nothing was thrown from the maisonette. Father George McLaughlin later attended those present in the maisonette **H13.2**.

18.7.4.273 Moreover, none of the other soldiers including Corporal 039's "buddy" for the operation Private M mentions any missiles being thrown from this flat or indeed any of the maisonettes in Kells Walk that might have justified the firing of the baton round. In our submission what Corporal 039 indulged in a cowardly unlawful assault on the civilians in the flat, in particular on Mary Smith who was hospitalised as a result of his actions. Corporal 039 did not agree that he should be ashamed of this actions and that he had nothing to apologise for. **Day 362/92/14 to Day 362/94/19**

18.7.4.274 Furthermore his allegations of missiles being thrown at the soldiers below are patently false and this witness included these details to the RMP and the Treasury Solicitor in order to justify his own brutal and criminal actions. We also respectfully submit that this soldier's actions could not possibly have gone unnoticed by his colleagues including his "buddy", Private M and his Colour Sergeant 002. Unsurprisingly not one of his colleagues has provided a truthful account of the true circumstances in which Corporal 039 discharged his rubber bullet gun at Kells Walk. This incident has echoes of an earlier incident

concerning the permanent blinding of Emily Groves in Belfast by a Paratrooper only three months previously. **L2**

18.7.4.275 It is further submitted that Corporal 039's actions near the low wall in injuring Mary Smith set the tone for the events that followed in which his colleagues soldiers K, L and M effectively used Kevin McElhinney as target practice as he crawled for his life to the door of Block1 of the Rossville Flats.

Events at the low wall at Kells Walk

18.7.4.276 Whilst at the low wall, 71Alpha came under fire from the direction of the Rossville Flats area. 039 saw two males appear from behind the barricade crawling towards a door at the south end of the flats. **B1641**

i) "One of the men was carrying what appeared to me to be a Thompson sub machine gun and was wearing a dark suit, or a dark jacket and trousers. He also had dark hair." **B1641**

ii) "The second man appeared to be trailing a weapon with him but I couldn't say what type it was. He was wearing a light, possibly fawn coloured coat and light trousers, with long fair hair. I pointed out the gunman to "L" who was situated on my left and "M" who was on my right and told them to fire at the gunmen." **B1642**

iii) "L" and "M" each fired 2 rounds. The man dressed in the dark clothing (who was in front) flinched as if hit" and managed to crawl inside the door of Block1. The second man rolled off the pavement on to the road and appeared to have been badly hurt. Notwithstanding his injuries the second man managed to crawl to the door where he was assisted inside by others. **B1642**

iv) Corporal 039 then heard a "cease fire" order from Colour Sergeant 002. **B1642**

v) He was later involved with Private M in escorting prisoners.

18.7.4.277 On 9th March 1972, Corporal 039 subsequently made a statement to the Treasury Solicitor. **B1649, B1650**. In this account he mentioned

some matters not previously outlined in his statement made within days of the events:

i) After debussing and almost as soon as the platoon moved forward they came under fire. "I identified low velocity weapons and I believe a couple of high velocity rounds. It came from the direction of the Rossville Flats." **B1649**

ii) He fired his rubber bullet and saw its result as he was moving towards the two low walls at the end of the block at Kells Walk. **B1650**

iii) He saw members of the Anti-tank platoon go through the alleyway into Glenfada Park. At this time they were under fire from the Rossville Flats to the east and were in defensive positions. **B1650**

iv) He now describes the type of movement that the men who were making their way south down along Block1 as performing "a leopard crawl".

v) The man in front in the dark suit and hair was now "cradling" a Thomspon SMG. **B1650**

vi) The man crawling at the rear in the fair hair and the light coloured coat and trousers "seemed to trail a weapon. It might have been on a sling but I am not sure. I thought it was a short low calibre rifle, but I could not identify the type." **B1650**

vii) "L" was on his left and "M" on his right. Corporal 039 pointed out the gunman and ordered them to fire. Each fired 2 rounds. **B1650.** The remainder of the statement essentially rehearses the facts set out in his RMP statement.

18.7.4.278 Corporal 039 provides no explanation for failing to mention either the shooting from the Rossville Flats when Guinness Force debussed or the firing from the Rossville Flats when the Anti-tank platoon were moving towards the alleyway into Glenfada Park previously to the RMP. It perhaps should be pointed out that nowhere in his evidence does he say that he heard explosions or saw petrol bombs exploding.

18.7.4.279 Corporal 039 is the only member of Guinness Force present at the low wall who describes the man in front as having a Thompson SMG. This is a short and distinctive looking weapon. Photographs of same can be found at **F24.16**, **F24.17**. Contrast this account with that of Sergeant K who described the weapon allegedly carried by the man in front as being a Lee Enfield rifle, photographs of which can be found at **F24.2**. It is submitted that it is hard to imagine two more visually contrasting weapons and that this is yet another example how broadly agreed concoctions begin to unravel in the unrehearsed detail. Corporal 039, like his colleagues simply did not get their stories straight enough before making their statements.

Corporal 039's evidence to this Inquiry

18.7.4.280 In summary, this is what Corporal 039 told this Inquiry:

i) Corporal 039 did not doubt the accuracy of his statements made to the RMP and Treasury Solicitor. **B1651.7 paragraph 37**, **B1651.7 paragraph 42**.

ii) The witness disclosed for the first time in his Eversheds statement that Colonel Wilford was present at some point behind the low wall at Kells Walk. The witness said that he was "sure" about this. **B1651.4 paragraph 19**.

iii) He also now claimed for the first time that he saw 4 or 5 muzzle flashes come from the door at Block1. **B1651.4 paragraph 21** No reason was given for the failure to mention this in 1972 other than he must not have been asked about the incident. **Day 362/74/3 to Day 362/74/22**

iv) Unlike Private M, and despite being familiar with the sound of nail bombs exploding and the sight of petrol bombs, he did not say that these occurred in Sector 3 in any of his statements. When this discrepancy was pointed out to the witness by Counsel to the Tribunal, the absurd explanation given by this witness was "If there was a lot of noise and one was looking one way and one was – his attention was drawn another way, anything is possible." **Day 362/84/18 to Day 362/84/20**

v) He now sees only one gunman crawling towards the door of Block1 who he describes as wearing a dark coat or jacket who was carrying a "clearly visible" American carbine type of rifle. **B1651.4 paragraph 22**. See photograph of M-1 carbine **F24.6**. He agreed with our Counsel however that he only had a "fleeting glimpse" of the man that he saw. **Day 362/96/1 to Day 362/96/20**

vi) He agreed he may have ordered the gunman to be shot. **B1651.04 paragraph 25**. He presumed that his "buddy", Private M may have shot the gunman.

vii) Incredibly, Corporal 039 now claims to have seen "one or two men who I was certain where members of the IRA" who were dressed in green combat jackets and berets. **B1651.6 paragraph 33**. This is yet another dramatic incident never previously mentioned in 1972.

18.7.4.283 In conclusion, we say Corporal 039 bears a heavy degree of responsibility for the firing by the members of Composite Platoon at Kevin McElhinney. He was a full Corporal and should have stopped the firing by Privates L and M which he knows perfectly well to have been unjustified. What he witnessed on Bloody Sunday was a 17 year old's life being snatched away in front of his eyes. He chose to lie about this in 1972 and continued to lie in relation to this event in the course of his perjured evidence before this Tribunal.

Private INQ127

18.7.4.284 This witness was a radio operator and made a statement to Eversheds. He saw the drainpipe shot. His understanding was that the company would be going into the Bogside as a "battering ram formation using the convoy of vehicles to disperse the crowd back as far as possible".

18.7.4.285 After debussing he heard various shots being fired but could not say what type or where from. He says that he cannot recollect seeing any

FS 1. 2019

soldiers shooting but was positioned at the low wall at Kells Walk according to Colour Sergeant 002 (The witness' recollection is that he was situated near a set of steps). Although there was shooting going on he recollects that he did not think that he was personally under fire where he was positioned.

18.7.4.286 When Private INQ 127 looked towards the rubble barricade he saw a body which was "long and black", lying prone, about 20 feet away from Block1. He does not mention that the person had a weapon or that there was another body in close proximity. A soldier next to him shouted "Thompson Machine Gun" and he ***thinks*** that the soldier next to him fired a shot. He claims that he did not actually see any soldiers firing on Bloody Sunday.

18.7.4.287 Private INQ 127 then was deployed into Columbcille Court and saw the prisoners who came from Glenfada Park North though he did not witness any ill treatment towards them.

The Final Shots Fired in Sector 3: Evidence of Soldiers C, D and 024

Private C

18.7.4.288 Although not a member of Call Sign 71 Alpha, his evidence is considered in this section of our closing submissions as it relates closely to that of Lance Corporal D. Private C admits to firing 5 rounds, more that anyone else in Guinness Force. He made a statement to the RMP, to the Treasury Solicitor, gave evidence to Lord Widgery and has provided a statement to Eversheds. He gave oral evidence to the Tribunal on **Day 354**.

Private C's Deployment into the Bogside

18.7.4.289 Private C's first account about what happened on Bloody Sunday was made at 01.30hrs on 31st January 1972. He said that "The rioters numbered between 1500 and 2000 of all sexes and ages" (emphasis

added) **B44**. The rioting was taking place at the junction of William Street and Rossville Street. **B44**

18.7.4.290 However when he came to make his statement to the Treasury Solicitor on 5th March in the presence of Major Bailey, he made a significant change to this description. He said that whilst he knew that rioting was taking place at the junction of William Street and Rossville Street he did not see it himself as he was in the back of his vehicle. His estimate of numbers (1500-2000) related to the number of people that he saw going away in the Rossville Street area after he debussed. According to him, it "was not meant to describe the rioters in William Street". **B54**. In our submission the witness provided the description both in terms of the numbers and the nature of the crowd who were allegedly rioting to the RMP in stark and unambiguous terms.

18.7.4.291 It is submitted that this is yet another example of a soldier who was prepared to tell the RMP that which he did not and could not see in order to deliberately exaggerate the threat posed to the soldiers in terms of the "riot" in the area of Aggro corner. It is clear that by the time Private C made his second statement it was simply untenable to claim that a riot of this seriousness took place and this fact forced him to change his story.

When Private C first heard shots

18.7.4.292 The witness told the RMP that after debussing he made his way across Eden Place, the rear of Chamberlain Street and into the flats area. He crossed the car park area level with Block1 and moved west across Rossville Street to the Columbcille Court area. **B44** It is significant that whilst in Sector 2 the witness mentions nothing about nail bombs exploding or fire being opened up on the Paras from the area of the Rossville Flats. Further, according to this account the only shots fired at the troops in Rossville Street are from the south end of Block1 or from Block 1 itself. By this stage, Private C has already positioned himself at the south end of the Kells Walk veranda.

FS 1 · 2021

18.7.4.293 However what he told the Treasury Solicitor was significantly different. Either just after the witness debussed or a little later when working down the back wall of the Chamberlain Street houses he first heard the sound of firing and this caused him to cock his weapon.

18.7.4.294 However it was not until C was actually giving evidence to Lord Widgery that he was able to say where this firing was coming from:

> "Q. Can you tell the Tribunal when you first heard firing? Yes sir. I am not quite sure on this, sir. It was either over there – I have written this in my statement – or over here, sir.
>
> Q. Or when you got there? A. Yes sir, I am not quite sure.
>
> Q. Whenever it was, when you did hear it where did it come from?
>
> In this direction, sir, from the flats.
>
> Q. From the flats direction? A. Yes sir." **B62 at F, B63 at A**

Whilst being examined by Mr Hill, further detail was supplied by C in that he was now able to say that the gunfire was "low velocity". **B64 at D**

Cocking his SLR

18.7.4.295 According to his RMP statement, the witness only cocked his rifle after positioning himself at the south end of the Kells Walk veranda where he heard a shot from the south end of Block1 and saw a man with a long stick like object. B45 However (as above) he told the Treasury Solicitor that he cocked his SLR either just after debussing or whilst working down the back wall of Chamberlain Street.**B51**

Events at the Kells Walk veranda

The Gunman at the south end of Block1

18.7.4.296 This is a summary of what the witness told the RMP:

i) He positioned himself on the veranda of Kells Walk maisonettes and observed the flats area. **B44**

ii) He saw at the end flat of Rossville Flats on the ground floor, and in the opening, a male person wearing a dark coat observing the troops in Rossville Street. He then heard the sound of a shot from the man's location. The man disappeared. The man had "a long stick like object which he put into the aim position." The witness then cocked his rifle and fired 2 rounds. The second may have hit him. **B45**

18.7.4.297 In summary, this is what he told the Treasury Solicitor:

i) He was ordered with about half a dozen other soldiers to assist in taking a party of about 20 prisoners back to a collection point[79]. After returning to the Columbcille Court area he took up a covering position on the "1st floor balcony at the end of the building nearest Glenfada Park on the side facing Columbcille Court." **B52**

ii) He saw a man at the south end of Block1. His attention was caught by the sound of a shot. The man was in the aim position and he "could see what looked like a weapon in his hands. I could distinguish the shape of the magazine and think it was a klesnicov (sic) or a weapon of that kind. My weapon was already cocked and I came into the aim. Before I could get a shot at him he went back. Then he came out a second time. I took aim at him but did not immediately fire. Then he fired two rounds and I fired two rounds at him. The man jerked backwards and his weapon went into the air as he did so. I saw him clearly at that moment." **B53**

[79] It is clear that these are the prisoners who were taken out of Glenfada Park North. This is further suggests that Private C did not get onto the veranda at Kells Walk until a very later stage in the day and at a time when all the killings and injuries had happened. **B58 at C to D**

FS1 2023

18.7.4.298 This is the first time that Private C offered a description of the type of weapon that this alleged gunman had. Significantly, C is now able to provide a detailed description of the weapon unlike the reference to the "long stick like object" he was talking about to the RMP. A photograph of the type of weapon C is referring to can be seen at **F24.5**. It is difficult to see how any experienced soldier intending to provide an accurate and truthful account could have described it in terms given to the RMP.

18.7.4.299 It is also not without significance that C claimed to the Treasury Solicitor that a shot drew his attention to this gunman unlike his account to the RMP where he says that he saw the gunman and then heard him shoot. A further discrepancy between the two accounts lies in the fact that C told the RMP that only 1 shot came from the gunman's position **B44, B45** when in fact he told the Treasury Solicitor **B52** (and later Lord Widgery **B59 D to G**) that the alleged gunman fired 1 shot and then a further 2 before C fired 2 rounds at him.

18.7.4.300 Another point to note is that neither Lance Corporal D nor Private 24 who were both on the same balcony as Private C heard the alleged high velocity 7.62mm Kalashnikov gunfire from Rossville Street on ground level just before C engaged this alleged gunman. Lance Corporal D agreed that he heard no high velocity shots before the low velocity shots that attracted his attention from Block1. D further agreed that if a Kalashnikov assault rifle was fired on not once but two occasions from a distance of some 60 yards he probably would have heard it. **Day 355/55/5 to Day 355/60/1**

18.7.4.301 We submit that if the situation was at that time of relative calm in the sense that civilians were trying to assist the deceased and injured, apparently automatic[80] gunfire from a Kalashnikov assault rifle would have been heard over a very wide area. It is illuminating that not one of

[80] **B58 at F**

the military witnesses who were on ground level on Rossville Street claim that they heard this type of high velocity gunfire at this time. It is also clear that this gunman would have been operating from the area where the bodies of Hugh Gilmore and Barney McGuigan would have been lying and from where there were at least three photographers who took a substantial amount of photographs of the people in this vicinity. It goes without saying that there is not one witness who refers to the presence of a gunman in this area at that time. See photographs **P442**, **P444** and **P445**.

18.7.4.302 Private C's story is also contradicted by the evidence of his Commanding Officer, Captain 200 who said that he was aware of two soldiers (who must be C and D) firing 2-3 rounds on top of the pram ramp. Captain 200/SA8 however did not hear any firing from the Rossville Flats at this time. He only heard the firing from the pram ramp. **B2007 at E to G, B2019 at A to B2020 at A**

18.7.4.303 Moreover Eddie Dobbins who was a member of the Creggan Provisional IRA said that the PIRA did not in fact possess a Kalashnikov rifle at the time of Bloody Sunday **Day 399/128/5 to Day 399/128/13**. No member of the PIRA or OIRA say they had this weapon in their arsenal and further, not one of the Intelligence documents emanating from the Army or the RUC indicate that this weapon had either been acquired or was in use in the relevant period by either wing of the IRA in Derry.

18.7.4.304 The picture that Private C depicted in his evidence to this Inquiry was even more exaggerated and should be rejected. According to him, (notwithstanding the lateness of when he arrived on the veranda) he saw a group of rioters in Rossville Street who threw stones and petrol bombs. As well as there being the gunman with the Kalashnikov, the witness could hear "the continuous low sounding cracks of automatic small arms fire... It was definitely not a .303 weapon or an SLR being

fired; it was definitely small arms fire at close range." **B68.002 paragraphs 10 to 12**

Whether or not Private C was kneeling or lying down

18.7.4.305 In the course of his oral evidence at the Widgery Tribunal, Private C was asked by Mr Underhill how he was positioned when he fired at this target:

> "Q. Were you standing or kneeling or what? A. I was laying, sir." **B60 at A**

This point was pursued by Mr Hill BL on behalf of the Families who demonstrated by the use of photographs (**P271**) that there was a 3 foot wall relative to where C was lying which meant that it was impossible for him to see and fire at the gunmen that he claimed to have seen if he was telling the truth about where he had positioned himself when he fired. The witness insisted in unambiguous terms that he was able to see and fire at what he claimed and that he was lying down. **B62 at E to B64 at C, B66 at A**

18.7.4.306 Presumably now alert to the difficulty that his 1972 oral evidence places him in Private C changed his evidence in this respect for this Inquiry. According to him, he cannot now recall whether he was kneeling or laying down at the time:

> "I probably crouched down to take cover when I was in danger and then stood up to fire towards the window". **B68.004 paragraph 16.**

He elaborated further in his statement and commented in relation to his oral evidence when being examined by Mr Hill BL:

"At the time I probably did not explain myself very well. I probably lay down during the sound of incoming fire and then rose to a standing position when I was ready to shoot back. To get from a lying to a standing position, I had to kneel. He was trying to make out that my evidence was unreliable and that I was a liar. It is only now that I realise wht he was trying to do." **B68.009 paragraph 43**

18.7.4.307 It is submitted that C was well aware in 1972 and in 2000 when he made his Eversheds statement about how unlikely his story sounds and that he has simply changed evidence from "laying" to "kneeling" to "a standing position" in an inept attempt to explain how he could have fired.

18.7.4.308 For completeness, Lance Corporal D was asked about this issue in his Eversheds statement:

"Logically if the wall was 3 foot we would be kneeling because if we were upright we would be too big a target...In my mind both Soldier C and I were kneeling. If you were lying down we couldn't see the window." **B85.004**

18.7.4.309 In the course of his oral evidence, Lance Corporal D said that he could not recollect Private C lying flat on the ground at the south end of the balcony. All he could remember was C knelt next to him at the top of the veranda. D said he was "fairly positive" about this. **Day 355/24/24 to Day 355/25/11**

The gunman in Block1 on 3rd floor

18.7.4.310 In his RMP statement Private C said the following:

i) He continued observations from the veranda and saw a window opened on the third story at the fourth window to the right of where he stood. **B45**

ii) He heard a shot fired and saw a flash of a weapon fired from inside the room. C believed the man was firing at the troops below. The man held the pistol in his left hand. C fired 1 round at him which missed and struck the wall outside. **B45**

iii) Private C was then joined by Lance Corporal D and told him of where he had fired. The gunman reappeared and fired 2 further shots at the troops in Rossville Street. C fired 2 further rounds at the gunman who was thrown backwards and was not seen again. **B45**

iv) D also fired 1 round at the gunman who was dressed in a blue jumper with fairly dark hair. **B45**

v) C thought he was hit in the arm. **B45**

18.7.4.311 Again, important differences feature in his Treasury Solicitor statement:

i) He now believes that he did not in fact see the muzzle flash of a weapon but rather the flash of the window. **B53, B54**

ii) He now believes that the window closed some way but not completely. B53. This was not mentioned previously and may have been included to allow for D's evidence that he saw the window opening before the pistol man stuck out his hand and fire. **B70**

iii) C fires as soon as the window reopens and at the same time as the gunman fired 2 quick shots. **B53**

18.7.4.312 In concluding his Treasury statement, presumably alive to the fact that there are serious differences in his two accounts and between his evidence and Lance Corporal D's, the witness points out "that when my statement was taken I had been up for over 20 hours and was exhausted. This could be why these mistakes arose." **B54**. In our respectful submission these mistakes arose because C is a mendacious witness who has had to resort to concoctions to explain his actions and account for ammunition that he fired.

18.7.4.313 In his statement to Eversheds he claimed that the gunman "must have emptied his magazine and fired about 9 to 12 shots although I cannot recall the number of rounds he fired." **B68.003 paragraph 14**. This is a significant increase to the 3 shots that C claimed were fired by the pistol man in 1972.

18.7.4.314 The main difficulty that arises for Soldier C and which supports our submission that neither he nor D actually fired at the window where they claimed is that the flat where he claimed he fired at the gunman is known to the Inquiry. It is 8 Garvan Place and was occupied by Mrs Eileen Gallagher (deceased) who made a statement in 1972. **AG10.1-10.15**

18.7.4.315 Mrs Gallagher said that she had three visitors present. She witnessed events in the Courtyard of the Rossville Flats. She saw three fellows fall over on the Rubble Barricade. She described what happened to Alex Nash and how soldiers threw the three bodies into the back of the pig. Mrs Gallagher further related in detail the incident where Fathers Mulvey and Irvine approached the pig to offer spiritual aid. However she mentioned nothing about there being a gunman in her flat. Similarly, she mentioned nothing about shots being fired through her window, glass breaking or anyone being wounded.

18.7.4.316 Counsel to the Tribunal, Mr Roxbrough BL asked whether C was confident that the position marked on his trajectory photograph **P4** was precisely accurate in terms of where he fired. The witness said that the information that he gave in 1972 would have been more accurate. **Day 354/63/7 to Day 354/66/3**.

18.7.4.317 It is contended that if, in truth, Private C saw any movement at all at a window in Block1 what he is most likely to have seen was Fulvio Grimaldi attempting to photograph events on Rossville Street from the McCrudden family home at 12 Garvan Place which had windows on the 2nd and 3rd floors of the Rossville Flats. Six shots were fired

through the window of the McCrudden house (12 Garvan Place which had windows on the 2nd and 3rd floors) after Grimaldi attempted to photograph events in Rossville Street. The event is also recorded on the North tape.

18.7.4.318 It is submitted that Private C provided a dishonest account of his criminal activities on Bloody Sunday to the RMP, the Treasury Solicitor and lied on oath to Lord Widgery. That his character has not changed over the course of the last 30 years is evidenced by the fact that he was convicted in the Crown Court in November 1996 on a charge of obtaining £12,000 by deception for which he was sentenced to 3 years' imprisonment. It is further alleged that C once again lied on oath to this Tribunal when trying to justify the shots he and D fired on Bloody Sunday.

Lance Corporal D

18.7.4.319 Lance Corporal D admits to firing 2 rounds in Sector 3. The gravamen of our submission in relation to this witness is that he, along with Private C, arrived at their position on the veranda of Kells Walk at a very late stage in the events when practically all of the shooting was over. In conjunction with Private C he fired not at a gunman in the Rossville Flats as he claimed but rather down Rossville Street at a time when already terrorised civilians were putting the dead and dying into ambulances in the area south of Block1. **Day 355/61/25 to Day 355/62/9**

18.7.4.320 His first account was given to the RMP at 02.00hours on 31st January 1972. This is a summary of what he told them:

i) After he debussed he was given a prisoner who appears to have been Joseph Lynn. Lynn was arrested in a derelict building at the north end of Rossville Street by Private L and Lance Corporal 229. The witness handed the prisoner over to the Bn Provost Staff. It is notable that Lance Corporal D does

not mention hearing firing until he rejoined his section over 10 minutes later. **B69**

ii) He then went on to the veranda of the maisonettes at Kells Walk and observed the Kells Walk area. Private C passed him and located himself at the end of the veranda. **B69**

iii) Whilst observing Columbcille Court area he heard pistol shots. Private C told him shots were fired from a window on the west side of Block1 on the 3rd floor. **B70**. The position is marked on trajectory map **B71**.

iv) The witness continued to observe the area and saw the window open and a hand clutching a pistol appear out of it which fired. Lance Corporal D cocked his SLR and fired 1 round which struck the framework of the window above the pistol. The hand with the pistol withdrew. **B70**

v) Minutes later a male appeared at the window with a pistol in his hand and he fired this towards the troops in Rossville Street. The gunman was dressed in a dark jumper and had fairly long hair. Both Lance Corporal D and Private C opened fire on the alleged gunman. The witness fired 1 round. The gunman appeared to be thrown backwards. **B70**

18.7.4.321 In his statement to the Treasury Solicitor dated 5th March and his oral evidence to Lord Widgery, this witness refers to a number of incidents not previously mentioned to the RMP:

i) Although he did not hear any firing himself, he now says as they were debussing someone shouted "we were coming under fire from the direction of the flats." **B75,B79 at C**

ii) When rejoined his party after dealing with the prisoner he heard firing from the flats area which he described as consisting of some SLR and some low velocity weapons. **B76** Incredibly, in the course of his oral evidence to Lord Widgery, the witness claimed that he had not identified any SLR firing before he went up to the corner of Kells Walk despite the fact

Alternatively this 'missing casualty' is in fact one of the three persons removed from the Rubble Barricade by Mortar Platoon.

18.9.2.6 If the body was removed at the same time as Michael Kelly, then despite the extensive photographic coverage of the Rubble Barricade and Glenfada Park North before and after the shooting this person was brought from the Rubble Barricade unnoticed. The removal was also unnoticed by the people at the gable wall of Glenfada Park North. Alternatively witnesses like Fr. Bradley, Barry Liddy and Fr O'Keefe have participated in a massive conspiracy, which has included the unidentified people who removed the body, a conspiracy which went into motion within minutes of this man's death and which has gone uncovered for 32 years.

18.9.2.7 In support of this implausible proposition the Aitken Team cite the evidence of the following (which with respect is far from "clear"):

George Roberts (AR13 and Day 151):

> ***"describes a young man in a white Aran sweater with wound under his right eye from which blood was gushing."***

18.9.2.8 George Roberts' evidence is that he was at the southern gable of the eastern block of Glenfada Park North with [redacted]. He amended this when he gave oral evidence, to say that this person was PIRA 1 **Day 151/69/11 to Day 151/69/19**.

18.9.2.9 In 1972 George Roberts evidence seemed to be to the effect that he had witnessed at least 3 people being shot:

> "...I was standing at the barricade and the army started shooting and the fellow standing beside me fell. He was hit and I got down beside him to try and pull him into the gable house. I called to the

FS 1· 2132

18.7.4.323 It was apparent throughout the witness' oral examination by Counsel to the Tribunal that he had little independent memory of what happened and preferred to rely on the statement that he made to the Treasury Solicitor as being correct. Another feature of his oral evidence was that he had further expunged a lot of detail from his mind during the 3 years between signing his Eversheds statement (made in 2000) and giving oral evidence. By way of example, Private D in 1972 said that he did not hear any explosions except rubber bullet guns being fired. **B76**. In his Eversheds statement he said:

> "I do not remember hearing blast bombs but afterwards I recall seeing a video and there were three big blasts which might have been nail bombs. I do not remember hearing them on the day." **B85.007 paragraph 36**

18.7.4.324 When Counsel to the Tribunal asked him when he saw this footage Private D was unable to say whether he saw it 30 years ago, 25 years ago or a week prior to giving evidence. **Day 355/36/7 to Day 355/37/5**

18.7.4.325 In a similar vein Private D said in his Eversheds statement he saw a priest shouting "don't shoot" who was positioned between the entrance of Block1 and the Rubble Barricade, possibly on the road near a body that was lying face down. The following exchange ensued between the witness and Counsel to the Tribunal:

> "Q. Did you form any impression as to whether the person who was lying down on the ground was dead or wounded or just taking cover?
>
> A. I cannot remember now, but on reading me statement, um, I said he was not moving, the body, so he was face down on the floor, but I cannot remember, I cannot remember now.
>
> Q. He may not have been moving. Have you at any stage had an impression of whether he was dead or alive?
>
> A. None at all.

Q. How clear is your memory of this incident now?
A. It is hazy, I just remember the bits of it.
Q. Could it be that your recollection of seeing the priest and the man lying down on his stomach is a bit muddled?
A. No, if he is down in the statement, I saw it, but now I just, um, I cannot remember now.
Q. You seem to be saying that when you made this statement in July 2000, you could remember quite a lot of things that you cannot remember now?

A. Well, it is, I just do not, I do not keep these in me memory, so, I wish to forget about it, so ...
Q. Is the position that you kept it in your memory for 28 years and then in the last three --
A. Just the, I just remember the main things what happened and it is just things what came into me memory that I told in, um 2000.
Q. I will ask again: is the position that you kept quite at bit of information in your memory for 28 years and then, in the last three, it has just disappeared from your memory?

A. Well, it has gone fuzzy, yes." **Day 355/34/16 to Day 355/35/24**

18.7.4.326 Essentially, in our submission, this witness adopted a stratagem whereby he feigned memory loss in order to avoid telling the Tribunal the truth of what happened.

The 150-200 rioters allegedly observed by Lance Corporal D

18.7.4.327 This was first mentioned in the course of his oral evidence to Lord Widgery. Private D alleged that he saw 150-200 rioters whilst he was at the corner of the Kells Walk veranda. According to him, the rioters were at the bottom of the flats on the William Street side of the Barricade. **B38 F to B39 A**

18.7.4.328 This simply cannot be correct. We say this because by this point, the vast bulk of the firing from SLRs was over and the area of the Rubble Barricade would have been deserted of civilians. If there was any event that could be described as a "riot" in Rossville Street (which is not accepted) it ended with Lance Corporal F shooting Michael Kelly. This must have happened approximately 10 minutes prior to this witness assuming his position on the Kells Walk veranda / walkway. When these difficulties were pointed out to the witness, he could offer no explanation other than say what ever he said in 1972 was the truth. **Day 355/46/15 to Day 355/47/20**

18.7.4.329 Counsel for the Families pressed the matter further with the witness:

> "Q. No, but if you saw 150 people when you went up on to the
> veranda or 200 milling around on the William Street side
> of that barrier, and not one other soldier who is at
> ground level saw such a thing at that time, not one
> cameraman and not one journalist, not one priest and not
> one civilian saw that, how did you see it?
> I saw it because I saw it and my recollection is what
> I saw on that night. I do not care what other people
> saw, that is what I saw.
> That is in fact what you told Lord Widgery in 1972: that
> at the time you fired your shot or shots into the window
> of Rossville Flats, there was a riotous crowd below?
> If I said that then it was the truth then." **Day 355/47/21 to Day 355/48/8**

18.7.4.330 In summary, Lance Corporal D provided a false account of what he did in 1972, in 2000 and in the course of his sworn evidence to this Tribunal. He was an evasive and dishonest witness who hid behind a mantra of memory loss in order to protect himself from a perjury

charge. His evidence in relation to seeing a gunman should be rejected along with that of his colleague, Private C.

18.7.4.331 It is further submitted that the shots he fired were completely unjustified. However notwithstanding the obvious unreliability of Lance Corporal D's own evidence, when both "C" and "D" 's evidence are considered together their stories are shown to be demonstrably implausible.

Private 024

18.7.4.332 Private 024 only appears to have provided two undated statements to the RMP in 1972. He did not give evidence to this Inquiry. He was a member of Call Sign 71.

18.7.4.333 In summary, he told the RMP that:

i) After debussing he deployed along the wall of a building on the East side of Rossville Street. **B1526**

ii) He appears to have neither heard nor saw anything of note until he moved to the east end of Kells Walk whereupon he saw six members of Guinness Force dealing with a group of about twenty prisoners including a woman who must be the group who were arrested in Glenfada Park North. He assisted in handing these prisoners over to other soldiers in Little James Street. He then dealt with a further three prisoners in the same fashion and returned to Kells Walk. **B1526 to B1527**

iii) Whilst at the north west corner of the block a bullet was fired in his direction from the area of the GPO sorting office. He failed to see a gunman. **B1527**

iv) Sergeant 014 then told him to go up onto the same veranda as Private C and another member of his unit (who must be Lance Corporal D). 024 found his colleagues observing the Rossville Flats area at the south end of the veranda. **B1527**

v) "I looked down towards the Barricade on Rossville Street and saw a man with a nail bomb which was not lit. I would be able

to recognise this man if I saw him again. I took aim with my SLR but did not fire as his bomb was not lit." **B1527**

vi) "As I watched him "C" moved round and took aim at a man who was hanging out of a window of a third floor flat in Rossville Flats. He was firing a pistol north along Rossville Street where part of the Force (unreadable)... "C" fired two rounds 7.62mm from his SLR and I saw the window shatter and the man with the pistol was thrown back into the house. I looked back to see if the bomber had lit his bomb but he had disappeared." **B1527**

18.7.4.334 In his second RMP statement Private 024 provided the following additional detail:

i) He times the events he allegedly saw on the veranda as taking place about 16.15hrs. **B1529**

ii) He now places the nail bomber on the junction of Rossville Street and an alleyway to Glenfada Park about 50 metres away. **B1529**

iii) His description of the gunman is less positive. He now only sees a man fire "what appeared to be a pistol" from Block1. **B1529**

18.7.4.335 A number of issues arise from this evidence:

i) This witness only claimed to see Soldier C open fire on one occasion. Notwithstanding his close proximity to C he only hears him fire two rounds but fails to hear the alleged Kalshnikov fire as claimed by C.

ii) He makes absolutely no mention of Lance Corporal D firing at all in either of his statements.

iii) Neither Soldiers C, D or any of the soldiers who were on ground level at this stage in Rossville Street claimed to see a man with a nail bomb on Rossville Street at this late stage. Notwithstanding this witness' professed ability to recognise

the man with a nail bomb again if he saw him, he apparently provided no description of him to the RMP.

iv) It is submitted that the witness may have been aware of the timing difficulty after he made his first RMP statement. This may be the reason for attempting to put an early timing in relation to witnessing these events from the veranda.

v) In his first account to the RMP the witness has the alleged gunman in Block1 "hanging out of the window" firing his weapon. This is in contrast to the accounts given by Soldiers C and D.

vi) On Private 024's account the gunman only fired on one occasion before he shot by Private C.

18.7.4.336 In light of the foregoing it is submitted that Private 024's evidence in relation to seeing a nail bomber on Rossville Street is untrue. It is further submitted that he did not see anyone with a pistol in Block1 and that his accounts to the RMP have been provided as part of an inept attempt to corroborate the evidence of Private C.

Other members of Composite Platoon: Call Sign 71 Alpha

Corporal INQ 812

18.7.4.337 Corporal INQ812 only made a statement to Eversheds. In relation to the quality of his recollection he points out that he performed a number of tours in Northern Ireland. "The trouble with doing more tours is that your recollection can get mixed up." **C812.3 paragraph 21**

18.7.4.338 As Composite Platoon entered the Bogside he was affected by gas. When the platoon deployed into Rossville Street he remained crouched down at the tailgate of the lorry. **C812.2 paragraphs 10 to 11**

18.7.4.339 He claims not to have seen any of his colleagues firing nor did he see any of the scenes in front of the Rossville Flats or on the waste ground.

C812.2 paragraph 11. He "mostly heard high velocity shots" and cannot remember any explosions. **C812.2 paragraph 12**

18.7.4.340 Corporal INQ 812 now thinks that he can hear nail bombs on **V1/00.06 to 00.07**. He also recalls seeing Father Daly waving a white handkerchief and carrying a body. **C812.2 paragraph 14**. It is submitted that if this witness genuinely did see Father Daly with a body, because this happened in the car park of the Rossville Flats courtyard at an early stage, it is difficult to accept that he genuinely saw as little as he now claims or that his account of remaining at the tailgate of the Bedford lorry is true.

Private INQ449

18.7.4.341 This witness has provided a statement to Eversheds **C449** and gave evidence on **Day 357**. He claims that he fired a shot at a pistol man in a flat at Columbcille Court. On any view he provides a seriously unreliable account and in our submission the Tribunal can attach no weight to it.

18.7.4.342 For example, he thinks he was deployed near the City Walls and has C Company deployed with riot shields on the waste ground in Sector 2 before Support Company debussed and then later says they were involved in operations in Columbcille Court. He says that VNK541 and INQ2093 from Mortar platoon fired a shot on Bloody Sunday but he also suggests that keeping private supplies of ammunition was prevalent.

18.7.4.343 According to INQ449, the civilians would drop the dead bodies of IRA members down sewers as the IRA disclaimed casualties because it was "bad publicity" for them. The witness did not say on what basis he made this assertion. The reason why he provided no basis for this is because there is none.

18.7.4.344 This witness served to underline the unreliable and highly improbable standard of not only his recollection but the recollections of virtually all the military witnesses.

Private INQ 748

18.7.4.345 Private INQ748 has provided a statement to Eversheds but did not give oral evidence to the Tribunal. He views the setting up of a second Inquiry into Bloody Sunday with "disgust"[81] **C748.4 paragraph 24**.

18.7.4.346 On Bloody Sunday he was equipped with an SMG. He remembers the drainpipe shot occurring when he was in the churchyard. He also saw the crowd rioting at Barrier 12. He does not remember seeing or hearing any nail bombs or petrol bombs being thrown.

18.7.4.347 He is obviously mistaken in relation to travelling through Barrier 12 on foot as opposed to in the Bedford lorries. At no stage in his evidence does he claim to have been under fire whilst in Sector 3. Nor does he say that he saw any civilian gunmen or heard bombs exploding. **C748.2 paragraph 13**

18.7.4.348 He appears (It is by no means clear) to have been in the area of Kells Walk (the street) and Columbcille Court when he heard shots from Rossville Street. See marked up photograph at **C748.6**. He was unable to say what type of gunfire it was and cannot tell the difference between high and low velocity fire. Nor could he say if the shots were civilian or army fire. All he could say was that the gunfire came from behind him and to the east. **C748.3 paragraph 17**

18.7.4.349 Whilst in this courtyard position he later saw some prisoners with soldiers. This sounds like the prisoners who were taken from Glenfada Park North as INQ748 believes that by this stage the shooting in Rossville Street had stopped. **C748.4 paragraph 19**

Private INQ 405

18.7.4.350 This witness gave a statement to Eversheds though he has a recollection of also providing one to the RMP in Belfast about 10 days after Bloody Sunday. We do not have the statement to which he refers. Counsel to the Inquiry pressed the witness about this statement. The witness was sure that this statement was made in respect of Bloody Sunday. **Day 363/13/8 to Day 363/15/17**

18.7.4.351 He was the driver of the second Guinness Force soft skinned lorry. He gives a confused and obviously unreliable account of the drainpipe shot occurring as Colour Sergeant was unhooking the barrier so that the Company could move into Bogside. **C405.2 paragraphs 7 to 9** . The witness did agree with Counsel that it was possible that after 32 years he could be confused about some matters **Day 363/20/1 to Day 363/20/3**

18.7.4.352 His recollection in his Eversheds statement is that whilst he was driving the Bedford lorry the Paras came under intense fire from high velocity automatic weapons such as Armalites or AK47s for a couple of minutes. There was no SMG fire or explosions or even any other noises, commotion or shouting. **C405.2 paragraph 10**

18.7.4.353 However when he gave oral evidence he changed his evidence in this respect:

> Q. Is it right that all the shooting you heard when you were still in the vehicle was high velocity shooting?
> A. Yes, yes, to my knowledge anyway.
> Q. Could you tell what kind of high velocity weapons were causing that shooting?
> A. Yes, it sounded like SLR to me, yes.
> Q. Do you remember hearing any other kind of firing apart

from SLR firing while you were still in the vehicle?
A. No, as I have said before, it was just a blanket of noise.
Q. A blanket of noise --
A. A blanket of noise echoing, you just cannot pick out, you know, separate sort of weapons when everything is going off, you know.
Q. You were able to pick out SLRs; is that right?
A. Well, that was the main thing that was going off, yes.
Q. And apart from the SLRs, were you able to pick out anything else or was it just a blanket of noise?
Q. Just a blanket of noise. **Day 363/9/4 to Day 363/9/22**

18.7.4.354 This automatic gunfire continued after he debussed and took position at the driver side front wheel and seemed to be coming either from "the gable end of a building about ***8 feet*** (our emphasis)" to his left (i.e. the house that can be seen at the left hand side of photograph **P519** at the junction of William Street and Rossville Street on the east side.) or 20 – 30 yards away in the same direction. The building was a derelict two-storey house. This intense fire continued for a further couple of minutes after debussing before becoming sporadic.

18.7.4.355 Counsel for the Families explored this bizarre claim with the witness:

"Q. From what you saw or heard, did anyone of the 40 troops who were part of Guinness Force react in a way which would have led them to believe that the fire that was coming, you believe eight feet to your left, was hostile to them?
A. No, not at all." **Day 363/17/24 to Day 363/18/4**

18.7.4.356 In his oral evidence INQ 405 claimed not to see any of his colleagues open fire or see any civilians shot. **Day 363/13/1 to Day 363/13/7**

18.7.4.357 It is submitted that the account provided by this witness is inherently implausible and bears no relation to the objective evidence, namely the actuality footage on **V/48 12.43 to 12.53** which shows the relaxed debussing of Composite Platoon from their Bedford lorries. Nor is it corroborated by any of the other soldiers who were in this position.

Corporal INQ 25

18.7.4.358 Corporal INQ 25 made a statement to Eversheds and gave evidence on **Day 300**. He has identified himself as being in photograph **EP5.22**. He saw the drainpipe shot and later heard occasional shots being fired. His role on Bloody Sunday was with about six colleagues to escort prisoners and hold them in a secure area until they were taken away for questioning. **C25.1 paragraph 7**

18.7.4.359 He was positioned near the junction of William Street and Rossville Street and also in the vicinity of the City Cabs office. The evidence of two civilians who were arrested in the Rossville Street / waste ground area (William Dillon AD46.5 paragraphs 24 to 25 and James Doherty AD69.4 paragraphs 26 to 27) and who were detained in the area where INQ 25 was put to the witness by Counsel to the Tribunal. INQ25 denied that these prisoners were brutalised and threatened. He also denied that the Guinness Force soldiers were aggressive, angry and hyped up. **Day 300/86/5 to Day 300/87/11**

18.7.4.360 During the day he heard various shots fired but did not see anyone (military or civilian) actually opening fire. INQ25's recollection was that the shooting was not continuous. He could not say what kind of weapons were being used or where the shots were coming from. He has no recollection of machine gun fire, nor could he say whether there were other types of explosions, such as nail bombs exploding. **C25.3 paragraph 20**

18.7.4.361 Whilst positioned near the City Cabs office in William Street he saw one of his fellow soldiers (i.e. a member of Guinness Force who the witness claimed that he could not name **Day 300/90/1 to Day 300/90/6**) strike a civilian on the head with his baton who was trying to get into the taxi rank. He describes the civilian as being dressed in a dark overcoat, being short and in his forties. In our submission this can only be a reference to **Patsy O'Donnell**. INQ25 says that in his Eversheds statement the soldier struck the civilian "not too hard". **C25.3 paragraph 26**. In our submission this witness is playing down the seriousness of this assault on Mr O'Donnell. Mr O'Donnell in fact received a 1½ inch wound to the left side of his scalp which required 7 or 8 sutures. **AO35.7**, **E10.010** , **D0898**

18.7.4.362 In his oral evidence INQ25 admitted that the blow from the baton "split his head open". He agreed that it was apparent that the civilian was visibly already in some pain and distress, that there were roughly six Guinness Force Paratroopers present and that they had the other arrestees all under control. All INQ25 could say in defence of the actions of his colleague, who he did not name, was that it "was not a normal situation". **Day 300/90/18 to Day 300/91/25**

18.7.4.363 He claims that after this incident a priest intervened and it became apparent that Mr O'Donnell was wounded by gunshot in the shoulder area. Captain INQ7, the battalion intelligence officer, then allowed the wounded man to be taken away in a civilian car. **C25.3 paragraphs 26 to 28**

Lance Corporal INQ 816

18.7.4.364 This witness provided a statement to Eversheds. He is another former Paratrooper who is openly hostile to the setting up of this Inquiry[81].

[81] "I would like to say that I think this Inquiry is trying to crucify the guys who were on the ground that day. The events of that day happened a long time ago and the men were just trying to do their jobs." **C816.5 paragraph 27**

Perhaps this may be a reason for his lack of memory. He says that he does not remember going into the Bogside at all and he does not remember being near the Rossville Flats. He suggests that he might have been split up from everyone else when "*we* got into the vehicles" but he does not suggest where it was that he may have went. **C816.3 paragraph 20**

18.7.4.365 INQ816 says that he did not hear any rounds that were fired after the Paras went in. In the context of over 100 rounds being fired in the Rossville Street area by 1Para area this is simply incredible. He says that he did not see any gunmen in the crowd. **C816.4 paragraph 21**. Nor did he hear any explosions or automatic fire. **C816.3 paragraph 18**. In contrast to this, he does have a recollection of an incoming shot striking the drainpipe at the Presbyterian Church. **C816.2 paragraph 16**. It is submitted that if this witness actually did hear any incoming fire whilst in the Rossville Street area then he would not have been reluctant to include this in his statement to the Inquiry.

18.7.4.366 This is yet another witness feigning memory loss because he could not give an honest account of the events in the Bogside that he must have either witnessed or heard about in the aftermath without implicating his former colleagues in shooting at civilians without justification.

18.7.5 Observation Posts

Introduction

18.7.5.1 According to the Operation Order:

> "The containment line and the area within it are to be dominated by physical military presence, by OP observation and by sniper posts. The maximum number of soldiers are to be in the shop window. They are to be covered by deployment of OP's and by a massive deployment of snipers in the anti-sniper role, who should be deployed at *every*

possible vantage point within our secure area" (Operation Order **G95.568**, *emphasis added*)

18.7.5.2 Bearing in mind that soldiers were to be deployed at "every possible vantage point", the most striking feature of the evidence of the soldiers deployed in the observation posts, both permanent and *ad hoc*, is that claimed sightings of civilians engaged in hostile action against the army are few and far between. The majority of these soldiers did not claim to have seen anything that could have justified the use of lethal force by the Parachute Regiment on Bloody Sunday. None of the witnesses positioned on the Observation Posts claims to have witnessed the sort of widespread and intensive shooting and bombing that the Parachute Regiment claims to have sustained.

18.7.5.3 While there is some evidence from soldiers on Observation Posts of civilians firing a weapon or throwing a nail bomb, these allegations are undermined by the fact that:

i) The fact that their colleagues positioned beside them and observing the same area see nothing;

ii) Their universal failure to report the claimed sightings over the radio, as is reflected by the radio logs;

iii) Their universal failure to report these sightings to their more senior colleagues.

18.7.5.4 There were 19 Army Observation Posts in Derry on Bloody Sunday. Of those only a limited number had views of Rossville Street and the Rubble Barricade and it is not proposed to deal with Observation Posts which did not have any such view. The Observation Posts of most relevance to Sector 3 are: Charlie OP located on the City Walls; the other observation posts on the Walls; and ECHO Observation Post. The evidence of the individual soldiers at these Observation Posts where relevant is dealt with below.

18.7.5.5 The OP's at Harrison's Garage, Abbey Taxis, the Pet Shop and the Peter England shirt factory can be seen in **EP21.7**. Taken from ground level at a point near the junction of Little James Street and Sackville Street, **P364** shows the OP's at the Pet Shop and the Peter England shirt factory (sometimes referred to as the Hogg and Mitchell factory). It is apparent from these two photographs that soldiers in the Pet Shop OP and the Peter England shirt factory OP would have had a commanding view of most of Rossville Street, including the Rubble Barricade, parts of the waste ground and parts of the Rossville Flats courtyard.

18.7.5.6 In relation to the Observation Post at the Peter England Shirt Factory also had views of the Rubble Barricade. The evidence of these witnesses is comprehensively dealt with, inasmuch as it is relevant to Sector 3, in our section on the evidence of Soldier U of Mortar Platoon above. The evidence in relation to the OP at the Pet Shop will be dealt with briefly below.

City Walls

18.7.5.7 Major 159 was the Battery Commander of 53 Battery of the 22nd Light Air Defence Regiment who had responsibility for the manning of 3 permanent Observation Posts located on the City Walls on Bloody Sunday. These were located: south of Butcher's Gate; at Charlie OP and at the Double Bastion. **B1951** It is the evidence of soldiers from Charlie OP which is of most relevance to this Sector. In addition it is apparent that on Bloody Sunday there were *ad hoc* Observation Posts on the Walls and that soldiers were positioned at the Platform and at Roaring Meg, as well as at the Walker Monument.

Charlie OP

18.7.5.8 There was a permanent Observation Post on the City Walls known as Charlie OP which had vantage point over the Bogside.

18.7.5.9 Charlie OP was located on the City Walls approximately half way between the Walker Monument at the Royal Bastion and an Observation Post identified as "the platform" which was at a portion of the wall which juts out, positioned to the north of the Walker Monument. The Walker Monument and "the platform" can be seen on photographs **P333.001** and **P333.002**. **EP1.1** and **EP1.2** are photographs of Charlie OP as it would have looked on Bloody Sunday.

18.7.5.10 It has been agreed by a number of witnesses that **P233.70** represents the view which would have been seen from Charlie OP on Bloody Sunday. **P198** and **EP1.5** show those parts of the Rossville Flats, Rossville Street, the Rubble Barricade, Glenfada Park and the back of Joseph Place which would have been seen from Charlie OP.

18.7.5.11 Charlie OP was manned by Lieutenant 227, Soldier 012, Sergeant 025, Sergeant 139 from 53 Battery of the 22nd Light Air Defence Regiment. There were also a number of police men at the Observation Post at Charlie OP, an RUC officer Chief Superintendent Hood and two Scottish police officers. It is proposed to deal with their evidence in this section. In addition Soldier 159 who was the Battery Commander for 53 Battery visited Charlie OP as well as visiting the other Observation Posts on the Wall. Soldier 159 was accompanied by his escort Soldier 165 and his radio operator INQ 233, their evidence will also be dealt with in this section.

Individual Soldiers

Soldier 227

18.7.5.12 Soldier 227 was the Platoon Commander at Charlie OP. In his statement to the Treasury Solicitor he states that his "duty was to report on my regimental net anything of significance." **B2188 paragraph 2**

18.7.5.13 He confirmed in the course of his evidence to the Widgery Inquiry that he was able to see the Glenfada Park side of the Rubble Barricade on

the pavement, he could not see the Rubble Barricade on the actual road. **B2197C**

18.7.5.14 He gave evidence about seeing 2 bodies behind the Rubble Barricade and states that "I did not see any of those at the barricade armed. If they had been carrying weapons I think I would have seen them." **B2188 paragraph 5** He also saw people move from the Rubble Barricade behind the gable wall of Glenfada Park North. "I did not identify any weapons amongst them. I did not hear the sound of firing from this courtyard at this time or later." **B2189 paragraph 6**

18.7.4.15 Although his consistent evidence has been that he did not see armed civilians he has also claimed that the first firing he heard was from a Thompson sub-machine gun. In his RMP statement he believed these shots came from the area of Glenfada Park, **B2184** however he has confirmed in oral evidence that he can "only say that this gunfire came from somewhere to [his] front". **Day 371/135/20 to Day 371/135/22**

18.7.5.16 He then claims that he heard the sound of a nail bomb followed by "what sounded like three aimed shots from an SLR." The crowd at the Barricade split up, leaving 2 bodies on the Rubble Barricade. **B2184** He then heard 2/3 pistol shots from the Rossville Flats area. He also witnessed the shooting of Barney McGuigan by Soldier F. **B2185**

18.7.5.17 He states at the conclusion of his statement that the first shots fired were definitely not fired from an SLR. **B2186**

18.7.5.18 In summary therefore although he saw no civilian with weapons he does give evidence which suggests that weapons were fired by civilians and in particular that a Thompson sub-machine gun was fired and that this was the first live fire heard by him on Bloody Sunday.

18.7.5.19 Soldier 227 accepted the evidence of Col. Jackson and Soldier 128 in relation to the 'Derry sound' and the difficulty of identifying sounds

correctly in a built-up area. Nonetheless he did not accept that he could have been mistaken in his identification of a Thompson sub-machine gun.[82] **Day 371/177/16 to Day 371/178/23**

18.7.5.20 It is submitted that Soldier 227 is incorrect when he states that he heard a Thompson sub-machine gun on Bloody Sunday for the following reasons:

i) He was relatively inexperienced in Derry, his Regiment having only taken over as the City Battalion on the 21st December 1971. **Day 371/176/9 to Day 371/176/17** Although Soldier 227 had been in the city prior to the 22nd Light Air Defence Regiment taking over as the City Battalion but subsequent to November 1971. **Day 371/177/1 to Day 371/177/6**

ii) He had only once previously heard a Thompson sub-machine gun fired in Derry. **Day 371/133/8 to Day 371/133/12**

iii) He claimed to have heard a total of three SLR shots fired before he witnessed Soldier F firing the shots from the southern gable end of the eastern block of Glenfada Park North. We know that at least 103 live rounds were fired in the area of the Rossville Flats car-park, on Rossville Street itself and in Glenfada Park North within a very short time after the arrival of Support Company in the Bogside, yet Soldier 227 did not apparently hear any of those rounds. **Day 371/180/18 to Day 371/181/21** It is submitted that he has confused the sound of continuous and simultaneous SLR firing from a number of different soldiers spread over the Bogside, with the sound of a Thompson sub-machine gun. **Day 371/185/11 to Day 371/185/23** It should be remembered that, on the account of Soldier 012 who was with Soldier 227 "it was not everyday that we saw as much shooting as had happened that day. It

[82] See also INQ 794 **C794.2 paragraph 10**

was mayhem that was entirely new." **B1405.008 paragraph 26**

iv) His evidence about hearing fire from a Thompson sub-machine gun is undermined by Soldier 012, his radio operator who accompanied him on the day and who states that he did not hear Thompson sub-machine gun fire. **B1405.006 paragraph 20**, **B1405.010 paragraph 38**, **B1405.011 paragraph 44**, **B1405.012 paragraph 46** According to Soldier 227 "my signaller remained close to me at all times". **B2204.002 paragraph 7**

v) His evidence on this issue is also undermined by his Sergeant Soldier 139 also positioned at Charlie OP who stated in 1972 that "I could not state at any time as to which weapons were being fired at any particular time during the affray except for SLR discharges." **B1861** He has given evidence to this Tribunal that "I did not hear any low velocity fire or automatic fire and I would not have expected to have heard low velocity fire or automatic fire from my position as the sound would not have carried that far. **B1862.004 paragraph 15**

vi) His evidence is further undermined by the 22nd Light Air Defence Regiment's radio log which does not contain any record of Thompson sub-machine gun fire. **W97** Soldier 227's excuse for failing to radio in this information, is that Soldier 159 was present, with a radio operator. However while Soldier 159 gives an account of hearing fire from a Thompson sub-machine gun he was not able to state his location when he heard it or the time at which he heard it. **B1952** If Soldier 227 is correct that Soldier 159 was present when he heard the Thompson and that they are both in effect describing the same incident, it is inexplicable that neither saw fit to report it over the radio. Particularly in view of the fact that it was Soldier 227's role and function, as per his statement to the Treasury Solicitor; **B2188 paragraph 2** his signaller was close to him at all times; **B2204.002 paragraph 7** and

that reporting the sound was "a very straightforward procedure". **B2204.004 paragraph 18**

vii) Soldier 227 gives evidence that no shots were fired from the City Walls, yet we know that live rounds were fired from other positions on the City Walls. **Day 371/181/7 to Day 371/181/14** Again this demonstrates that his accounting of the live firing he heard on Bloody Sunday is inconsistent with the live firing which we know to have occurred.

18.7.5.21 Soldier 227 also gave evidence of having heard a nail bomb exploding. Again it is submitted that Soldier 227 is mistaken about this issue, for the following reasons:

i) Neither, Soldier 012, Soldier 139 nor Soldier 025 heard nail bombs exploding on Bloody Sunday. Although all were positioned at Charlie OP.

ii) To like effect neither Soldier 159, nor Soldier 165 heard the sound of exploding nail bombs and they visited Charlie OP over the course of the day and were on the City Walls throughout the day. Soldier 159 gave very clear evidence that "Petrol bombs and nail bombs also made a distinctive 'bang' noise. I would have known and recognised the sound if I heard it. I do not recall any explosions that day." **B1953.003 paragraph 23**

iii) The suggestion that a nail bomb exploded anywhere in the Bogside on Bloody Sunday is undermined by the body of civilian evidence, as well as evidence from priests, journalists and photographers about the absence of nail bombs on Bloody Sunday.

18.7.5.22 It is submitted that Soldier 227's testimony about having heard an exploding nail bomb further undermines his testimony about hearing Thompson sub-machinegun fire.

18.7.5.23 Soldier 227 also claims to have heard pistol shots fired on Bloody Sunday from the "area of the Rossville Flats". **Day 371/172/1 to Day 371/172/8**. There is a body of evidence before this Tribunal that pistol shots were fired in the area of the Rossville Flats by a member of the Official IRA known as 'Fr. Daly's gunman'. It may be that the witness heard this fire, although given the testimony of Soldier 139, Col. Jackson and Soldier 128 it is questionable whether he could in fact have distinguished those sounds.

Soldier 012

18.7.5.24 Soldier 012 was Soldier 227's radio operator **Day 371/120/11 to Day 371/120/12** and on the evidence of Soldier 227 "my signaller remained close to me at all times". **B2204.002 paragraph 7**

18.7.5.25 In 1972 Soldier 012 gave evidence that he had seen a man with a pistol behind the Rubble Barricade. He heard a burst of automatic fire from the direction of Columbcille Court. **B1399** He subsequently heard 2 low velocity shots from a pistol and then heard several SLR shots. **B1400**

18.7.5.26 Soldier 012 then describes seeing two male civilians who appeared to have been shot, one behind the Barricade and one lying at the south end of Block 1 of the Rossville Flats. **B1403**

18.7.5.27 He then believes that he saw an APC arrive at the Barricade and saw them pick up what appeared to by a body from the Rubble Barricade before driving off. **B1403**

18.7.5.28 In his evidence to this Tribunal Soldier 012 has stated that he believes that the first shooting he heard was from a "position forward of the lorry [at Free Derry Corner] but to the left of my position." He is unable to assist as to whether that was before or after the Paras entered the Bogside. He believed the fire was high velocity fire. **B1405.005 paragraphs 19 to 20**

18.7.5.29 He has no recollection of anyone civilian or military firing any shots and does not believe he saw armed civilians. He believed that if he had seen armed civilians he would have radioed that in. **B1405.006 paragraph 21**

18.7.5.30 Soldier 012's recollection of seeing bodies is extremely vague, although he does appear to have some recollection of what would appear to have been the body of Barney McGuigan at the south end of Block 1 of the Rossville Flats. **B1405.007 paragraphs 23 to 24**

18.7.5.31 He confirms that the situation encountered by the soldiers on the wall was "mayhem" and was "entirely new", as "it was not everyday that we saw as much shooting as had happened that day." **B1405.008 paragraph 26**

18.7.5.32 Soldier 012 has now confirmed that, contrary to the account made by him in 1972:

i) He has no recollection of seeing a man behind the Rubble Barricade with a pistol. **B1405.010 paragraph 37**

ii) He has no recollection of having heard two lots of hostile fire, the first a burst of automatic fire and then two further shots. His only recollection is that "he heard fire from my left, which was rifle cracks not automatic fire." **B1405.010 paragraph 38**

iii) He did not hear Soldier 025 shout that he had seen a nail bomber, nor did he see any nail bomber. **B1405.011 paragraph 42**, **B1405.012 paragraph 46**

iv) He did not see anyone with a nail bomb. **B1405.011 paragraph 44**

v) He did not hear automatic fire. **B1405.011 paragraph 44**, **B1405.012 paragraph 46**

18.7.5.33 While Soldier 012 gave evidence in 1972 about witnessing a civilian gunman behind the Rubble Barricade and about having heard fire from non-SLRs. The accounts given were of course uncorroborated at the time. Moreover, despite the fact that Soldier 012 was the radio operator there is no reference to any such incident in the radio logs. It is submitted that his evidence on these issues to this Tribunal is to be preferred.

Soldier 025

18.7.5.34 Soldier 025 gave evidence in 1972 that he witnessed an object which he believed to be a nail bomb being handed to a man at the "barrier at Rossville Street." **B1535** Soldier 025 then states that he went to grab his rifle, only to discover that his Platoon Commander Soldier 227 had removed his rifle and was using the telescopic sight to observe the area. **B1535**, **B1536**

18.7.5.35 He then claims to have heard automatic fire, followed by some shots from an SLR. He saw two men slumped over the barrier and he then heard several shots from a low velocity weapon, coming from the left hand side of Glenfada Park. This shot was followed by firing from an SLR. **B1536**

18.7.5.36 In his evidence to this Tribunal in relation to the gunfire heard by him he states that that he recalls "hearing both high velocity and low velocity gun shots, but I cannot remember which sort of gun fire I heard first. The low velocity fire sounded to me like a short burst from a "Tommy" gun. The shooting seemed to be coming from around the area of the Rossville Flats, but I cannot be more precise than that." **B1540 paragraph 8**

18.7.5.37 In his evidence to this Tribunal he claims in relation to the 'nail-bomb' that he "did not get a clear view of the object that was being passed between the men, nor did I see the object fizzing or smoking. However, because of the way the men were behaving – it was real

"cloak and dagger" stuff – I thought at the time they had a petrol bomb." **B1540 paragraph 8**

18.7.5.38 Although, his response to this incident was to grab his rifle, only to discover that it had been taken by his Platoon Commander he states that he cannot "recall whether I reported this incident to my troop commander." **B1540 paragraph 9** Soldier 227 is the troop commander being referred to and appears to confirm that he did take Soldier 025's rifle to look through the sights. **Day 371/127/14 to Day 371/128/17**

18.7.5.39 Certainly Soldier 227, despite having access to the telescopic sight of the rifle at this time, never saw the nail bomb, and in fact was quite clear that he saw no weapon behind the Rubble Barricade. Moreover, he was never made aware of Soldier 025 having seen something he believed to be a nail bomb. **Day 371/129/1 to Day 371/129/6**

18.7.5.40 Soldier 025 is now quite confused about the location of the incident involving the supposed nail bomb in that he now claims that this did not occur at the Rubble Barricade, but rather at a barrier at the (north east) corner of Glenfada Park South. **B1540.001 paragraph 14**

18.7.5.41 In his oral evidence to this Tribunal he was clear that, contrary to the evidence of Soldier 227, he had never heard the sound of a nail bomb exploding. **Day 361/25/24 to Day 361/26/11**

18.7.5.42 He went on to accept that it was possible that the object could have been a rock or a brick, rather than a bomb. **Day 361/26/19 to Day 371/27/1** He also accepted that what he could have seen was someone taking photographs. **Day 361/40/10 to Day 361/40/22**

18.7.5.43 Soldier 025's witnessing of a person with a nail bomb behind the Barricade was uncorroborated by other soldiers at the same location as him in 1972. In particular it was not corroborated by Soldier 227 who

was observing the area with a telescopic sight at that time and who witnessed no civilians with weapons behind the Rubble Barricade. **B1588 paragraph 5** The lack of corroboration by Soldier 227 is particularly significant in that it seems improbable that having witnessed this incident and gone to get his rifle, Soldier 025 would not have told his Platoon Commander who was holding his sniper's rifle about what he had just observed. It is also the case that the incident was not recorded in the 22nd Light Air Defence Regiment radio log. In view of his oral evidence to this Tribunal and in the absence of corroboration in 1972, no reliance can be placed upon the account given by him in 1972.

18.7.5.44 On the question of having heard a burst from a Thompson sub-machine gun, in the vicinity of the Rossville Flats, the witness stated that "It could have been anywhere outside the Rossville Flats. **Day 361/44/1 to Day 361/45/14** He also confirmed that the automatic fire and the SLR fire were "close together." **Day 361/46/3**

18.7.5.45 In relation to having heard the Thompson sub-machine gun fire it is submitted that the witness is mistaken for similar reasons to those advanced in relation to Soldier 227. In summary

i) He was relatively inexperienced in Derry, his Regiment having only taken over as the City Battalion on the 21st December 1971.

ii) He had only once previously heard a Thompson sub-machine gun fired in Derry. **Day 361/19/1 to Day 361/19/12**

iii) He only claimed to have heard a few SLR shots fired in circumstances where we know that at least 103 live rounds were fired in the area of the Rossville Flats car-park, on Rossville Street itself and in Glenfada Park North within a short time of the arrival of Support Company in the Bogside. It is submitted that he has confused the sound of continuous and simultaneous SLR firing from a number of different soldiers spread over the Bogside, with the sound of a

Thompson sub-machine gun. Particularly in light of the fact that the firing from the supposed Thompson and the firing from SLRs came very close together. It should be noted that, on the account of Soldier 012 who was with Soldier 025 "it was not everyday that we saw as much shooting as had happened that day. It was mayhem that was entirely new." **B1405.008 paragraph 26**

iv) His evidence about hearing fire from a Thompson sub-machine gun is undermined by Soldier 012, his radio operator who accompanied him on the day and who states that he did not hear Thompson sub-machine gun fire. **B1405.006 paragraph 20**, **B1405.010 paragraph 38**, **B1405.011 paragraph 44**, **B1405.012 paragraph 46** His evidence is also undermined by Soldier 139 who has stated that "I did not hear any low velocity fire or automatic fire and I would not have expected to have heard low velocity fire or automatic fire from my position as the sound would not have carried that far. **B1862.004 paragraph 15**

v) His evidence is further undermined by the 22nd Light Air Defence Regiment's radio log which does not contain any record of Thompson sub-machine gun fire. **W97**

Soldier 139

18.7.5.46 Soldier 139 was a Sergeant, also positioned at Charlie OP on Bloody Sunday.

18.7.5.47 While Soldier 139 gave an account in 1972 of hearing live rounds on Bloody Sunday he confirmed that the only weapons he could identify were SLRs. **B1861**

18.7.5.48 He does give evidence that Soldier 025 gave a warning about having seen a nail bomber, but also confirms that despite having looked in the area he did not see a nail bomber himself. **B1860**

18.7.5.49 While in his statement to Eversheds his recollection was that Soldier 025 had heard a nail bomb exploding in William Street, he has confirmed that he was probably more accurate in 1972 when he stated that he had spotted a nail bomber rather than described a nail bomb exploding. **Day 350/11/8 to Day 350/11/18**

18.7.5.50 He has confirmed that he did not hear automatic fire. **Day 350/14/2 to Day 350/14/4**

18.7.5.51 In 1972 Soldier 139 described an incident in which troops advanced towards the Rubble Barricade and he saw youths throwing stones. He described the stone-throwing as having occurred at Columbcille Court. **B1860** He has accepted that he may have been referring to Glenfada Park North but his description of the incident remains incongruous given that it is dependent upon having actually seen troops advance on the Rubble Barricade. **Day 350/38/16 to Day 350/40/21**

18.7.5.52 It is submitted that nothing in Soldier 139's evidence supports the suggestion that there was any justification for firing live rounds at people behind the Rubble Barricade and moreover his testimony serves to undermine the testimony of the soldiers on Charlie OP who claim to have heard nail bombs and Thompson sub-machine gun fire

Soldier 159

18.7.5.53 Major 159 was the Battery Commander of 53 battery of the 22nd Light Air Defence Regiment who had responsibility for the manning of 3 Observation Posts located on the City Walls. He was not located at any single Observation Post but over the day he visited the various Observation Posts on the Walls. He was accompanied by Soldier 165.

18.7.5.54 Soldier 159 was positioned on Charlie OP for at least part of the day and gave evidence of 3 separate incidents of firing at the City Walls, as follows:

"About 1614 hours whilst I was at 'Charlie OP' I heard two shots fired from the direction of the 'Bogside'. In my opinion, the shots were fired from a high velocity weapon and that the shot was fired at the position at the Double Bastion OP.

. . .

At 1634 hrs, that day a further high velocity shot was fired from the Bogside which struck the City Wall somewhere below where I was standing. . . .

On leaving The Double Bastion location, I returned to Butchers Gate. About 1638 a further two rounds were fired from the Bogside in the direction of the Double Bastion or Bishops Gate which was manned by the Royal Anglians." **B1951, B1952**

18.7.5.55 Soldier 159 has also given evidence that he heard fire from a Thompson sub machine gun, although he was unable to state at what stage in the day he heard that. **B1952, B1953.002 paragraph 19**

18.7.5.56 In his evidence to this Tribunal Soldier 159 stated that:

"the position and shape of the Rossville Flats made it very difficult to see exactly where shots were being fired from. Some people say that you can tell the direction of a bullet from the "crack" and "thud" sound, however, I do not agree with this, particularly in the area of the Rossville Flats. The Flats were so high that the sound of any gunfire reverberated around the buildings and it would be extremely difficult to say where the shots were coming from." **B1953.001 paragraph 9**

18.7.5.57 Soldier 159 gave evidence that he did not hear either a nail bomb or a petrol bomb on that day. As he stated "Petrol bombs and nail bombs also made a distinctive 'bang' noise. I would have known and

recognised that sound if I heard it. I do not recall hearing any explosions that day" **B1953.003 paragraph 23**

18.7.5.58 In relation to the 3 separate incidents of high velocity shooting described by Soldier 159. Soldier 159 was questioned about these incidents during the course of his evidence. In relation to the first two incidents described by him it appears that these can be related to an entry in the radio logs:

i) In relation to the shot he described as having been fired at 1614. Serial 60 in the 22nd Light Air Defence Regiment radio log **W97** records that there were 2 shots at call sign 5. It is also reflected in an entry in the Porter log at **W130** Serial 396. While Soldier 159 was unable to confirm this it is nonetheless submitted that the shots he described are those recorded in the logs.

ii) He described a second shooting incident at 1634. The Porter log at **W131** serial 421 timed at 1621 records return fire by the army towards the Bogside Inn, after 2 incoming shots. While the timing is out, it is again submitted that the shooting described by Soldier 159 is reflected in the radio logs.

18.7.5.59 The third incident occurred according to Soldier 159 at 1638. It is clear on any account that this incident occurred some time after all of those killed and injured on Bloody Sunday had been shot. There is also a difficulty in that Soldier 159 was apparently positioned at Butcher's Gate when he heard those 2 rounds. **B1952** Given the distance between these two locations it is submitted that Soldier 159's account cannot be completely relied upon. This is an issue which was dealt with in more detail in the questioning of Soldier 165 and it is submitted that the testimony of Soldier 165 on this issue serves to undermine the testimony of Soldier 159. He was in any event unable to distinguish SLR fire from other forms of high velocity weapon. **Day 349/119/17 to Day 349/120/14**

18.7.5.60 As with the other witnesses positioned on the Walls, Soldier 159's account suffers from his apparent failure to hear the 103 live rounds fired within a short space of time in the Bogside. Soldier 159 appeared to suggest that the reason he failed to account for this live fire in 1972 was because he was not specifically asked about this by the RMP. **Day 349/126/22 to Day 349/127/7** However it is apparent from his RMP statement that he was asked about all of the shooting incidents witnessed by him. The end of his statement reads "I am unable to give a detailed account of any other shooting incidents, but I can say that two bursts of automatic fire, which in my opinion were fired from a Thompson sub machine-gun were fired from the direction of the Rossville Flats." **B1952**

18.7.5.61 When this was pointed out to him Soldier 159 then sought to assert that the reason that reference was not made to the 103 live rounds fired in the Bogside after the Paras went in was because it was not as significant as Thompson sub machine gun fire and because other people could have given evidence about it. **Day 349/129/23 to Day 349/130/22**

18.7.5.62 It is submitted that, either Soldier 159 made a conscious decision in 1972 not to give any account of the large volume of SLR fire which he must have been able to hear from the Walls. If that is the case it undermines his credibility in relation to the account given in 1972, because he restricted his evidence to an account of firing helpful to the Army, without giving information which might have been regarded as unhelpful. In the alternative, he did hear the firing but, consistent with his own account of the difficulty in the area of the Rossville Flats of making determinations about where sound came from, he took the simultaneous firing from a number of SLRs to be firing from a Thompson sub machine-gun.

Soldier 165

18.7.5.63 Soldier 165 made a statement to the RMP in 1972 and has given evidence to this Tribunal. The evidence given to this tribunal is different in significant respects from that given in 1972, it is proposed to deal firstly with Soldier 165's 1972 account and then with the additional incidents referred to by him in his Eversheds statement.

18.7.5.64 Soldier 165 was Soldier 159's personal escort. In 1972 he described hearing three separate shooting incidents at the City Walls, in virtually identical terms to that of Soldier 159. **B1971** However, according to Soldier 165 these incidents occurred sometime after 1300 hours **B1971** and prior to the Parachute Regiment having entered the Bogside. **B1972** The RMP who took his statement had, only 10 minutes previously taken the statement of Soldier 159. **Day 374/24/23 to Day 274/25/1**

18.7.5.65 He then describes hearing gas canisters and rubber bullets being fired, hearing the sound of a Thompson sub machine-gun after which he saw the first member of the Parachute Regiment in the area between Blocks 2 and 3 of the Rossville Flats. After that he heard single shots some of which came from SLRs. **B1972**

18.7.5.66 It is our submission that Soldier 165's statement in 1972 is completely unreliable. In particular, it is submitted that his statement in 1972 was made to corroborate his senior officer, Soldier 159, whether that initiative came from Soldier 165 or from the RMP who took the statement. It is moreover submitted that the difficulty Soldier 165 demonstrated under questioning of explaining how he could have described the shots heard in the terms he did, undermines the credibility of Soldier 159, as he would have experienced the same difficulties, being at the same location.

18.7.5.67 Soldier 165 was questioned about how he could hear a shot from the Bogside towards the Double Bastion, while positioned at Charlie OP. He gave evidence of hearing the crack and thump but stated incorrectly

that the "crack is when the rifle is fired and the thump is when it goes over your head". **Day 374/45/1 to Day 374/45/13**

18.7.5.68 He was then asked:

"How could you have conceivably judged from 200 yards away, that a shot was directed at the double bastion?

A. Well, because you also recollect that I did not say where the shot came from, I did not know where the shot came from?

. . .

Q. And you did not know where the shot was going to?

A. Well, no, I did not know where the shot was going to, no.

Q. Thank you. All you could conceivably have heard was the noise, however it is described in words, as the cartridge is ejected by the explosive charge from the rifle?

A. Yes.

Q. Then why did you tell the RMP, in almost identical terms to your commander, that this shot was being fired at the double bastion, when you had no idea where it was being fired?

A. Well, it was not being fired at us and we assume it was being fired at the double bastion because that is where the other soldiers were." **Day 374/45/22 to Day 374/46/19**

18.7.5.69 Soldier 165 was also asked:

"How could you have conceivably have told, from where you were, as you were moving between Charlie OP and double bastion, that a shot was fired in [the direction of Bishop's Gate]?

A. Well it was not fired at us,

Q. That is all I want to know: it was not fired at you and your conclusion, therefore, was that it had to be at the

double bastion or Bishop's Gate, because that is where the soldiers were?

A. It is the only two places that were being manned by soldiers?

Q. Again, that is a conclusion you draw from hearing the cartridge ejected from the rifle by its explosive charge?

A. Yes." **Day 374/48/4 to Day 374/48/18**

18.7.5.70 It is clear in our submission that Soldier 165's accounts in 1972 were simply a repetition, inaccurate though it was in terms of timing of the account which had been given to the same RMP only 10 minutes previously by Soldier 159. It is moreover questionable whether either soldier could in fact have heard that which he claimed to have heard, at least in relation to the first and third high velocity rounds fired at the Walls.

18.7.5.71 The inaccuracy in relation to timing is quite significant in that, while on Soldier 159's account, the first two shootings bear a relationship to incidents described in the logs, according to Soldier 165 these shootings occurred prior to the Paras entering the Bogside and renders even more unreliable Soldier 165's 1972 account.

18.7.5.72 In his evidence to this Tribunal Soldier 165 has described some incidents which were not contained in his RMP statement. He gives evidence that General Ford arrived at the City Walls and while in the company of Soldier 159 and General Ford he witnessed:

"a green Ford Cortina estate car with no number plates on it being loaded up by three or four men who were wearing green combat gear. . . . The men were loading up the car from the back of a shop in the Brandywell area just along from the Rossville Flats." **B1977.003 paragraph 5**

18.7.5.73 He then gave evidence that a shot was fired at their location at the City Walls and that he had concluded that it was fired because they had been observing these men.

18.7.5.74 He confirmed that both the incident with the men loading the car and the incident where the shot was fired at the Walls occurred when General Ford was positioned on the Walls. **Day 374/5/2 to Day 374/5/18** and **Day 374/7/23 to Day 374/7/25**

18.7.5.75 While General Ford's Diary of Operations confirms that he was on the City Walls, there is no record of this incident having occurred. **B1123** Moreover, neither incident is corroborated by Soldier 159 or receives any corroboration from the radio logs.

18.7.5.76 Soldier 165 also gives an account of what he referred to as a 'sneaky-beaky' where on the 31st January a group of soldiers led by Soldier 159 went to a lock-up at the location where they had seen the men loading the green Ford Cortina. He said that there had been a smell of marzipan consistent with explosives having been present. Soldier 159 gives no account of such an incident and Soldier 227 who was specifically asked about the matter had no recollection of such an incident. **Day 371/164/14 to Day 371/164/20**

18.7.5.77 The 22nd Light Air Defence Regiment's historical record refers to an operation on the 5th February 1972, when a lock-up at Meenan Square was searched and several suits of combat kit were discovered. **C2107.42** Soldier 165 rejected the proposition that this was the incident to which he was referring. **Day 374/17/7 to Day 374/17/19**

18.7.5.78 Soldier 165 accepted that if an incident occurred as he described it then there should be documentation to verify it. **Day 374/54/17 to Day 375/55/20** He also accepted towards the end of his questioning that in fact he might have been referring to the incident recorded in the

Regiment's Historical log as had been suggested to him by Counsel to the Inquiry. **Day 374/55/21 to Day 374/56/5**

18.7.5.79 The first point which should be made about each of the incidents described by Soldier 165 in his Eversheds statement is that they did not appear in his 1972 account, thus undermining his reliability as regards the incidents. They are also uncorroborated by either radio logs or any other witness who he claims was present.

18.7.5.80 It is submitted that in relation to Soldier 165's description of suspicious activity at the Ford Cortina and the shot fired at the City Walls he is mistaken or lying. As regards the undercover operation in the area of Meenan Square, it is submitted that he has confused the incident of the 5th February 1972, referred to in the Regiment's historical log with the events described by him in his statement.

INQ233

18.7.5.81 INQ 233 has made a statement to this Inquiry. He did not make a statement or give evidence about the events of Bloody Sunday in 1972.

18.7.5.82 According to INQ 233 he was Major 159's radio operator and accompanied him on Bloody Sunday. **C233.1 paragraph 5** He states that on the day they were ordered that there was to be radio silence but he was unable to explain why such an order was given. He stated that radio silence was maintained until after they had returned to base **C233.1 paragraph 5**

18.7.5.83 INQ 233's evidence on this point is inconsistent with the 22nd Light Air Defence Regiment's radio log which can be found from **W93** to **W99** the contents of which demonstrate that radio messages were being sent and received all afternoon. It is also inconsistent with what appears to have been the function of the 22nd Light Air Defence Regiment on the Walls and that was to report on the progress of the March to Brigade. **B2204.002 paragraph 7**

18.7.5.84 According to INQ 233 the soldiers on the Wall had been ordered to lie low and he has a recollection of all of the soldiers lying on the floor, including Major 159. **C233.1 paragraph 6**

18.7.5.85 He did hear gunfire on Bloody Sunday which "sounded like rifle fire rather than automatic gun fire although I could not say whether it was of a high or low velocity." **C233.3 paragraph 7** He also recollects Major 159 standing up when the shooting started and saying "What the hell is going on?" **C233.3 paragraph 7**

18.7.5.86 INQ 233's statement undermines the testimony of Major 159 in relation to the hearing of automatic weapon. This witness also confirms that he heard no explosions. **C233.2 paragraph 7**

INQ 113

18.7.5.87 INQ 113 also claims to have been Major 159's radio operator on Bloody Sunday and his evidence is therefore addressed in this section.

18.7.5.88 INQ 113 was scheduled to give evidence to this Inquiry on the 18th June 2003. However having attended Central Hall, he refused to attend the Chamber to submit himself to questioning, either by Tribunal counsel or counsel for the Interested Parties.

18.7.5.89 This witness was originally scheduled to be read, however the Tribunal reconsidered its decision on that issue following representations made by Madden & Finucane, Solicitors on behalf of our clients. We asked that the witness be called and subjected to questioning because, among other matters, he claims to have heard Thompson sub-machine gun fire on Bloody Sunday.

18.7.5.90 The Tribunal determined on the 18th June that, rather than subpoena the witness and thus compel him to give oral testimony, his statement would be treated in like manner as all other statements of persons

whose statements are to be read by the Tribunal and who are not called to give evidence.

18.7.5.91 It is our submission that this witness falls into a very different category to witnesses in respect of whose evidence, having received representations from the various Interested Parties, the Tribunal has determined ought to be read. INQ 113 is a witness in respect of whom, following representations from the Interested Parties, the Tribunal determined ought to give oral evidence. He should not now, as a result of his resolute refusal to give evidence, be placed in a better position, as a result of what can be categorised as a contempt of the Tribunal.

18.7.5.92 The Tribunal will be aware, having considered the statement, that this witness makes very controversial statements in relation to matters which are in dispute in this Inquiry, including, but not confined to his assertions about hearing Thompson sub-machine gun fire. He testifies to matters which appear to be uncorroborated by military witnesses or the documents to which the Tribunal has access. By way of example: he describes 3 shooting incidents in the Bogside prior to 12 noon, and rioting at the Rubble Barricade involving the use by rioters of CS gas, possibly petrol bombs and rioters being protected by sheets of corrugated iron. These allegations are made by a soldier who then goes on to assert that the deceased were members of paramilitary organisations and that they were shot for good reason.

18.7.5.93 It is our submission that this witness' evidence should be completely disregarded, given his refusal to attend the Inquiry to give oral testimony without good reason. INQ 113's evidence in our submission falls into a similar category to those of the witnesses referred to by the Tribunal in its correspondence of the 16th February 2004, who did not have good reason for not attending the Inquiry. The Tribunal is invited, in a like manner to the approach being adopted to civilian witnesses for whom no good reason has been advanced for their non-

attendance, to draw an adverse inference from the failure of INQ 113 to give evidence.

18.7.5.94 It is nonetheless proposed to deal briefly with the contents of INQ 113's evidence to this Inquiry. INQ 113 claims that he was a radio operator to Major INQ 1484 who is in fact Major 159 on Bloody Sunday.

18.7.5.95 From the outset it can be seen that there are significant discrepancies between the account give by Soldier 159 and this witness, and it is submitted that the evidence of Soldier 159 is to be preferred.

18.7.5.96 It is not proposed to deal with his evidence in detail because it is submitted it is inherently unreliable save to point out the following:

i) INQ 113 claims to have 3 separate shooting incidents on Bloody Sunday, all of which occurred before 12 noon. None of the incidents is corroborated by a single other witness.

ii) None of the 3 incidents are recorded in any radio log, despite the fact that INQ 113 claims that he was a radio operator and that everything was reported. **C113.4 paragraph 26**

iii) INQ 113 specifically claims that the first incident where a 'Scottish section' came under fire was reported over the radio to the RUC and possibly Brigade HQ. **C113.3 paragraph 17** This incident does not appear in any log.

iv) INQ 113 claims that he heard about the first incident over the "secure radio" **C113.2 paragraph 15** Given the evidence about the existence of a BID 150 it is quite clear that, in the event that one existed it was not being used to report shooting incidents at the Walls on Bloody Sunday.

v) The second incident referred to by INQ 113 refers to shooting from the houses at Nailor's Row, which were occupied by army snipers. **C113.3 paragraph 20**

18.7.5.97 INQ 113 describes a riot taking place at the Rubble Barricade which involved: people holding up corrugated sheets; **C113.5 paragraph 34** gas canisters being thrown by rioters from south of the Rubble Barricade, at the end of Bernadette Devlin's speech; **C113.5 paragraph 35** objects trailing smoke being thrown by rioters; **C113.5 paragraph 36**. Aspects of the riot are consistent with the photographs of the riot which occurred at Barrier 14 in that rioters used corrugated iron sheets and it is alleged that gas canisters were thrown by rioters. As the Tribunal is aware Bernadette Devlin never finished her speech because the Paras started firing in the Bogside and the people at Free Derry Corner fell to the ground. The evidence given by this witness about events at the Rubble Barricade is not corroborated by the soldiers with him on the Walls and is undermined by the photographic evidence of the Rubble Barricade at the stage before the shooting started. It is submitted that this witness' evidence in relation to events at the Rubble Barricade is inherently unreliable and no weight can be attached to this account.

18.7.5.98 INQ 113 also gives evidence that he saw "three or four people lying in a prone position south of the Rubble Barricade. At around the same time, I heard three or four shots fired." He goes on to suggest that they were pistol shots and they were fired from different weapons by different people. **C113.4 paragraph 32** He does not suggest that the persons behind the Rubble Barricade were firing weapons. **C113.5 paragraph 40** He does however suggest that people were lying on the ground so that "if soldiers came over the top of the Rubble Barricade, the soldiers would be in line to be shot at." **C113.5 paragraph 40**

18.7.5.99 Whether INQ 113 saw the bodies lying behind the Rubble Barricade is unclear given our inability to question this witness. Whatever he saw his suggestion about people lying in wait for soldiers armed with SLRs is fantastical and no weight can be attached to this account.

18.7.5.100 According to INQ 113 at the conclusion of the riot he heard a burst from a Thompson sub-machine gun, he states he intended to report it but believes that someone else did. In fact there is no record in any of the radio logs of a Thompson sub machine-gun until 1647 at **W138**.

18.7.5.101 INQ 113 claims to have heard over the radio that a woman had reported that there were up to 6 gunmen arming the Rubble Barricade. **C113.5 paragraph 33** This is unsupported by oral testimony or by the radio logs and no weight can be attached to this evidence.

18.7.5.102 INQ 113 also claims to have heard a significant volume of fire which he attributes to civilians prior to hearing SLR fire. This evidence should have been subjected to testing orally if any weight was to be attached. Given the general unreliability of this witness, this witness cannot be relied upon to provide corroboration for any other accounts of civilian gunfire.

18.7.5.103 INQ113's evidence is an amalgam of some incidents which he may have witnessed on television or in photographs, such as the use of corrugated iron sheets by rioters at Barrier 14. The rest is fantasy and invention fuelled by this witness' anti-Catholic bias and his hostility towards the Deceased and Wounded. **C113.1 paragraph 4** The demonstrable inaccuracies in much of his evidence, the prejudice evident in his account of the bodies lying prone behind the Rubble Barricade and the complete absence of corroboration demonstrates that the witness is a fantasist and a liar.

18.7.5.104 At the conclusion of his statement in circumstances where, even on his own distorted version of events, he had not seen a single civilian gunmen or bomber, he stated that:

> "Thirteen people were shot that day for a good reason by professional soldiers. Soldiers do not just open fire on people for no reason. It would not bother me to go over to Northern Ireland and tell the families of the deceased men that their

sons were members of illegal organisations." **C113.7 paragraph 56**

18.7.5.105 The reality is of course that INQ 113 could not even bring himself to walk up to the Chamber of Central Hall in London to face the families and make that allegation and no cogent reason has ever been advanced for that refusal.

INQ 325

18.7.5.106 INQ 325 was a soldier in the 22nd Light Air Defence Regiment positioned on the City Walls. He places himself at a location between Butcher's Gate and the Platform, close to the Platform at a position marked B on his attached map. **C325.6**

18.7.5.107 While he was not positioned on the City Walls his evidence is relevant in that he states that he believes that there were "a couple of Intelligence officers on the Walls as well. They usually wore plain clothes . . . and they had huge cameras with long lenses for taking photographs of people in the Bogside." **C325.2 Paragraph 11** If INQ 325 is correct in his evidence on this issue, it suggests that soldiers on the Walls were in a position to take photographs of events occurring in the Bogside. Undoubtedly if photographers were there and had witnessed anything indicating the presence of civilian gunmen or bombers or anything which presented any kind of threat to soldiers, photographs would have been taken of the relevant incident or individual. The absence of any photographs undermines further the suggestion that any soldier on the Walls witnessed anything which could have justified the use of lethal force by the Paras.

18.7.5.108 INQ 325 also gives evidence that 3 tracer rounds were fired towards the Walls as the crowd came down the hill from the church on Bishop's Field. He claimed that you could see tracer rounds. **C325.2 paragraph 12**

18.7.5.109 Soldier 165 was questioned about this and stated that:

> "I think I must point out that if tracer rounds were fired towards you, you would not see them, because they are ignited from the rear. So you would not seen them coming towards you.
>
> Q. So you would not know whether it was tracer rounds?
>
> A. No." **Day 374/15/7 to Day 374/15/14**

18.7.5.110 INQ 325's evidence is undermined by his suggestion that the rounds fired were tracer rounds. His evidence on this issue is further undermined by the fact that no other witness claims to have witnessed this incident and there is no record of it in any radio logs. Even if such an incident occurred, which is not accepted, it had no bearing on the conduct of 1 Para in the Bogside, on Bloody Sunday.

Evidence of Scottish Policemen

Robert Grey Campbell & Samuel McGonagle

18.7.5.111 Robert Grey Campbell **JC4** was an Assistant Chief Constable Renfrew & Bute Constabulary. He attended upon the march on Bloody Sunday along with his colleague Superintendent Samuel McGonagle **JM19**. Ironically both were engaged in the presentation of a study entitled "Major Disaster Drill"

18.7.5.112 They took up a position at Walker's Monument on the Derry Walls. Upon arrival they were advised that a sniper had been firing earlier from the Rossville Flats though no official record of this incident appears to have been supplied. There is moreover no record of such an incident in the radio logs available to this Tribunal. The witnesses managed to enjoy for the most part an "uninterrupted view of the Bogside". **JC4.2**

18.7.5.113 Robert Grey Campbell observed the protest march and the lorry make its way from Free Derry corner. He outlined in an early statement how he

heard a number of explosions, which Army personnel described as rubber bullets and CS cartridges. The witness then heard three distinctive explosions, which he was told, were "nail bombs". This was followed by the sound of two long bursts of automatic fire which he believed came from the direction of Rossville Flats, although he could see no evidence to support that impression. The witness then described what happened next in the following terms:

> "Some of the Army personnel immediately identified it as a Thompson sub-machinegun and belonged to the demonstrators. [sic] The demonstrators in the Bogside did not take cover or seem alarmed, and this appeared to confirm what the army personnel had said about that particular machinegun not belonging to the army." **JC4.7**

18.7.5.114 Interestingly, when asked about this matter in his evidence before Lord Widgery, the witness provided a somewhat different account of how he arrived at this conclusion:

> "Q. Was that weapon which had caused these bursts identified to you by anyone?
> A. By the soldiers, I heard one of them say to another: "That is a Thompson". **WT3.37E**

18.7.5.115 According to the witness, throughout this period, missiles were being thrown from the safety of the Barricade. At this point the witness heard the "unmistakeable sharp crack of a high velocity bullet" which he assumed was a warning shot deliberately fired over the heads of the "militants". **JC4.7 to JC4.8**

18.7.5.116 This impression was gained because they appeared to crouch down and shelter for some time before regrouping some three minutes later. It was around this time that he heard a number of shots and then saw three men lying behind the Barricade. During his evidence before Lord

Widgery, he estimated the number of shots fired to be in the region of "possibly ten or twelve". **WT.3.38D**

18.7.5.117 The witness then observed a "pick" being driven into his field of vision near the Barricade. He then watched a number of soldiers debus from the vehicle and "quickly but carefully" carry two of the men lying behind the Barricade into the vehicle. He observed a third man limp away. **JC4.9**

18.7.5.118 At no time did this witness observe any civilian carry a firearm or anything resembling a firearm. As a matter of comment it is important to note that this witness' impressions and experiences throughout the afternoon were heavily reliant upon what he was being told by Army personnel. In fact the witness during his evidence before Lord Widgery acknowledged this very point. **WT3.43G**

18.7.5.119 When being asked about the various sounds identified by him, namely the distinction between rubber bullets and "fire canisters", the witness acknowledged that he was "depending entirely" upon what he was told. **WT3.43G**

18.7.5.120 It is important to note that the witness in describing the nature of the automatic fire, used the following language:

> "I am conversant with the sound of the modern weapons. When I say a Sten gun it is possibly not so modern now, but Stens and Sterlings I have heard on rifle ranges and this appeared to me to be a ***much slower*** automatic weapon, but I could not identify it." (emphasis added) **WT3.46G**

18.7.5.121 Interestingly, Superintendent Samuel McGonigle uses a similar description in describing the nature of this weapon:

> "It seemed to me to be slow automatic fire and not from a sophisticated weapon. The demonstrators took no evasive action." **JM19.6**

18.7.5.122 Superintendent Samuel McGonigle provided a statement in 1972 that bore a remarkable similarity to the format, sequence and individual events described in the 1972 statement of ACC Campbell. In fact the witness candidly acknowledged before this Inquiry that both he and ACC Campbell discussed their evidence before providing their original 1972 statements. **Day 109/32/15 to Day 109/32/12**

18.7.5.123 It is submitted that the format, style, sequence and events as described are virtually indistinguishable. These include the three explosions, the two long bursts of automatic fire, which for the same reasons outlined by Mr Campbell, this witness also attributed to the demonstrators themselves. The witness then follows this event by describing the single high velocity shot which is then followed by a number of additional high velocity shots. In keeping with his colleague he also saw two people placed in an army vehicle. **JM19.5 to JM19.7**, **Day 109/32/9 to Day 109/33/6**

18.7.5.124 This witness also acknowledged that he had never heard a machinegun fired before. **JM19.16 paragraph 18**

18.7.5.125 As with ACC Campbell, this witness was also heavily reliant on Army personnel for the information which formed the basis for his evidence both before Lord Widgery and the present Tribunal.

18.7.5.126 It should be noted that these witness were not aware that a helicopter was hovering above the Bogside whilst some of the events described by both him and his colleagues were taking place. **Day 109/57/2 to Day 109/57/22**

18.7.5.127 An expert report has acknowledged that helicopters engaged in this type of activity can produce sharply impulsive sounds, a regular series of beats or thumps commonly known as "blade slap". "Blade slap" most frequently occurs during transient manoeuvres and is often

associated with steep turns, shallow descents and with the "flare" approaching a hover. **E9.0019**

18.7.5.128 The report prepared for the Inquiry by ISVR Consultancy Services reached the following conclusion on this issue:

> "Our opinion is that, under conditions where a helicopter or submachine gun is clearly audible above any background noise, their sounds would be sufficiently distinctive that the likelihood of confusion would be small. However, taking into account that the repetition rate of blade slap is similar to the rate of firing of some submachine guns, it might be possible under some conditions for an observer on the ground to mistake a brief period of helicopter blade slap for the firing of a submachine gun at a moderate distance." **E9.0020**

18.7.5.129 Both witnesses assumed that the noise was created by a Thompson machine gun because according to them: (a) military observers exchanged this belief amongst themselves; (b) the failure of demonstrators to react or otherwise respond in a spontaneous manner suggested to them that the weapon was in fact fired by one among their number. This assumption of ignores the proposition, either that civilians recognised the sound as a helicopter, or that the sound was not the sound of a Thompson sub-machine gun.

18.7.5.130 The reliability of the witnesses account of hearing nail bombs and Thompson sub-machine gun fire is undermined by the following:

i) Their complete inexperience in the identification of either nail bombs or Thompson sub-machine gun fire.

ii) While Soldier 227 claims to have heard one explosion that account is not corroborated by any of his colleagues at Charlie OP.

iii) No military witness at Charlie OP refers to having heard 3 nail bombs explode.

iv) These witnesses were not aware, nor did any of the troops in their vicinity mention the idiosyncratic features of what this Inquiry has come to know as the "Derry Sound". The Tribunal is referred in particular to the evidence of Soldier 139 who was positioned on Charlie OP and who states that it would not have been possible to distinguish low velocity or Thompson sub-machine gun fire from Charlie OP.

v) The 22nd Light Air Defence Regiment's radio log, which does contain any record of either Thompson SMG fire or a nail bomb exploding W97, further undermines this evidence.

vi) The reliability of these witnesses evidence is also undermined by their failure to account for the 103 live rounds fired by 1 Para on Bloody Sunday. It is entirely possible, that the witnesses incorrectly identified the sound of simultaneous firing from a number of Paras as machine gun fire given their lack of familiarity with the sound.

Charlie OP Witnesses

18.7.5.131 When considered collectively it is submitted that the evidence of the soldiers and the police officers from Charlie OP do not provide any justification for the use of lethal force by soldiers from 1 Para on Bloody Sunday. Although there were accounts given in 1972 about a pistol man behind the Rubble Barricade and a possible nail-bomber behind the Rubble Barricade, these accounts have been retracted before this Tribunal. Thus no witness gives any evidence of any person behind the Rubble Barricade engaging in conduct which might have justified the firing of live rounds.

18.7.5.132 Moreover some of the witnesses positively assert that they would have seen weapons behind the Rubble Barricade, on that portion which

could be seen by them, if there had been weapons there.[83] **B2188 paragraph 5**

18.7.5.133 The witnesses do give accounts of civilian gunfire. It is submitted however for the reasons set out above there must be a question-mark over the body of evidence about civilian gunfire from these witnesses given:

i) The inconsistencies as between the various accounts;

ii) The failure of these witnesses to ever account for the 103 SLR rounds which we know were fired in the area of the Rossville Flats, Rossville Street and Glenfada Park North;

iii) The fact that the witnesses have acknowledged the difficulties in recognising different fire in the area from which they claim to have been able to identify civilian gunfire; and

iv) The evidence of Soldier 139 and Soldier 012 in particular about the volume of firing on the day and the difficulty there would be given that volume in clearly discerning low velocity fire.

ECHO Observation Post

18.7.5.134 The members of the Tribunal have, we understand, visited the roof of the Embassy Building are thus in a position to form their own impression of the views available from there. Contemporary photographs of the area taken from the roof of the Embassy Building demonstrate that soldiers at ECHO OP would have had a clear view of many of the important locations, including Rossville Street and the Rubble Barricade. Among these photographs are **P233.69A**, **P233.69**, **P279**, **P402**, **P403**, **P404**, **P406**, **P407**, **P408** and **P409**.

18.7.5.135 There were a significant number of soldiers on the roof of the Embassy Ballroom at some stage in the afternoon, including General Ford, Lt

[83] See also INQ 2002 who was patrolling the City Walls on Bloody Sunday. "The only people I saw with guns on Bloody Sunday were soldiers. . . . I did not see any civilians with weapons that day." **C2002.3 paragraph 21**

Col Ferguson, INQ102, Sergeant INQ0853, Warrant Officer INQ1164, Lt Soldier 009 (who claims to have been in charge of the OP), Sergeant 108, Soldier 157, Sergeant INQ1382 and Captain INQ2. Despite this not a single one of these persons claims to have seen a civilian gunman or bomber. This in circumstances where binoculars and "donkey's ears" were available at the OP. There evidence completely undermines their evidence of the soldiers of the Parachute Regiment who were deployed in front of them.

Captain 021

18.7.5.136 Captain 021 was an Intelligence Officer in 22 LADR and had responsibility for some of the photographers, including UNK 48. Both were on the roof of the Embassy Building. Captain 021 thus had an excellent view of the Bogside, including the Rubble Barricade, although he was reluctant to concede this. **Day 317/110/4 to Day 317/110/17** He confirms that had he seen anything indicating the presence of civilian gunmen or bombers or anything which presented any kind of threat to soldiers he would have asked UNK48 to take photographs of that **Day 317/109/24 to Day 317/110/3**. As we know from Col. Overbury's report, no such photographs were taken. It should also be noted that Captain 021 was using binoculars **B1509.003 paragraph 21** and had access to the "donkey's ears".

18.7.5.137 In his original statement Soldier 021 refers to shots being fired from the area of Meenan Square and fire being returned by soldiers from Kells Walk. He then suggests that men lying behind the Rubble Barricade could not have been shot by Paras because they were protected by 3 feet of concrete. **B1503** It is apparent that the statement was designed to suggest that the people shot and killed behind the Rubble Barricade were killed by persons other than soldiers. In fact 4 people positioned behind the Rubble Barricade on the western side were shot and killed by 2 soldiers and Soldier 021 had a view of the western side of the Rubble Barricade from ECHO OP. **B1509.005 paragraph 33**, **Day 317/110/4 to Day 317/110/17**

18.7.5.138 Soldier 021 went on to claim that 3 bodies were removed from the Rubble Barricade and taken through Glenfada Park, before a further 3 bodies were removed and taken away by the army in their APC. **B1504** Again this evidence, like much of his evidence in 1972 appears to have been designed to suggest that bodies were spirited away. Only Michael Kelly's body was removed from the Rubble Barricade and taken into Glenfada Park North and there is no evidence to substantiate Soldier 021's implicit allegation. He no longer has a recollection of this incident and it is submitted that no reliance can be placed upon his 1972 account in this respect.

18.7.5.139 Soldier 021 accepted that his purpose as an observer was to record what was happening. **Day 317/127/1 to Day 317/127/15** Yet, while there is a reference at serial number 58 (**W97**) to one shot, the log entries of transmissions from ECHO OP make it clear that neither Captain 021, nor any other soldier observing the events on Rossville Street from ECHO OP reported seeing or hearing shooting or bombing by civilians. Neither apparently did they witness the 100 plus shots fired by paratroopers. When asked to explain why, given all the people that were at ECHO OP watching the scene below them, not one mentioned that soldiers were firing scores of shots at civilians on Rossville Street, at the Rubble Barricade and near the flats, Soldier 021 said, after a pause, that he had "no idea" **Day 317/125/19 to Day 371/125/25**.

Soldier 118

18.7.5.140 Soldier 118 was also on the roof of the Embassy Ballroom Building with Captain 021. Soldier 118 estimated that there were nearly 2 dozen soldiers of mixed ranks and duties on the roof of the Embassy Ballroom at the material time. **Day 359/206/8 to Day 359/206/13** While he had a good view of the Rubble Barricade and was focused on the Rubble Barricade, he saw no civilian gunmen or bombers behind the Rubble barricade at ant time. **Day 359/217/6 to Day 359/217/11**

He went on to confirm that he saw no civilian doing anything improper in the form of throwing nail bombs or anything of that kind even though he was perfectly placed to see that if it had happened. **Day 359/221/21 to Day 359/222/14**

18.7.5.141 As has been seen above, no other soldier gives any evidence which suggests any action on the part of civilians which could have justified the use of lethal force by soldiers from the Parachute Regiment. The evidence of these soldiers undermines entirely the justification advanced by the Paras individually and collectively for their use of lethal force on Bloody Sunday. Moreover the complete absence of any evidence about the conduct of the Paras on Rossville Street, in circumstances where we know a total of 103 SLR rounds were fired, suggests that persons at ECHO OP failed to record anything which would acknowledge the indiscriminate nature of the shooting by the Parachute Regiment in the Bogside that day.

Pet Shop OP

18.7.5.142 As stated above **P364** shows the OP's at the Pet Shop and the Peter England shirt factory. Three soldiers have been identified as having occupied that OP at the Pet Shop. Soldiers 102 and 163, both of whom made statements in 1972 but have not given any evidence to this Tribunal and Soldier Z.

18.7.5.143 Soldiers 102 and 163 make generalised allegations in their RMP statements designed to suggest that they heard civilian gunfire. Soldier 102 states that "I could hear shots fired at the Paras from Rossville Flats and Glenfada area." **B1675** While Soldier 163 states that "As I got outside I heard several low velocity rapid single shots from the flats area followed by one high velocity shot from what I think was an SLR. . . . I then heard spasmodic or mixture of high velocity and low velocity shots also coming from the area of the flats." **B1965** Although the shooting described by Soldier 163 apparently occurred 30 minutes after the Paras went into the Bogside.

18.7.5.144 Neither soldier claims to have witnessed either civilian gunmen or bombers nor makes reference to any action by any individual behind the Rubble Barricade, or at any either location which could have justified the use of lethal force by soldiers from the Parachute Regiment. It should also be noted that both soldiers fail to provide a description of the firing by soldiers we know to have taken place in the Rossville Flats car-park or over the Rubble Barricade.

18.7.5.145 Soldier Z gives an account of having engaged a gunman at 16.50 hours on Bloody Sunday, after all of those deceased and injured had been shot. **B865** He gives no evidence which justifies the use of lethal force by soldiers of the Parachute Regiment.

18.7.5.146 As a body of evidence, the evidence from soldiers in the OPs around the Bogside undermines entirely the justification advanced by the Paras individually and collectively for their use of lethal force on Bloody Sunday.

18.7.6 Soldier 028

18.7.6.1 Soldier 028 is in the unusual position of having claimed to be an observer of events at Sector 3 while being on the ground. Given the position he claims to have been in on Bloody Sunday, his evidence is dealt with as a separate category.

18.7.6.2 Soldier 028 was a Captain of the 22nd Light Air Defence Regiment on the 30th January 1972. He was the Unit Press Officer answerable to his Commanding Officer Col. Ferguson.

18.7.6.3 He made an RMP statement on the 3rd February 1972 and a statement to the Treasury Solicitor, he also gave evidence to the Widgery Inquiry.

18.7.6.4 According to the evidence given by Soldier 028 in 1972 and today he was positioned at the south end of Kells Walk when the leading vehicles of the Support Company convoy came to a halt.

18.7.6.5 In 1972 he claimed to have witnessed the actions of the crowd behind the Rubble Barricade and the soldiers on Rossville Street. In particular he claims to have witnessed soldiers come under attack from gunmen at the Rubble Barricade. In his statement to this Tribunal, when questioned about the contents of his 1972 accounts he states that, "I remember almost nothing of the evidence contained within them." **B1852.1 paragraph 7**

18.7.6.6 However, what he does say about his previous statements is that:

> "they were made contemporaneously with the events I have no reason to believe that they are not entirely accurate in terms if my memory at the time. I certainly had no axe to grind and nothing to hide either then or now, so there would be no reason for me not to tell the truth." **B1582.7 paragraph 28**

18.7.6.7 In oral evidence to this Tribunal he was asked about his previous statements and confirmed that he stood over the contents of each of the statements and oral evidence given by him in 1972 "because I told the truth, the statement were made at the time and I had no reason; apart from anything else, I was on oath." **Day 356/82/18 to Day 356/82/20**

18.7.6.8 The accounts given by Soldier 028 in 1972 of the actions of civilians behind the Rubble Barricade, if believed would be damning. He describes soldiers coming under fire as their Pigs entered the Bogside. He describes a man with a machine-gun firing at soldiers, before soldiers return fire, according to his evidence this man was killed and he describes a pistol-man shooting from the corner of Block 1 of the Rossville Flats, as well as a man with a rifle shooting from a window at Block 1 of the Rossville Flats. It is alleged that these accounts are

completely fabrications, known to be such at the time, and that Soldier 028 lied in the statements made by him in 1972 and perjured himself in his evidence to the Widgery Tribunal. The contents of the statements will be addressed in more detail below.

18.7.6.9 Soldier 028, given his role as a Unit Press officer, was also asked about whether the Army would have sought to put a 'spin' on the events of Bloody Sunday and stated:

> "I have been asked whether the army attempted to put any "spin" on the information which was given to the press after the events, or on the evidence given by the soldiers at Widgery. I certainly don't recall any and I doubt whether it would have happened. The army is a pretty truthful and uncomplicated organisation and I would certainly not describe as devious. I believe matters were reported as fact and the soldiers gave evidence in accordance with their own experience." **B1852.7 paragraph 29**

18.7.6.10 However there can be no more dramatic illustration, of the willingness of soldiers to perjure themselves, for no reason other than to advance the Army's case and to put a 'spin' on both the information given to the press and the information presented to Lord Widgery, than the evidence of this witness. What makes the case particularly striking is the fact that this witness did not fire live rounds, nor was he a member of the Parachute Regiment which shot and killed innocent civilians. Rather, it seems the mere fact of being a member of the British Army appeared to demand from him perjury on behalf of the soldiers and calumny of the victims and people like Fr Mulvey in order that:

> "'You know old boy, there is only one thing we want to here, We just cannot let people at home think we shot unarmed men in the back, we cannot have people thinking that, can we?'" **M71.12**

Murray Sayle Interview

18.7.6.11 It is proposed to deal at the outset with Soldier 028's interview in 1972 with Murray Sayle because it is submitted that this is the contextual background against which Soldier 028's testimony in 1972 and in 2003 must be tested.

18.7.6.12 One of the documents obtained from the Sunday Times archive was a memorandum prepared by Murray Sayle for internal use within the Sunday Times. Included in the document were details of a meeting with a soldier, identified in the document as Soldier 028, at the 22nd Light Air Defence Regimental Headquarters, on the 14th February 1972. Murray Sayle has now confirmed that the note was prepared by him **M71.1 paragraph 1** and has given sworn evidence as to its accuracy. **Day 217/71/18 to Day 217/71/23**

18.7.6.13 According to the note:

> "Soldier 028 shot me an incredible line. He said he had been present at the demonstration himself, dressed in plain clothes and a wig and had seen the IRA open up with Thompsons near the barricade site, thus killing their own people." **M71.11**

18.7.6.14 The note then records that Soldier 028 produced a 14 year old boy, purportedly from the Bogside, who said that "he had seen the IRA open up with Thompsons and nail bombs". The note records that Murray Sayle did not believe the account because only 10 minutes previously Soldier 028 had confirmed that he had not heard any nail bombs. **M71.11**

18.7.6.15 Finally as the note records:

> "He then launched a wild rambling tour d'horizon. The Army had to win in Ulster, he said, otherwise violence would submerge Europe. A lot of them were Communists he told me.

All Catholics were liars, 'and the gentlemen of the cloth – well, you know about them, old boy'. You know, old boy, I often think that one of our marksmen could knock off Bernadette, John Hume and the rest of them -- that would end the whole thing in a matter of days – worth thinking about eh?
Then . . . 'You know old boy, there is only one thing we want to here, We just cannot let people at home think we shot unarmed men in the back, we cannot have people thinking that, can we?'" **M71.12**

18.7.6.16 According to Soldier 028, while he did not deny that he might have met Murray Sayle, he denied that he would have taken him to Regimental Headquarters **Day 356/69/13 to Day 356/69/17** and states that the entire account was fabricated by Murray Sayle. **Day 356/72/20 to Day 356/72/24**, **Day 356/73/22 to Day 356/73/23**

18.7.6.17 Aside from the fact that Murray Sayle was a more credible witness than Soldier 028, there are a number of difficulties with that proposition:

v) The note which Murray Sayle has now confirmed that he prepared, **M71.2** was written in 1972 and then filed away. Murray Sayle had no reason to believe that this document would ever come into the public domain. If Soldier 028 was to be believed Murray Sayle maliciously fabricated a record of a conversation in 1972 which was then archived by the Sunday Times and which would never have seen the light of day but for the existence of this Tribunal.

vi) Murray Sayle gives an account of Soldier 028's conduct on Bloody Sunday broadly consistent with what he actually claimed in 1972 in his evidence to the Widgery Inquiry. That he was in the Bogside, that he was in civilian clothes and that he had seen a man with a Thompson open up. The major differences relate to the suggestion that the man with the Thompson actually killed people and that Soldier 028 was

wearing a wig when he was in the Bogside. **Day 356/70/20 to Day 356/71/22** The only source for Murray Sayle's note could have been Soldier 028. It should be noted in this respect that the Sunday Times document which contains the note is dated the 19th February 1972, **M71.2** while Soldier 028 did not give oral evidence to the Widgery Inquiry until Day 17, the 14th March 1972, so Murray Sayle could not have obtained this information from the Widgery Inquiry.

vii) While Soldier 028 stated that he would never have taken a journalist to Regimental Headquarters Murray Sayle in his note, recorded that while at the Regimental Headquarters he was shown a model of Derry. In oral evidence he confirmed that it looked very like the Widgery model. **Day 356/74/3 to Day 356/74/11** Soldier 028 stated that he had no recollection of his Regiment having a model of Derry. **Day 356/74/12 to Day 356/74/21** However INQ 1025, a soldier in the 22nd Light Air Defence Regiment gave evidence that he had made the model, eventually used at Widgery, for his Regiment. **C1025.10** (check reference) Thus Murray Sayle was also in a position in 1972 to confirm the existence of the model at the 22nd Light Air Defence Regiment's Headquarters, which he could only have known about had he been there.

18.7.6.18 Murray Sayle had no reason to lie about this incident in an internal memo to the Sunday Times. On the other hand Soldier 028 has every reason to try to dissociate himself from the account. Given what happened moreover, it is submitted that he undoubtedly has a recollection of this incident. It is the fact of that encounter with Murray Sayle and the lies which Soldier 028 told the Widgery Tribunal which explain his reluctance to come forward to this Tribunal. **Day 356/125/8 to Day 356/126/5**

18.7.6.19 It is submitted that this incident demonstrates:

vi) That in 1972 Soldier 028 had a very clear agenda which he was willing to advance both to the media and to the Widgery Tribunal and that was to "pile up the case against the Deceased" (**reference**) while defending the reputation of the Army.

vii) He was willing to lie in order to advance the Army's case.

viii) He was willing to lie to this Tribunal and to accuse Murray Sayle of being a liar, rather than to admit the truth of his conduct at and after Bloody Sunday.

18.7.6.20 It is against that backdrop that Soldier 028's evidence must be considered, and in our submission, no weight can be attached to his testimony.

Unit Press Officer

18.7.6.21 Soldier 028's decision to enter the Bogside with the Paras, if in fact he did do so, requires some explanation. As set out above, Soldier 028 was the Unit Press Officer for the 22nd Light Air Defence Regiment and as such was answerable to Col. Ferguson.

18.7.6.22 Soldier 028 suggested in his statement to this Tribunal that the reason he entered the Bogside with the Paras was because they were attached to the 22nd Light Air Defence Regiment and he was thus their press officer for the day. **B1582.1 paragraph 8** In fact only D Company of 1 Para were attached to the 22nd Light Air Defence Regiment and the Paras had their own press officer. **Day 356/8/1 to Day 356/8/17**

18.7.6.23 According to the Confirmatory Notes to the Orders given by Col. Ferguson:

"PR. Unit press officer at tac HQ with the photographer.

B. Authority to speak not delegated" **G89.546**

18.7.6.24 When questioned about the Orders Soldier 028 stated that this meant that he was supposed to have been at tac HQ at the beginning of the

day and accepted that he did not have authority to speak to the press and that this was the Commanding Officer's function. **Day356/111/15 to Day 356/111/20**

18.7.6.25 It is clear from Col. Ferguson's evidence to this Inquiry that, both in entering the Bogside, if he did so, and in giving a briefing to Murray Sayle, which he undoubtedly did, Soldier 028 was acting without authority express, or otherwise. **Day 281/153/17 to Day 281/154/11**

18.7.6.26 Soldier 028 sought to assert that he was entitled to act upon his own initiative in relation to his deployment. **Day 356/115/12 to Day 356/115/21** However it is clear from Col. Ferguson's evidence to this Tribunal that Soldier 028 ought to have been with him at tac HQ throughout the day and had no authority to be either in the Bogside or giving interviews to the media. **Day 356/112/5 to Day 356/113/9**

18.7.6.27 It should be noted at this juncture that there is also a conflict between the evidence of Soldier 028 and Larry Doherty in relation to Mr. Doherty's account of a briefing given by Soldier 028 before Bloody Sunday. **M21.1 paragraphs 4 to 5** Soldier 028 has stated that the briefing described by Larry Doherty would have been beyond his remit. **Day 356/5/23 to Day 356/6/2** It is evident both from Soldier 028's briefing of Murray Sayle and the fact that he was prepared to act without Col. Ferguson's authority on Bloody Sunday itself that Soldier 028 was quite prepared to act beyond his remit in 1972. Larry Doherty's evidence should therefore be accepted on this issue.

18.7.6.28 What is clear is that Soldier 028 saw it as his role and function not just in 1972, but also to this Inquiry, to present the Army's case in a manner which served to protect the interests of the army at the expense of the Deceased and Injured. His evidence in 1972 and to this Tribunal is replete with examples of this approach.

People handing out Nail Bombs

18.7.6.29 Soldier 028 gave an account in his RMP statement of having been in the company of Brigadier Thompson on the City Walls when they were advised by INQ 2225, that occupants of 2 cars in Lecky Street were handing out what he believed to be nail bombs. **B1566** Soldier 028 states that he saw that they were distributing something but was unsure what.

18.7.6.30 This incident is not corroborated by Brigadier Thompson. Similarly, INQ 2225 states "I think I would remember if I had seen anyone manufacturing or handing out nail bombs. I now have no recollection of seeing anything as is described by Soldier 021 and Soldier 028 in their statements." **C2225.7 paragraph 41** Moreover the radio logs do not suggest that any such incident was ever reported, despite the fact that such an incident would have been of some importance given the March to follow later that day.

18.7.6.31 Soldier 028 did not persist with this account in either his statement to the Treasury Solicitor, or in his evidence to Lord Widgery.

18.7.6.32 It is submitted that had the incident occurred:

i) It would have been reported over the radio to Brigade given the significance of this information in view of the large Civil Rights March scheduled to occur.

ii) Soldier 028 would have given that account to Lord Widgery because given the allegations made by soldiers of nail bombs having been thrown, it was important evidence in support of the Army case.

18.7.6.33 The incident was removed from his subsequent accounts because it was untrue and the absence of corroboration by Brigadier Thompson would have undermined Soldier 028's credibility on this issue.

Conduct of Priests on Bloody Sunday

18.7.6.34 Soldier 028 demonstrated a willingness to go to extraordinary lengths in 1972 to undermine the case made by the people of Derry against the soldiers. To the extent that he was willing to accuse one of Derry's priests of having been in some way complicit with the use of lethal force against soldiers on Bloody Sunday.

18.7.6.35 In our submission Soldier 028's motivation for so doing was to undermine the testimony of the Catholic clergy; whose powerful defence of the deceased and wounded and whose criticism of the army was doing much to undermine the army's presentation of its case to the media.

18.7.6.36 It was also informed by Soldier 028's anti-Catholic bigotry which was evidenced in the notes retained by the Sunday Times of Murray Sayle's interview with him:

> "All Catholics were liars, 'and the gentlemen of the cloth – well, you know about them, old boy'." **M71.12**

18.7.6.37 In his statement to the RMP, made on 3rd February 1972, Soldier 028 states that, from his vantage point at Kells Walk he could see the Rubble Barricade. He states that he saw a man 20 yards behind the Rubble Barricade who fired 15 rounds from an automatic weapon which struck the ground 20 feet in front of the troops advancing towards the Barricade. "[A]t the same time, there were several people standing behind the barricade in the same side as the gunman and they had their back to him. One of those men was a priest, who appeared to be directing them." **B1567** According to his statement he had attached a photograph of the priest to his statement, and a photograph of Fr Mulvey appears to have been linked to the statement made by Soldier 028 in 1972. **Day 356/23/1 to Day 356/23/17** This photograph can be found at **B1568.002**.

18.7.4.39 By the time he came to make his statement to the Treasury Solicitor, the man with the machine-gun was still firing at the troops, this time

having fired 5 shots before there was any return fire. Significantly however the priest had disappeared. **B1569.001 paragraph 2**

18.7.4.40 The priest also made no appearance in Soldier 028's evidence to the Widgery Tribunal. Soldier 028 now claims to have no recollection of the priest **B1582.6 paragraph 6** but was unable to explain the difference between the two accounts. **Day 356/27/10 to Day 356/27/15**

18.7.4.41 Neither the timing of Soldier 028's statement, nor the identity of the priest identified by the photograph attached to his statement, is without significance. Fr Mulvey had been particularly prominent in articulating the views of the clergy who had been in the Bogside on Bloody Sunday that the British Army had been guilty of wilful murder, and had made the following statement on behalf of the Derry clergy to the media on the 31st January 1972:

> "We accuse the Colonel of the Parachute Regiment of wilful murder. We accuse the Commander of Land Forces of being an accessory before the fact. We accuse the soldiers of shooting indiscriminately into a fleeing crowd, of gloating over casualties, of preventing medical and spiritual aid reaching some of the dying. It is untrue that shots were fired at the troops in Rossville Street before they attacked. It is untrue that any of the dead or wounded that we attended were armed. We make this statement in view of the distorted and, indeed, conflicting reports put out by Army officers. We deplore the actions of the Army and Government in deploying a unit such as the Paratroopers who were in Derry yesterday. These men are trained criminals. They differ from terrorists only in the veneer of respectability that a uniform gives them." **V4b.0.00-1.32**

Father Anthony Mulvey, Press conference attended by Derry Clergymen 31st January 1972.

18.7.6.42 It is our submission that: Fr Mulvey's highlighting to the media the fact that bodies had been thrown into the back of the APC on Bloody Sunday; his prominent role in articulating the case for the Deceased and Wounded; coupled with Soldier 028's over-weaning desire to present the Army's case in a good light, informed Soldier 028's RMP statement. The reason for the removal of all references to a priest from his subsequent statements can only have been the realisation, whether by Soldier 028 himself, or by the Treasury Solicitor, that such an allegation could not seriously be advanced and would have to be abandoned.

18.7.6.43 However, in order to abandon this aspect of his allegations, Soldier 028 demonstrated his willingness to lie. Soldier 028 had stated in evidence to the Widgery Inquiry that he had a camera with him. **B1578D-E** He was specifically asked by Mr. Hill on behalf of the families why he had not brought photographs with him and replied that this was because they were not particularly relevant. **B1578D-E** However if the account given by his RMP statement was true then he had seen a priest directing people at the Barricade and a photograph of that priest was attached to his statement, such a photograph was clearly relevant. It follows that either his account to the RMP or his evidence to the Widgery Inquiry on this issue was a lie.

18.7.6.44 The other incident which demonstrates Soldier 028's continuing hostility towards the clergy and in particular Fr Mulvey relates to his account of witnessing the bodies in the back of the APC, given to this Tribunal. Soldier 028 has described an "horrific scene: bodies piled on top of each other, heads, arms and legs at strange angles and blood all over the bodies and the walls of the Pig." **B1582.4 paragraph 15**

18.7.6.45 His recollection was that a priest was trying to gain the attention of the local press and that he:

> "knew if any of the press did start taking photographs it would look terrible in the papers the next day. Consequently,

I pushed the priest to one side and slammed the doors shut, saying that no one was allowed to take pictures." **B1582.4 paragraph 16**

18.7.6.46 He went on to state that:

"The other memory I have of this incident is feeling particularly unsympathetic towards the priest by the Pig. I felt that he was helping to grind the axe for the IRA and that was not appropriate behaviour for a priest." **B1582.4 paragraph 16**

18.7.6.47 Soldier 028 was asked:

"Q. What was it you felt was inappropriate behaviour for the priest?

A. Well, as far as I can recollect, he was trying to encourage pressmen to take photographs of the inside of the Pig.

Q. What was wrong with that?

A. Well, I felt that if those pictures were shown publicly, that it would not help the Army's cause and as I was the unit pres officer, I felt that I was doing my duty." **Day 356/49/16 to Day 356/49/24**

18.7.6.48 Soldier 028's criticism of the conduct of the priest again exemplifies both Soldier 028's desire to present the Army's case in a favourable light, even if that meant hiding the facts, and his hostility to those who would seek to be critical of the Army's conduct and in particular his hostility towards the Catholic clergy.

18.7.6.49 Ultimately Soldier 028 was, as he was described by Murray Sayle to this Tribunal, an "ignorant bigot". **Day 356/75/9 to Day 356/75/10**

Bodies in the APC

18.7.6.50 The manner in which Soldier 028 gave evidence to this Inquiry about the bodies in the back of the APC is also illustrative of his agenda even before this Tribunal. While Soldier 028 accepted that the bodies "must have been thrown in to the Pig very hurriedly" **B1582.4 paragraph 16** then went on to assert that thus must have been because the soldiers were under live fire as they placed the bodies in the Pig. The soldiers from Mortar Platoon who put the bodies in the Pig have given evidence before this Tribunal and none of them claimed that they were under fire. When this was pointed out to Soldier 028 he stated that:

> "I mean it is a fair assumption . ... that they were in a hurry? And the reason they were in a hurry is because there was fear". **Day 356/106/20 to Day356/106/23**

18.7.6.51 The one thing Soldier 028 was incapable of accepting was that soldiers might simply have thrown the bodies into the Pig, not because they were under fire, or in fear, but because they had nothing but contempt for those killed. **Day 356/106/24 to Day 356/107/24**

18.7.6.52 There are other examples of Soldier 028's willingness to present his account in a manner designed to be prejudicial to the deceased and wounded. In his Treasury Solicitor statement he refers to the body of the man, who he alleged was a gunman being covered by a tricolour, **B1576** when in fact a body at that location had been covered by the Civil Rights banner.

18.7.6.53 Moreover in his statement to this Tribunal, and in contradistinction to the evidence of Brigadier MacLellan he said about the Rossville Flats that:

> "These were a thoroughly nasty place where gunmen could fire from and then disappear. In military parlance they were definitely "bandit country"." **B1852.2 paragraph 6**

18.7.6.54 Before considering Soldier 028's evidence about the events he claims to have witnessed at the Rubble Barricade, it is necessary to address the question of his actual location on the day. This is an important issue because there is a real question-mark over whether he could, in 1972, have witnessed the incidents he claimed to have witnessed behind the Rubble Barricade.

18.7.6.55 In essence it will be submitted that Soldier 028 was not, as he has claimed, at Kells Walk at the time Support Company went into the Bogside. More importantly he was not there when Michael Kelly, John Young, Michael McDaid, William Nash or Hugh Gilmore were shot and killed at the Rubble Barricade and he could not have witnessed the events described by him at the Rubble Barricade on Bloody Sunday.

18.7.6.56 On Soldier 028's account to the RMP

> "a party of men from the Parachute Regiment, passed through the position [Barrier 14] on foot and went to the junction William Street/Rossville Street and I accompanied them to Columbcille Court." **B1566**

18.7.6.57 To similar effect he stated in answer to a question by Mr. Clarke QC about why he went in to the Bogside that

> "I did not go in, I followed the paratrooper – Para soldiers who went in and as they were part of my regiment, um, I felt it was my job". **Day 356/17/9 to Day 356/17/13**

18.7.6.58 While Soldier 028 has stated that he remembers almost nothing of the evidence contained in the statements made by him in 1972. **B1852.1 paragraph 7** He does claim to have an independent recollection of going into the Bogside behind C Company. This can be seen from both his statement to this Inquiry, and his oral evidence. **B1582.3 paragraph 11**, **Day 356/17/9 to Day 356/17/13**, **Day 356/89/6 to Day 356/98/9**

18.7.6.59 This is moreover confirmed by his evidence that:

> "I have some recollection, but it is not sufficiently clear for me to be sure, that I may well have been with Mr Phillips and his camera team when they went through the army barricade and made their way into the Bogside." **B1582.5 paragraph 22**

18.7.6.60 Mr Phillips has also given evidence that on Bloody Sunday he was positioned behind Barrier 14, before C Company went into the Bogside. **M66.2**

18.7.6.61 However, the evidence before this Tribunal shows that there was a delay in the lifting of Barrier 14 and that in consequence Support Company went through Barrier 12 in vehicles, before C Company went through Barrier 14 on foot.[84] If Soldier 028 as he has consistently stated, went through Barrier 14 with C Company then he could not have been at Kells Walk as the first vehicle entered the Bogside.

18.7.6.62 This proposition finds support in the matters in respect of which Soldier 028 does claim to have an independent recollection. Soldier 028 gives a very vivid account of witnessing the bodies of John Young, Michael McDaid and William Nash in the back of the APC. **B1582.4 paragraph 16**

18.7.6.63 If Soldier 028 had entered the Bogside with C Company then he could in fact have witnessed that incident. It is noteworthy in that respect that Mr. Phillips account of the circumstances in which he became aware that there were bodies in the Pig has parallels with Soldier 028's current recollection.

---

[84] Giles Peress states that as he left Barrier 14 and before any Paras came through Barrier 14 he "saw two Saracens drive over the junction from Little James Street on to Rossville Street heading in the direction of Free Derry Corner." **M65.20 paragraph 7**

18.7.6.64 In 1972 Mr Phillips stated that "I . . . saw a priest who approached one of two armoured cars which were in Rossville Street by the corner of the flats and speak to a soldier. I then heard the priest tell Gerald Seymour that there were three bodies in the second armoured car and that there were other bodies elsewhere. Peter Wilkinson our cameraman looked in the armoured car and confirmed that this was true. He was not allowed to film them." **M66.2**

18.7.6.65 This accords with Soldier 028's recollection in that it confirms that the priest drew the attention of members of the media to the fact that there were bodies in the Pig and also that the media were prevented from filming the scene.

18.7.6.66 One other factor which lends support to this proposition is the fact that in 1972, when questioned by Mr. Hill on behalf of the Families, Soldier 028 had no recollection of soldiers P and 017 as per photograph **EP23.8**. **B1581E** These soldiers were the very first soldiers of the Parachute Regiment to take up position on the western side of Rossville Street. Soldier 028's inability to account for the position and actions of these two soldiers, who if his account is to be believed, were located very close by him, is inexplicable except on the basis that he was not in fact at the location he claims to have been at.

18.7.6.67 It is noteworthy that Soldier 028 has never given any description of how he reached Kells Walk prior to the arrival of Support Company other than his account of entering the Bogside with the Paras from C Company. It is our submission that while Soldier 028 did go into the Bogside on Bloody Sunday in 1972, he went in after C Company, probably in the company of David Phillips from ITN. By the time he arrived all of those shot and killed behind the Rubble Barricade were already dead. His account in 1972 of having witnessed the incidents described by him at the Rubble Barricade were a complete fabrication.

18.7.6.68 It is thus our submission that no reliance can be placed upon Soldier 028's account of the events witnessed by him at the Rubble Barricade because:

iii) His interview with Murray Sayle demonstrated his willingness to lie in order to advance the Army's case; and

iv) He could not in fact have witnessed that which he claimed to have witnessed.

18.7.6.69 Given that submission, it is not proposed to deal in great detail with the incidents described by Soldier 028, except inasmuch as they serve to further illustrate that his evidence in 1972 was a tissue of lies.

First Live Fire

18.7.6.70 Soldier 028 has given evidence that he was in Kells Walk as the first vehicles from 1 Para entered the Bogside and that:

> "as the leading vehicle came to a halt, a shot which in my opinion was fired from a M1 carbine from the direction of FDC, struck the vehicle. This was definitely the first live round to be fired in that area, that day." **B1567**

18.7.6.71 For the reasons set out above it is our submission that Soldier 028 could not in fact have witnessed this incident, even if it occurred. While Lieutenant 119 has also given evidence that the first Mortar Platoon came under fire, it has been demonstrated that he also could not have witnessed the incident described by him from his location in the Anti-Tank Pig.

18.7.6.72 This account is one of many given by Soldier 028 designed to lend support to what was a major plank of the Army's case in 1972, that the first shots were fired not by the Army but by the IRA, which was regarded as a basis for justifying all that followed.

Killing of 7 men at the Rubble Barricade

18.7.6.73 Soldier 028 gives a description of 7 men being killed behind the Rubble Barricade. One of the first 5 was a man with a machine-gun, 2 more were killed, one of whom had a pistol, near the southern gable-end of Block 1 of the Rossville Flats.

18.7.6.74 In fact, only 6 people were shot and killed behind the Rubble Barricade and the accounts given by the soldiers do not fit with the evidence of Soldier 028.

18.7.6.75 In 1972 Soldier 028 described a man with a machine-gun behind the Rubble Barricade who open fire on the soldiers on Rossville Street. In his RMP statement he stated that he fired 15 rounds and also refers to the priest, identified by the attached photograph as Fr Mulvey. He also claimed to have seen 5 bodies on the Rubble Barricade after this incident, one of which was at the location where he had seen the man with the machine-gun. **B1567**

18.7.6.76 He also gave accounts of this incident, albeit in different terms to the Treasury Solicitor and the Widgery Inquiry.

18.7.6.77 There are a number of discrepancies between the various accounts. In particular:

v) In no account, except for that contained in the RMP statement, is there any reference to the conduct of a priest. **B1567**

vi) In his RMP statement he does not actually see the gunmen fall, he just sees a body at the location where he had seen the man with the machine-gun. **B1567**

vii) In his RMP statement he claims to have seen the bodies of 4 men, as well as that of the body at the location where he had seen the man with the machine-gun. He does not claim to have witnessed any of these men being killed. **B1567**

viii) In both his statement to the Treasury Solicitor and in his evidence to the Widgery Inquiry he claims to have seen the man with the machine-gun shot and killed. **B1569.001 paragraph 3 B1571F-G**

ix) In his evidence to the Widgery Inquiry he claims for the first time that the machine-gun was a Thompson. **B1571F-G**

x) In both his statement to the Treasury Solicitor and his evidence to the Widgery Inquiry he claims to have seen the 4 men, whose bodies he claimed to have seen in his RMP statement, fall having been shot. **B1569.001 paragraph 3(check) B1572E**

18.7.6.78 The fundamental difficulty with Soldier 028's account however is that none of the soldiers who fired live rounds on Bloody Sunday claims to have shot and killed a man with a machine-gun behind the Rubble Barricade.

18.7.6.79 Soldier 028 then gives an account of a pistol man firing appearing from the side of Block 1 of the Rossville Flats and being shot along with another man. **B1567**

18.7.6.80 This account bears a marked resemblance to Soldier U's account of his shooting at a gunman, and hitting a second man, at the southern end of Block 1 of the Rossville Flats.

18.7.6.81 We have already addressed in some detail the statement-taking process conducted by the RMP on the 4th February 1972. On that date a statement was taken from Soldier 033 designed to corroborate the account given by Soldier U of an incident which is supposed to correlate with the shooting of Alex Nash. Soldier 037 has in his

evidence to this Inquiry distanced himself from that account stating that he "definitely did not" witness this incident. **B1635 paragraphs 24 to 26**

18.7.6.82 While Soldier 028's statement was taken on the 3rd, rather than the 4th February 1972, it is our submission that his account of this incident was expressly designed to provide corroboration of Soldier U's account of his shooting of a man near the southern gable end of Block 1 and is entirely dishonest.

18.7.6.83 Probably the most fundamental difficulty with the account given by Soldier 028 relating to each of the 7 men he claims were shot and killed behind the Rubble Barricade is that soldiers in the Parachute Regiment have never claimed that they shot and killed 7 people behind the Rubble Barricade.

18.7.6.84 As has been set out in the Introduction to this Section, the accounts given by the soldiers do not explain the deaths behind the Rubble Barricade. **Corporal P** claims to have killed one man positioned on Rossville Street some distance in front of the Rubble Barricade and one man crouching behind the Rubble Barricade, who was hit three times on Soldier P's account. **Private U** claims to have killed a man at the east pavement of Rossville Street, south of Block 1. **L/Corporal F** claims to have killed a man attempting to throw a nail bomb from behind the Rubble Barricade. **Corporal E** claims to have hit a sniper in Block 1 of the Rossville Flats. **L/Corporal J** fired a live round but does not claim to have hit anyone. **Sergeant K, Private L** and **Private M** all claim to have seen 2 men 'leopard crawling' towards the doors of Block 1 of the Rossville Flats and carrying weapons and to have killed one or both of those men.

18.7.6.85 Therefore on the soldiers' accounts, if everyone they claimed to have hit was killed, the majority of deaths behind the Rubble Barricade took place on the Rossville Flats side of the Rubble Barricade. Soldiers U, E and K, L or M accounting for 4 deceased. While 2 more are accounted for by Soldiers F and P.

18.7.6.86 Soldier 028's account of the 5 people killed, before the killing of 2 more towards the Rossville Flats is therefore entirely inconsistent with the accounts given by the soldiers.

Soldier G's shots

18.7.6.87 Soldier 028 maintains that he took shelter in an alleyway leading to Columbcille Court. Soldier G gave evidence that as he was advancing up Rossville Street from the Kells Walk Wall he was warned about a gunman. **B192E-F, B193**

18.7.6.88 Soldier G "looked up the alleyway and somebody was dodging about up there." **B193B** Firstly the putative gunman ran from Columbcille Court to the north-west of Glenfada Park North and as he went into Glenfada Park North Soldier G saw that the man had something in his hand. The man then started dodging back round the wall and looking back at us. "From what I had seen of him I was satisfied that he was a gunman, so we had to move from there and I took aim and fired two aimed shots up this alleyway." **B193D**

18.7.6.89 The alleyway described by Soldier G would appear to be the same alleyway in which Soldier 028 was hiding. This raises a number of possibilities:

i) Soldier 028, who was in civilian clothes and was armed, was the putative gunman;

ii) Soldier G made the whole incident up in order to account for his firing of 2 live rounds;

iii) Soldier 028 was not in the alleyway and was not in the position he placed himself in on Rossville Street at the time that the Paras were shooting over the Rubble Barricade.

18.7.6.90 While it is our submission that in reality no weight can be attached to either Soldier G or Soldier 028's accounts, this contradiction is a neat illustration of the impossibility of accepting Soldier 028's 1972 accounts.

Rifle man at Window in Rossville Flats

18.7.6.91 Soldier 028 has also given evidence of witnessing a man with a rifle at a window on the 3rd floor of Block 1. He claimed this man was shot and killed. **B1568**, **B1573**

18.7.6.92 The incident in which Soldiers F and G fired 7 live rounds at the window of 12 Garvan Place has been dealt with in some detail above. The Tribunal has also received submissions in relation to the statement-taking process in relation to this incident. In particular, the Tribunal will have noted that on the 4th February 1972 statements were taken from the following members of the Anti Tank Platoon: Soldier J at 15.10 hours, (**B269**, **B270**) Soldier 018 at 19.15 hours, (**B1487**) Soldier 036 at 19.30 hours, (**B1629**, **B1630**) Soldier 147 at 20.00 hours (**B1886**, **B1887**) and L/Corporal F, time unknown. Soldiers 018, 036 and 147 had not made any statements prior to this date. The statements of each of soldiers 018, 036, 147 and Soldier J deal with the incident where they say they came under fire from the Rossville Flats and Soldiers F and G returned fire. Soldier 018 has given evidence to this Tribunal that the RMP suggested to him "that he needed to include this to substantiate details that had been provided by my colleagues to show

that when they fired, they did not hit anybody. At the time I made my statement, I was led to believe the details about the location of the gunman in the flats and the area to which fire was returned were true."
B191.5, paragraph 42

18.7.6.93 It is submitted that Soldier 028's account of the shooting of a man with a rifle at a window, albeit given on the 3rd February 1972 was designed to provide corroboration for the accounts given by soldiers F and G of the circumstances in which they fired 7 live rounds at a window in Block 1 of the Rossville Flats, and is untrue.

18.7.6.94 Soldier 028 was prepared in 1972 to go to quite extraordinary lengths to assist the Army's presentation of their case. He was prepared to lie to journalists to the extent that he accused the IRA of having killed those behind the Rubble Barricade. He brought a 14 year old boy to an Army barracks in the middle of the night for the purpose of lending credibility to his own accounts. He was prepared to lie about the conduct of Fr Mulvey in order to blacken his name and undermine his credibility. He perjured himself at the Widgery Tribunal.

18.7.6.95 It membership of the British Army demanded from him perjury on behalf of the soldiers and calumny of the victims and Fr Mulvey. His reluctance to give evidence to this Tribunal was informed by the knowledge of the lies he had told in 1972. However, even before this Tribunal he was unprepared to acknowledge the wrong done by him to the Deceased and in particular those killed behind the Rubble Barricade and persisted in inviting the Tribunal to accept his 1972 accounts, stretching credulity to the limits as they did. Soldier 028 perjured himself in order to advance the Army's case in 1972 and he did precisely the same thing in front of this Tribunal.

18.8 Civilian Gunmen

18.8.1 Introduction

This section addresses the evidence identified in the Lawton document entitled "Civilian Gunmen Table" which is attached to a note from Counsel to the Inquiry dated 22nd July 2002. This section deals only with the entries at pages 81 to 85 Kells Walk and pages 135 to 140 Rubble Barricade as they apply to Sector 3. It also includes the evidence of Margot Harkin.

The Lawton Document

Kells Walk

18.8.2 Martin Bradley

The document relies on the following evidence:

After the shooting of Donaghy and Johnston the witness described being in the area of the laundry waste ground:

> "There was a crowd of people milling around taking cover close to the wall of the laundry at the SE corner of the waste ground (grid reference K9). I did not hear any shooting at that time... I remember hearing from the people around, but I do not know exactly who, that they were waiting for someone with a handgun to appear, who was going to fire back at the army. I do not remember seeing anyone coming with a gun."**AB64.2 paragraphs 9 to 10**

Also **Day 178/108/13 to Day 178/110/2**

This could not in any sense be regarded as credible evidence of a civilian gunman in Sector 3 or at all. We say this for a number of reasons:

It is hearsay evidence from a person who the witness could not identify.

No-one said where this person was going to come from, what his name was or what organisation, if any, he was from.

No civilians were being advised to get out of the way or to leave the area.

The witness saw no gunman. He heard no shooting. No gunman appeared.

The witness 1972 statement **AB64.7** does not provide any other evidence on the issue.

In the circumstances the only conclusion that the Inquiry could arrive at is that Martin Bradley does not provide credible evidence in respect of the presence of a civilian gunman in that area on the day.

18.8.3 Teresa Bradley

The document relies on the following evidence:

According to the witness there was a gunman on the first floor walkway of the western side of the Kells Walk maisonettes towards the northern end.

"The man was standing completely alone and was pointing a handgun straight in front of him with arm outstretched, and was firing it in the direction he was facing." **AB70.2 paragraphs 12 to 13**

Mrs Bradley said that the man fired several times and the crowd shouted for him to stop. He then disappeared. He was shooting in a northerly direction. This occurred after the shooting of Damien Donaghy and John Johnston.

This could not in any sense be regarded as credible evidence of a civilian gunman in Sector 3. We say this for a number of reasons:

The witness claimed that she had told the statement taker about the gunman on 4th February 1972. This was a school teacher called William Smyth. The witness accepted at **Day 064/73/1 to Day 064/73/4** that she possibly did read the 1972 statement through before signing it. Neither did she tell anyone about her unhappiness about that statement except her husband **Day 64/73/8 to Day 64/73/11**. The

witness' husband however said that they had not discussed it **Day 64/14/7**.

William Smyth gave evidence on **Day 83/181/14 to Day 83/182/12**. He strongly refuted the suggestion that he had deliberately left out a reference to the gunman in Kells Walk in Teresa Bradley's 1972 statement[1].

If this incident occurred it happened after the shooting of Damien Donaghy and after the witness' husband assisted him to 8a Columbcille Court.

It occurred prior to the deployment of Support Company **Day 64/61/3 to Day 64/61/12**

It is unclear what the gunman could have been firing at.

It was not observed by the Army.

The incident relates to events in Sector 1 and not Sector 3.

18.8.4 Joe Carlin

The document refers to a Sunday Times interview. It can be found at **AC150.1 to AC150.12**. The witness who apparently gave the interview did not give oral evidence to the Inquiry. The account was put to a Mr John Joseph Carlin who gave oral evidence on **Day 091/192/25 to Day 091/193/18** and who confirmed that the notes of the interview were nothing to do with him.

The person who supposedly gave the interview to Mr Barry of the Sunday Times is reporting people suggesting that events were about to take place.

He is speculating on the intentions of the persons who were inviting people to move however his "impression" was that this information had come from only one person and that the people pushing them and encouraging them to leave to area did not seem to know any more than they had been told by this person. He did not recognise any of the people involved.

This is an example of an individual apparently giving an interview reporting overheard conversations and gaining mere impressions of events. This could not in any way amount to credible or substantial evidence of the presence or otherwise of a gunman or gunmen in this area.

It was, of course, impossible to test this information further by examination in oral evidence and in any event appears to have occurred prior to the deployment of Support Company.

It is hard to envisage how this could be possibly represented as credible evidence of the presence of civilian gunmen in this area which appears to be more relevant to Sector 1 in any case.

18.8.5 Thomas C Doherty

The document refers to the portion of Mr Doherty's evidence at **AD106.2 paragraph 6** and at **Day 67**. The witness said in his Eversheds statement that he remembered seeing a man about to come out of a doorway of a house, which he thought was at the northern end of Kells Walk facing into Rossville Street. The gunman was accosted by a group of men although he was not sure how many. He heard at least one of them say: "there's no shooting today" and the gunman was physically pushed back into the house. He did not see him again. The witness said the man had a shotgun but it may have been a rifle.

In respect of timing, the incident occurred after the witness heard one or two high velocity shots which could well relate to the Donaghy and Johnston shootings as Support Company have yet to be deployed in Sector 3 **AD106.1 paragraph 4**

Given that the gunman was "immediately accosted" and "physically pushed" not far from the northern of end of Kells Walk, this has echoes of the incident concerning OIRA1 after he fired his shot **AD106.2 paragraph 6**.

[1] We refer the Tribunal to the remarks by Chief Superintendent McCullough in relation to the

The witness confirmed in oral evidence that the area was not well known to him and that it was almost thirty years since he had returned to it for purposes of making his Eversheds statement **Day 067/128/2 to Day 067/128/14**

The witness also recalled that the gunman had what he thought was a shotgun but although it may have been a rifle. It will be recalled that OIRA 1 had a .303 rifle.

The weapon was not fired therefore the witness provides no evidence whatsoever that this individual's actions had any impact on any of the events in any Sector on Bloody Sunday.
The witness' 1972 statement provides no contemporaneous evidence on this issue, which appears to be more relevant to Sector 1 in any case.

18.8.6 **Eamonn Gallagher AG8** gave oral evidence to the Tribunal on **Day 66**. In the map attached to his Eversheds statement he positioned a man with a rifle in the laneway just north of the Kells Walk Block **AG8.5**. He described the men near the gunman as being hostile and aggressive to him and the witness first noticed them he thought there was a fight and that the men present took the rifle and either broke or dismantled it and told him "there will be no shooting here today". There had been no shots at all up to that point **AG8.2 paragraphs 8 to 10**.

It is clear that this witness provided a detailed account to the Sunday Times Insight Team. It is clear that the incident of which he spoke in 1972 occurred after he heard that two men had been shot and saw a crowd carrying two bodies. This must be a reference to Donaghy and Johnston **AG8.7**
It is also clear when one considers the witness' attached "Sunday Times" map at point "4" at **AG8.10** that this is where the gunman

standards of honesty of the schoolteachers in Derry. **Day 231/164/15 to Day 231/164/23**

appeared with the rifle. It is also the position where the "tug of war" occurred between the gunman and others present. **AG8.7**
This must be reference to the OIRA1 incident **AG8.7** and in any case had no impact on conduct of the soldiers or of events in Sector 3.

Frank Hone AH80 In the witness' 1972 account, Mr Hone withdrew via the side entries of Columbcille Court leading to Rossville St. It was then that he heard shots. By their "tone" he knew they were army rifles and as far as he could guess they came from the Abbey Taxis Stand or the Church roof. Then he heard of two civilians being hit. About three minutes later he heard a heavier shot from very close to him in Kells Walk. **AH80.1**. There is no reference to this in his Eversheds statement.

This single shot was fired after the witness heard about the two civilians being hit. Clearly this is a reference to Damien Donaghy and John Johnston.

The fact that the witness referred to a "heavier shot" i.e. heavier that the "Army rifles" suggests that the witness was not referring to a pistol shot and more likely the shot fired by OIRA1.

This must be reference to the OIRA1 incident and in any case had no impact on conduct of the soldiers or of events in Sector 3.

18.8.7 **Gerard Kemp M47** said that he interviewed a man that he knew to be a member of the Official IRA **M47.1 paragraph 2**. This interview appears at **L210**. OIRA1 in his oral evidence denied that he spoke to Gerard Kemp **Day 395/138/5 to Day 395/138/9**.

It is clear that the detail contained in the Kemp article **L210** reflects to a degree OIRA1's evidence.

It is not clear at all from the article what balcony is being referred to or where the other person who supposedly fired with a pistol was

located. The article then goes on to described the person giving the interview as placing himself by the barricade in Rossville Street and seeing three civilians go down.
It is not clear from the text of the article whether the person giving the interview was claiming to have seen the person on the balcony firing at the Paras or the other person firing with the pistol.

The Inquiry therefore is not in a position to determine whether this is a first hand account or hearsay. In the absence of confirmation from the interviewee, the text of the interview does not provide an answer to this question.

This could not be considered an eye witness account of either shooting from a balcony at the Paras or someone else firing with a pistol.

John Long AL20. The witness saw John Johnston and Damien Donaghy almost immediately after they were shot **AL20.1 paragraph 4**. He showed a doctor (who is likely to have been Dr Kevin Swords) towards Columbcille Court where the men had been taken. Someone mentioned that a man with a handgun had been seen, though the witness did not see this himself **AL20.2 paragraph 7**.

This is at least a third hand account of an apparent sighting of a man with a handgun. The witness reports someone "mentioned" that "a man with a handgun had been seen". This could not possibly constitute reliable evidence on which to base a finding of the presence of a civilian gunman in this area.

Sequentially, this report was made prior to the Support Company deployment in Sector 3.

This does not provide any evidence of the activity of this gunman or any reaction by Soldiers or civilians to any such activity.

18.8.9 **Liam Mailey** **AM50** gave oral evidence to the Tribunal on **Day 163**. After the Paras had entered the Bogside and begun to fire, this witness when moving across the Rossville Street Barricade heard three shots which appeared to be of lower calibre than the rifle shots. They appeared to be fired from the area of Glenfada Park or Kells Walk but the witness was unable to give the direction **M50.57 to M50.58**.

The witness places the firing in a number of different locations in different statements. In 1972 he thought it was Glenfada Park or Kells Walk **M50.57 to M50.58**. His oral evidence before Lord Widgery was that "would imagine it came from somewhere around Kells Walk" **M50.27**. In his statement to Eversheds he thought it came from the area of either Glenfada Park North or perhaps the southern end of Columbcille Court. He qualified this by saying he was unsure but the latter was more likely **M50.2 paragraph 6**. In his oral evidence to this Tribunal the witness said that he was unable to be any more precise as to where he was when he heard the low calibre gunfire **Day 163/96/2 to Day 163/96/4**.

It may well be that this witness has heard the shots spoken of by Father O'Gara who saw a man draw a pistol from his pocket, lean over a wall at the end of Kells Walk and fire three shots quickly.
The witness has given confused evidence in respect of how these shots fitted in to the sequence of his photographs and that he may have been looking down the Lecky Road, on his way to the Rossville Flats at the junction between William Street and Rossville Street or around the Rubble Barricade **Day 163/64/18 to Day 163/95/10**.

The witness thus cannot give evidence of what events were actually occurring when he actually heard these shots and therefore cannot assist the Tribunal as to the impact of these shots, if any, on events or the actions of soldiers and civilians on the day.

18.8.10 **Marion McMenamin AM363** gave evidence on **Day 194**. In her Eversheds statement she said she was with her mother, Sarah McMenamin and alleged that she was running south down Rossville Street as the pig entered. As she was running away she saw a civilian with a gun. The gunman was in an alleyway near the pram ramp at the south gable end of Kells Walk. He had his back to the gable end wall of Kells Walk. A description of him can be found at **AM363.3 paragraph 7**. He had a handgun in his right hand. He was not aiming it. She did not see him fire it. He walked east towards Rossville Street, looked south towards the Rossville Flats shops and then withdrew again. She did not know where he went after that. The witness marked on photograph **AM363.10** where she believed she saw the gunman. A number of points arise:

(i) We refer the Tribunal to the questioning of the witness by Arthur Harvey QC where the witness agreed it was a "good possibility" that the gunman she saw was where Father O'Gara described seeing a gunman in 1972. **Day 194/218/2 to Day 194/218/22**

(ii) The soldiers did not react to the presence of the gunman in any way. The witness described him as "quite discrete." **Day 194/219/9 to Day 194/219/12**

(iii) The weapon was not fired therefore the witness provides no evidence whatsoever that this individual's actions had any impact on any of the events in any Sector on Bloody Sunday.

It is submitted however that this is not a reliable witness. We say this for a number of reasons:

(i) The witness made no mention of seeing the gunman in her 1972 statement **AM363.7**. Whilst it could be said that this may have been due to a reluctance on her part not to mention anything that might in some way justify the Army's actions, the witness was prepared to say in 1972

that she heard what seemed to be a nail bomb explode an hour and a half after the first shot she heard. She now cannot recall hearing this.

(ii) The statement provided in 1972 is principally concerned with seeing Damien Donaghy shot but she cannot now recall this.

(iii) The witness confirmed that her recollection in 1972 would have been more accurate than the recollection she had been able to put into her Eversheds statement **Day 194/216/22 to Day 194/217/1**. In her 1972 statement the witness does not even mention being in Rossville Street at any stage. A fair reading of her 1972 statement would suggest that when she saw Damien Donaghy being shot and then went directly to 19 Meenan Drive whereas in her current statement she ran down Rossville Street in the midst of the action.

(iv) Significantly, the witness' mother, Sarah McMenamin (now deceased) made a statement in 1972 that did not mention the presence of a gunman nor even being in Rossville Street **AM364.1**.

18.8.11 **Brendan & Kieran O'Connor AO10**. Brendan and Ciaran O'Connor were twin brothers. The Sunday Times note records:

> "Met Joe Carlin at alley from R St into C Court --- Joe had a pair of binoculars (typical) They were heading up there because a woman had run out of the alleyway to say that a young fellow had been shot.
> Said it was one young man, in a white coat, clearing the line of fire around the front of Kells Walk in Rossville Street." **AO75.1**

There is a Sunday Times note purportedly from Joe Carlin that records "there were two people with me. One was Brendan O'Connor who runs a

tea business just around the corner from the City Hotel." **AC150.3** Brendan O'Connor is still alive and gave evidence on **Day 108**. Ciaran is deceased. The witness denied that he had ever spoken to the Sunday Times **Day 108/150/4 to Day 108/150/17** and it is clear from the extract at **AC150.3** that although he is named in the document, he is described therein as running a "tea business just around the corner from the City Hotel" **AC150.3**. The witness confirmed that his brother Ciaran was in fact a tea merchant at the time of Bloody Sunday **Day 108/148/20 to Day 108/148/24**.

It is submitted that the same points set out in respect of the Joe Carlin Sunday Times note apply in this case.

18.8.12 **Father O'Gara**. This is what he told the Treasury Solicitor:

> "A young man appeared from the Cathedral side of Kells Walk unknown and unseen by soldiers, drew a pistol from his pocket leaned over a wall at the end of Kells Walk and fired three shots quickly. The soldiers didn't even recognise his presence and he disappeared. This was the only weapon I saw throughout that day. The man wore a "longish" coat. He was completely separated from the main crowd even those around the Barricade on Rossville Street. There was at no stage any gunfire from behind me or beside me. I am certain the revolver was fired after the troops opened fire." **H19.5** to **H19.6**

The witness later related the same incident to Lord Widgery **WT7.86 B-C**

It is clear that the evidence of Father O'Gara was that the incident occurred 30 seconds or a minute after soldiers opened fire on civilians **WT7.86 C**.

The young man fired three pistol shots and could not possibly have hit any troops. He was possibly aiming at a "Saracen" car parked on Rossville Street about 25 yards away **WT7.86 C**.

The soldiers did not even recognise the young man's presence and he then disappeared **H19.6**. The shots reported to have been fired therefore had no effect on the soldiers or their actions in Rossville Street.

That was the only weapon that Father O'Gara saw throughout the day **H19.6**. The witness did not witness any other gunfire directed against the soldiers **WT7.86 F**

18.8.13 Simon Winchester

The document relies on the portion of his evidence:

> "At Kells Walk... I thought I saw another sinister sign: a crowd that had gathered was being pushed away by a number of youths. They were clearing a way for something – was it as I noted in my book, for a line of fire?" (In Holy Terror p198) **M83.3 paragraph 16**

At **M83.9 paragraphs 53 to 55** the witness commented on his 1972 statement at **M83.17**. In summary, he had described boys clearing paths for snipers on two occasions on Bloody Sunday. The first was before he heard the first shot and saw boys clearing a path in William Street just to the north of the laundry waste ground. On the second occasion he saw boys in the area of Kells Walk. When he saw the boys on this occasion he concluded that because he had heard the first shot that they were clearing a path for a sniper. There were no shots from the alleyway on the second occasion because he had stayed in the area for about five minutes after he saw the boys clearing people. In his 1972 statement at paragraph 13, the witness said he had "assumed they were clearing the line of fire for a sniper" although he could not say what he might have fired at **M83.17**.

In an addendum to his 1972 statement he described the first incident. He gave the movement of the boys no significance until he heard the first shot. Then he assumed there was a sniper in the area and that his line of fire was being cleared. **M83.50**

The witness assumed that these people were clearing the line of fire for a sniper. He could not see what any potential sniper might have been going to fire at.

In 1972 and in his evidence to the Inquiry **Day 116/33/9 to Day 116/33/16** the witness was posing a question about what he had seen. In his evidence to the Widgery Inquiry Mr Winchester described the incident as having seen "something which might be relevant – a number of people who seemed to be teenage youths clearing passers by away from an entry which led into Columbcille Court." The witness went further (*ibid*) "It did not seem to have any significance until I heard the single shot and then I thought to myself what they might be doing was to move people away". The witness was asked did he in fact hear any shooting and he replied "No". **WT3.12. A-D**

In his evidence to the Inquiry **Day 116/36/10 to Day 116/36/19**, it was clear from the witness' evidence that he could not say whether in fact he had seen the "clearing of a path" on one or two occasions. He described it as "a very imperfect science". He could only say in his evidence on **Day 116/36/20 to Day 116/36/23** that he had seen what appeared to be the clearing of a path happening on at least one occasion at the spot he had mentioned.

It is to be observed that in his Treasury Solicitor statement that in describing this incident there were in fact no shots fired from the alleyway or as far as he could tell from anywhere else in the immediate vicinity. **M83.17**

The witness saw no armed activity at all. At its height he saw a movement of a crowd upon which he made an assumption and in relation to that assumption in his notebook he recorded the incident with a question mark **M83.3 paragraph 16**. This question mark and confusion about the incident continued until his oral evidence to this Inquiry about both the number of incidents he had seen and the timing of these incidents in relation to the shot that he had heard earlier. **M83.16**

The witness fairly described the incident he claimed to have seen and the assumption that he made thereon as an "imperfect science" **Day 116/36/10 to Day 116/36/19**. Perhaps most importantly, at its height the witness did not see a gunman, did not hear a shot arising out of the incident but saw movement of people in a crowd.

If this incident occurred it happened prior to the deployment of Support Company into the Rossville Street area and had no impact on any of the events in any Sector on Bloody Sunday.

18.8.14 **John Barry M3** gave evidence to the Inquiry on **Day 193**. He described in his Eversheds statement at **M3.6 paragraph 21** that he seemed to recall there were "indications" that a pistol had been passed from hand to hand and most likely fired from the Rubble Barricade on Rossville Street or close behind it. The witness was asked about the matter in his oral evidence and whether he was referring to the evidence from the Soldiers which was set out in the article itself or whether he was referring to some other evidence. He answered "I do not remember. I think we must have had some other evidence but I do not remember what it was" **Day 193/108/16 to Day 193/108/25**.

It is clear that Mr Barry in his statement was properly cautious as to this note. He said that "I also ***seem*** to recall there were ***indications*** that a pistol had been passed from hand to hand and most likely fired

from the rubble barricade on Rossville Street or close behind it" (emphasis added). **M3.6 paragraph 21**
He could not remember and was unable to assist further with its origin **Day 193/108/24**.

It must be emphasised that the relevant portion of the article itself is based on Soldiers' accounts, which are demonstrably unreliable. **L213**
There is nothing in the Insight article to suggest that the information contained in the article came from a source other than Soldiers.

The "some other evidence" **Day 193/108/21 to Day 193/108/25** certainly does not appear in the Insight article **L213**.

Whilst her evidence post-dated the Lawton team report, we have included the evidence of Margot Harkin in this section of our submissions.

18.8.15 **Margot Harkin** **AH23** gave evidence to the Tribunal on **Day 416**. The witness described seeing two very young men running down from the direction of the Little Diamond. This was startling as everyone else was running away and they were running into the area. The youths halted at the corner of the eastern wall of Glenfada Park facing into Rossville Street with one behind the other. The witness marked this point at "K" on **AH23.22**. They were very agitated and she saw one of them pulling the other's jacket. The young man in the foreground was very angry and resisted. He then took a gun from the other man which was delivered from inside this young man's jacket. The man armed with the handgun went to the edge of the gable, ducked his head around the gable end to his right and fired. She believed he fired the shot randomly. She did not recall that he fired more than one shot but could not be sure. She said it all "happened so fast" **AH23.17 paragraph 41**. Immediately after this the gun was thrust back at the other young man and they both ran away very fast the way they had come. They split off in two directions and disappeared. "It all happened in a matter of minutes." **AH23.17 paragraph 41**

The witness did not make a statement in 1972 or at any time before making her Eversheds statement and therefore had no means of reliably refreshing her memory.

The Tribunal would need to be satisfied that the witness would have had the view she claimed to have had into the alleyway off Rossville Street in order to conclude that she saw what she claims.

The witness claimed that the shot was discharged in the direction of a soldier at point "I" on her map **AH23.22** though accepted the possibility in her oral evidence that the soldier may have been further north of this position **Day 416/23/17 to Day 416/23/25**

The Inquiry has not heard any evidence from any soldier who puts himself where the witness did when she made her Eversheds statement.

In terms of sequencing the civilians had already been shot at the Rubble Barricade and Rossville Street would have been saturated with Paratroopers, positioned at both sides of the street and at the northern end of Block1. It is beyond comprehension that every one of these witnesses could have failed to see the youths or hear the shot.
No civilian or military witness gives evidence that could corroborate Ms Harkin's account.

This part of her evidence is suspect as it would have been suicidal for any gunman to go near the soldiers' position armed with only a handgun and fire from a position which afforded them little cover. In this regard it is worth quoting the transcript:
"Q. I suggest it inherently unlikely that someone would
place himself in a position of such obvious danger --
Yes, it was crazy." **Day 416/46/18 to Day 416/46/20**

It is submitted that she is mistaken as to seeing the gunman. Even if her evidence was to be accepted it is clear at its height that the actions of this person as described had no impact whatsoever on the actions of the soldiers in Rossville Street.

Rubble Barricade

18.8.16 **Ivan Cooper**

In respect of Ivan Cooper the document relies on the following passage from the Sunday Times notes, which appears at **KC12.68**:

> "IC launched into a story: _ CIV2 _, Martin McGuiness and PIRA 17 were in a house in William Street almost down by C Street. Their place was to fire through the doorway at soldiers who IC says were occupying some of the houses on the other side of W St. The troops moved in and the trio were trapped. IC says that MM panicked and thought he was going to get caught. CIV2 said to dismantle the Thompsons and put them up their jerseys. They did and ran off with the crowd. But, IC recounts, CIV2 was also carrying a pistol in a holster. And as he ran over the barrier he dropped it. He bent down to pick it up and was shot three times by a Para – the final shot going throught the heal of his shoe. He picked up the pistol and ran off (I'm highly dubious of that whole story it reeks of "minimum approach to me.)"

In respect of the Sunday Times notes Ivan Cooper has said:

> "I have read some typewritten notes which I am informed were prepared by the Sunday Times Insight team. I have never seen them before

making this statement. I find this account poisonous and disturbing and I reject it in its entirety. The manner in which it is written smacks of British security intelligence operating; it is for the most part, factually incorrect. There are many examples of factual inaccuracies in the articles. I therefore wish to reject this document in its entirety and will not even begin to give it credibility by addressing it in more detail." **KC12.30 paragraph 97**

Giving evidence Mr Cooper said that:

He never knew CIV2 to be "linked with the Provos" **Day 419/111/11 to Day 419/111/13** and;
He was never interviewed by anyone who was said to be from or be connected with the Sunday Times Insight team **Day 419/77/16 to Day 419/78/2**.

In addition, the Tribunal has a statement from CIV2 where he clearly states:

"I am not and never have been a member of IRA/Sinn Fein, neither have my family before me nor my family after me."
AM208.1 paragraph 1

Even if the Tribunal was to find that Ivan Cooper had given an interview with John Barry and in all likelihood made these remarks, we respectfully refer the Tribunal to the following passage fron CIV2 's evidence:

"Ivan Cooper is a fantastic liar he is the sort of person that I have always wanted to and have tried to avoid. I would take anything

he says with a "pinch of salt". The statement that he made to the Sunday Times is a fabrication. I suspect he made the statement to make himself sound like an important politician for the journalists." **AM208.10 paragraph 17**

Mr Barry who accepted he was the author of the note was "highly dubious" of what he was apparently told:

> "I have no idea whether it is remotely true or not..." **Day 193/126/16 to Day 193/126/18**

The account is in itself a highly colourful and fanciful one, which is not corroborated by any witness whether civilian or military. Moreover it appears to have escaped the notice of Special Branch, Military Intelligence and the Security Services. This note is inherently unreliable and is of no value whatsoever to the Inquiry in seeking the truth about the events on Bloody Sunday.

18.8.17 **Kieran Gill M105** gave oral evidence on **Day 203** and **Day 206**. He claimed in his Eversheds statement at **M105.13** that he received information from PIRA that a member of the Official IRA had a revolver and fired it. He claimed to have gone to OIRA man's house with Peter Pringle. He claimed that the man had told him that he had fired 3 or 4 shots from the revolver around a door of the Rossville Flats. This apparently occurred after the Army had fired between 100 and 150 rounds and there was a lull in the shooting. According to Mr Gill, the man said that he put his hand around the door and fired the revolver up Rossville Street to make the Army stay away. The witness claimed that both he and Peter Pringle suggested to the man that he might have shot Alex Nash.

It is submitted if this encounter took place it is inconceivable that two newspapers (Irish Press and the Sunday Times) would not have published details of it given the hugely significant and topical nature of the story.

Peter Pringle at no stage in his evidence to the Tribunal indicated that this encounter took place.

There is no note anywhere in the Sunday Times Working Papers or notes which indicates that this encounter took place.

It is submitted that it highly questionable whether the encounter described by Kieran Gill ever occurred, particularly in light of developments after the witness gave evidence. Eamonn McCann, journalist for the "Sunday Tribune" wrote an article published 12th May 2002 in relation to this issue that undermines completely the version of events presented by Kieran Gill[2] **OS1.896**.

18.8.18 **Observer B KO2** did not give oral evidence. We refer the Tribunal to our submissions at Section 13 for the status of this evidence.

---

[2] "A former Sunday Times journalist has dismissed a claim by an ex-Irish Press reporter that a member of the Official IRA admitted firing a shot which may have caused one of the Bloody Sunday casualties. Speaking from New York yesterday, Peter Pringle said that he had "no memory whatsoever" of the doorstep interview which Kieran Gill told the Saville Tribunal he and Pringle had conducted with the IRA man. Said Pringle, "If an admission like that had been made to me, I would remember it. It would have been a major development." Gill, who traveled from his home in Australia to give evidence, was Irish Press correspondent in Derry on Bloody Sunday. On Thursday, he testified that he had worked informally with the Sunday Times Insight team in the days after the shootings. He recounted that he and Pringle were told by a Provisional IRA man than an Official had fired from a revolver in Rossville Street after a number of people there had been shot by soldiers.

Gill said that the two journalists then confronted the Official at his home: "He admitted that he had fired a revolver around the door of the Rossville Street Flats...I said something like, 'So you shot Mr. Nash.' The man looked horrified."

It has been one of the perplexing details of Bloody Sunday that Alexander Nash, wounded when he went out into Rossville Street to comfort his dying son, William, was struck from a low-velocity weapon rather than from an Army-style rifle.

Pringle says he can recall neither the tip-off from the Provisional nor the interview with the Official. The story wasn't included in an Insight reconstruction of Bloody Sunday published in the Sunday Times in April 1972 nor in last
year's, "Those Are Real Bullets, Aren't They?", by Pringle and Philip
Jacobson, also of the Insight team. It wasn't mentioned by Pringle in his Inquiry evidence last year. When these omissions were put to Gill, he stood his ground. "I am correct in my record... I am not confused at all."

FS 1 · 2127

At the end of Gill's cross-examination, Saville agreed with a barrister for the Nash family that the Tribunal may now have to recall Pringle." *Sunday Tribune* 12th May 2002

18.8.19 **OIRA1** **AOIRA1** gave oral evidence to the Tribunal on **Day 395** and **Day 396**. It is recorded at **AOIRA1.1-2** that after seeing Michael Kelly fall at the Rubble Barricade:

But he insists that he then saw, obliquely, three figures standing at the barricade and a burst of automatic – "machine gun" – fire, at which the three fell – adding austerely: "Whether they were hit or not I could not say. He says that there was then the buzz that troops were then coming up to Glenfada."

The witness said he had no recollection of hearing automatic fire and denied that he would have had any reason to making this comment to Mr Barry of the Sunday Times **Day 395/119/23 to Day 395/120/7**, **Day 396/80/20 to Day 396/80/25**

The note records that Michael Kelly was a cousin of OIRA1. This is untrue.

Any suggestion in this note that three people fell at the Barricade as a result of automatic fire is wholly unsubstantiated by civilian and military evidence. The Tribunal has evidence from a significant number of witnesses who were close to the Barricade including that of Fathers Bradley and O'Keefe and none of those witnesses refer to automatic fire or people on the Barricade falling as a result of automatic fire.

This evidence is obviously in the face of the overwhelming weight of evidence inherently unreliable and can not be relied upon.

18.8.20 **Peter Pringle** **M68** gave oral evidence to the Tribunal on **Day 190** and **Day 191**.

FS 1·2128

The comment in the early draft of the Insight article at **S303** that there was "persuasive but not conclusive, evidence that a pistol appeared at

the barricade and was used" was not enough for the authors to publish a conclusion based on this information.

We are unaware of any corresponding note in the Sunday Times Working papers that suggests that a witness provided this information. Applying the "rule of thumb" that was the practice of the Insight Team *viz*, that there had to be some corroboration for the information to appear in the article (**L213**, **L214**, there was no corroboration at all for this information. The ultimate article itself concentrates solely on the soldiers' accounts of a pistol at the barricade since clearly the Insight team were not in possession of other material, which they considered reliable enough to publish.

We have not been made aware of the primary source of this information and therefore the Inquiry has been unable to test its quality or veracity.

It is submitted the Tribunal should hesitate to base a finding of fact on uncorroborated, untested and unsourced material that was not of sufficient quality to print or publish in 1972.

18.8.21 Conclusions

In light of the foregoing examination of the relevant evidence the following submissions are made:

(i) With the exception of Father O'Gara's gunman such evidence as has been identified does not establish to the requisite standard that civilian gunmen/bombers were operating in the Rossville Street area on Bloody Sunday; or

(ii) The evidence that has been presented indicates that any such individuals who were present and in possession of weapons

a. Were not seen by the soldiers who entered Rossville Street;
b. Did not, on the soldiers' evidence, provide the justification for them opening fire and;
c. Had no impact on the actions of soldiers on that day.

18.9 Missing Casualties

18.9.1 Introduction & Summary of Submissions

This section addresses those identified as located in Sector 3 on:

(i) The list entitled "Examples (non-exhaustive) of unknown civilian casualties" provided to the Inquiry by the Aitken team. This document appears at **OS8.42**;

(ii) The list of so-called "missing casualties" provided to the Inquiry by the Lawton team. The list appears at **OS7.35**.

There were no unaccounted for missing casualties in Sector 3. All persons killed and wounded in Sector 3 were accounted for. The people who were shot were not gunmen or bombers, but innocent civilians.

As is the case in other sectors the issue of so-called missing casualties is a distortion of the reality of events on the ground and a diversion from the reality that the casualties on Bloody Sunday have long been accounted for notwithstanding the evidence from the Soldiers.

As is the case in other sectors the issue of so-called missing casualties is a theory propounded to explain why experienced soldiers had failed to hit a single gunman or bomber in the Bogside on Bloody Sunday. Since they shot only unarmed civilians in the absence of such a theory they have committed cold-blooded murder. They were forced in desperation to rely upon this absurd theory wholly unsupported by any credible evidence to put any face upon their actions.

18.9.2 The Aitken Document

Rubble Barricade

18.9.2.1 The Aitken team advance the proposition that "there is clear evidence of at least one casualty at the Rubble Barricade whose identity remains unknown".

18.9.2.2 The suggestion that there is a 'Missing Casualty' at the Rubble Barricade is a difficult case for the soldiers to advance. On the soldiers' evidence in Sector 3 they cannot account for the 6 people killed at the Rubble Barricade, yet their legal teams advance on their instructions that there were extra casualties, in circumstances where they cannot account for the existing ones.

18.9.2.3. There is thus an inherent contradiction in the case advanced on the soldiers' behalf. On the one hand they only fired the shots they claim to have fired and only hit the number of targets claimed behind the Rubble Barricade, thus failing to account for the known dead and wounded, on the other hand, given that the known dead and wounded were innocent, they must have shot and killed others. Added to this we have the fact that, after the shooting of Michael Kelly, shooting over the Rubble Barricade was so heavy that people could not get to the bodies of three known casualties. Michael McDaid, John Young and William Nash.

18.9.2.4 The only basis upon which the soldiers can advance a case of a missing casualty which is in any way consistent with the evidence they have given is if the 'shoot-through theory' is accepted in relation to Michael Kelly, i.e. Michael Kelly was the second victim of Soldier F's bullet.

FS 1· 2131

18.9.2.5 Given the volume of civilian evidence that after Michael Kelly's body was removed from the Rubble Barricade, no one was able to gain access to the other three bodies. The 'missing casualty' had to have been removed at or about the same time as Michael Kelly.

Alternatively this 'missing casualty' is in fact one of the three persons removed from the Rubble Barricade by Mortar Platoon.

18.9.2.6 If the body was removed at the same time as Michael Kelly, then despite the extensive photographic coverage of the Rubble Barricade and Glenfada Park North before and after the shooting this person was brought from the Rubble Barricade unnoticed. The removal was also unnoticed by the people at the gable wall of Glenfada Park North. Alternatively witnesses like Fr. Bradley, Barry Liddy and Fr O'Keefe have participated in a massive conspiracy, which has included the unidentified people who removed the body, a conspiracy which went into motion within minutes of this man's death and which has gone uncovered for 32 years.

18.9.2.7 In support of this implausible proposition the Aitken Team cite the evidence of the following (which with respect is far from "clear"):

George Roberts (**AR13** and **Day 151**):

> ***"describes a young man in a white Aran sweater with wound under his right eye from which blood was gushing."***

18.9.2.8 George Roberts' evidence is that he was at the southern gable of the eastern block of Glenfada Park North with Danny McGilloway. He amended this when he gave oral evidence, to say that this person was PIRA 1 **Day 151/69/11 to Day 151/69/19**.

18.9.2.9 In 1972 George Roberts evidence seemed to be to the effect that he had witnessed at least 3 people being shot:

> "...I was standing at the barricade and the army started shooting and the fellow standing beside me fell. He was hit and I got down beside him to try and pull him into the gable house. I called to the

FS 1· 2132

crowd and 6 of them ran forward to help us and 3 of them were shot. They fell towards me and another boy. I crawled behind the barricade behind this small wall. This person pulled me behind the wall and the shooting continued." **AR13.8**

18.9.2.10 However in his evidence to this Tribunal, he has stated in relation to referring to 3 people being shot:

> "I had probably heard this after, only the next day that three were shot at the barricade" **Day 151/81/4 to Day 151/81/12**

18.9.2.11 In his evidence to this Tribunal he has given an account of the shooting of a young man, slightly in front of him, and to his left. He describes him as wearing an arran sweater and states that he was shot below the eye. **AR13.1 paragraph 7**

18.9.2.12 Mr Roberts then identifies himself in **EP 27/6**, **EP 32/1** and **EP 32/2**. **EP 32/1** and **EP 32/2** shows Mr Roberts kneeling on the ground, over the person he believes was shot in the eye. To the rear of Mr Roberts' position is Michael Kelly who has been shot.

18.9.2.13 Mr Roberts stated that at the time Robert White took **P637**, showing the body of Michael Kelly, he was kneeling over the body of the other young man: "I was focusing on the other young fella, my head was away from that area there." **Day 151/72/17 to Day 151/73/1**

18.9.2.14 Rejected the possibility that he could have been simply kneeling in that position when **P637** was taken, but rather he only went down because of the young man being shot. **Day 151/73/7 to Day 151/73/14**

18.9.2.15 However Mr. Roberts changed his position in relation to that issue over the course of his evidence. He confirmed that he had only a recollection of one person being shot behind the Rubble Barricade and that, the person had been shot below the eye. **Day 151/97/4 to Day 151 97/11**

18.9.2.16 When questioned by Mr Harvey QC on behalf of the Families he was asked in reference to John Young who was shot below the eye on the Rubble Barricade:

> "Q. Could it be that is the person that you have seen shot but it is in a later sequence than in the photograph on which you can be seen crouching?
>
> A. Very possible.
>
> Q. And that simply because of the shock you were in, you have missed quite a considerable number of events that went on before the person was shot in the eye?
>
> A. Quite possible, yes." **Day 151/97/16 to Day 151/97/24**

18.9.2.17 When questioned by Mr Glasgow the witness was clear, as he had been with Mr. Harvey, **Day 151/91/10 to Day 151/91/20** that the person he saw shot in the eye was not the first person shot, but was the first person he had seen shot. **Day 151/106/15 to Day 151/106/18**

18.9.12.18 However when the witness was re-examined the witness he was shown photograph **E14.12**, an enhanced copy of **P636**. He was asked which of the two persons which he appeared to be kneeling over was the person who had sustained the wound to the eye. His answer was that "it could be neither of them" **Day 151/117/8 to Day 151/117/10**, and that he could not be sure if it was either of the two. **Day 151/117/16 to Day 151/117/23** At the conclusion of his evidence he was asked:

> "Q. Do you think the person you saw fall might be off this photograph?

A. I am not too sure now, I could not say, looking at it at that time, you know, a split second on a photo, it could be moved back or forward, whatever you know. (Pause) Well, I could not be sure after all this time, you know. It does not look as though any of the two is the young fella was shot, you know what I mean." **Day 151/118/17 to Day 151/119/11**

18.9.2.19 The witness recalls sheltering behind the rubble and puffs of smoke from rounds hitting the Barricade. He suggests that there were perhaps an interval of a few seconds between the rounds hitting the barricade. **AR13.2 paragraph 9** He then describes how he crawled to the safety of the gable wall, urged on by his friend PIRA 1, and apparently oblivious to what was happening behind him at the Rubble Barricade.

18.9.2.20 Mr Roberts accepted that when he had returned to the safety of the gable wall, he was "in shock" and "could not believe what was happening". **Day 151/77/14 to Day 151/77/15**

18.9.2.21 Denis McLaughlin has given evidence that he was with George Roberts when he witnessed a person shot in the head. Both have also given evidence of George Roberts being assisted from the Rubble Barricade by PIRA 1.

18.9.2.22 It seems probable that both witnesses witnessed one or more of John Young, Michael McDaid and William Nash being shot. It is also clear that the conditions under which they witnessed the incident were frightening and distressing and life-threatening for both of them and confusion in relation to the accounts is understandable. One issue upon which both witnesses are absolutely clear is that they did not see anybody at the Rubble Barricade with a weapon and none of the people behind the Rubble Barricade were armed. The people who they saw shot and killed were shot without justification.

18.9.2.23 **Robert Wallace (AW3 and Day 154):**

> **"gave evidence of a wounded man aged 17 or 18 being carried round the corner into Glenfada Park from the barricade a few seconds after Michael Kelly, slumped forward face down."**

It should be pointed out that this witness also appears at Number 34 in the Lawton document at **OS7.34**

18.9.2.24 This witness gave evidence of seeing the body of Michael Kelly brought to the gable end of Glenfada Park North. He did not see anything going on at the Rubble Barricade as he was sheltering at the gable end. **Day 154/135/21 to Day 154/135/23** He did not see Michael Kelly lying at the Rubble Barricade but only when Michael Kelly was brought round the corner.

18.9.2.25 At **AW3.02 paragraphs 7 to 8** and **Day 154/137/14 to Day 154/143/4** he described a second young man was carried around the gable end from the barricade . This happened a few seconds later. He was aged about 17 or 18 and a bit smaller than Michael Kelly. Although he was not moving at all the witness saw no wound or blood on him. The witness was still so shocked by the sight of Michael Kelly that he did not pay much attention to the second man. He did not see the man's face. He just presumed his age as he seemed to have black longish hair. Two people were carrying him. He did not know either of these people.

18.9.2.26 The man's face was facing down. He thought he was wearing dark jeans not a suit. He seemed to be slumped forward being held under both his arms. The witness did not see what happened to the man. He thinks he was put down at the corner but the witness then tried to make a break to behind a car.

18.9.2.27 The witness gave a tape-recorded statement in 1972 at **X2.36.2**. In that interview he mentioned a wounded boy. He confirmed he thought he was referring to Michael Kelly. He spoke in this statement of "another boy supposed to be lying at the barricade." He spoke of at least three people going out to pick him up. When asked did he remember that he replied:

> "I am not 100 per cent sure, it is a long time ago." **Day 154/145/8 to Day 154/145/13**. When asked did he remember anybody going from the gable end up towards the barricade to pick him up he replied: "At the moment no." **Day 154/145/14 to Day 154/145/16**.

18.9.2.28 The witness had then said in his 1972 statement: "I seen them going out. I did not see them coming in again. I heard afterwards that they were shot". When asked did he remember anything of that he replied:

> "There were that many stories going round at that time. I probably did hear they were shot all right but..."

18.9.2.29 In this interview he did not mention at all a second person being brought round to the gable end. It is submitted that in a contemporaneous statement the witness described seeing one person and totally omitted a person he claimed to be able to remember seeing thirty years later. There appears absolutely no reason why this detail should have been omitted from the 1972 statement if the later recollection of the witness as to what he saw is in any way reliable.

18.9.2.30 Also as can be seen from the exchanges above the witness could not now remember substantial elements of the scenes described in his 1972 statement. There must therefore be a considerable question as to how he could now remember an event i.e. the second boy brought to the gable end which he did not even record in 1972.

18.9.2.31 The witness claimed he did see a second body brought round but he did not know "whether he was hurt." He could not even confirm an impression that it was somebody who was hurt because immediately after that he made a dash for a car in Glenfada Park. He did not see any marks on him and did not see any blood on him. **Day 154/146/19 to Day 154/147/12**. He confirmed to Mr Glasgow that he did not know if the man had been wounded. **Day 154/174/23 to Day 154/174/23**.

18.9.2.32 There is no evidence whatsoever that the man described was wounded or a casualty at the barricade or anywhere else even if the witness's recollection were to be considered in any way reliable.

18.9.2.33 The absence of a description of the incident in 1972 and the witness's failure to recollect events actually set out in that statement should lead the Inquiry to treat the evidence of the witness in respect of the second man brought to the gable end with the utmost circumspection. As an account of events it cannot be relied on especially when set against the overwhelming weight of civilian evidence as to events a the gable end of Glenfada Park North which suggests no such incident occurred.

E14.12 and E14.16

"There is photographic evidence of a casualty on the left of photographs **E14.12** and **E14.16** apparently lying near the barricade. Mr Roberts moves to lean over him."

(i) Our comments in respect of this evidence are as follows:

(ii) There is no photographic evidence of what could be termed a "missing casualty"

(iii) It is a matter of strained speculation to even suggest that these photographs amount to credible evidence of a wounded or deceased person at the Rubble Barricade.

18.9.3. The Lawton Document

18.9.3.1 **Number 6 Alan Harkens**

AH8.4 paragraphs 14 to 16: "Second body in Rossville Flats. Young man propped up against inside wall of stairwell with his boots placed beside his feet."

In respect of this witness we refer the Tribunal to our submissions concerning the Aitken document.

18.9.3.2 Number 10 Pearse McCaul

AM93.3 paragraph 13: "South of Rubble Barricade. Body (other than Kelly's), which was dragged away from the barricade"

In respect of this witness we refer the Tribunal to our submissions concerning our review of the civilian evidence in respect of Michael Kelly.

18.9.3.3. Number 18 John McIntyre

AM286.4 paragraph 23: ***"Rossville Street, South of Rubble Barricade. Body in street, not moving"***

Our comments in respect of this evidence are as follows:

His Eversheds statement states that from a house in Joseph Place in which there were 20-40 people taking cover, he was looking out of the window. Mickey Bradley had been taken to this house. **AM286.4 paragraph 22**

FS1 2139

From the window he saw a body lying at a position on Rossville Street identified as 'E' on his attached map **AM286.9**. That is back from the Rubble Barricade and out from Glenfada Park South. He was unable to assist in relation to what position the person was lying,

whether face up or down. He believed the person had been shot because they were not moving. He was "hazy about the exact details of this person as I was a good distance from the person and only had a side-on view." **AM286.4 paragraph 23**

He saw a man crawling towards the person from the direction of Free Derry Corner. **AM286.4 paragraph 24**

Then some ambulances arrived in Rossville Street from the direction of the Free Derry Corner. One stopped next to the person lying at the point 'E' identified by this witness in his map. **AM286.4 paragraph 25**

The witness was questioned about the 'missing casualty' in oral evidence. In response to questions from Mr. Clarke QC he stated that location 'E' was inaccurate and that he would in fact place him on the footpath in line with Glenfada Park South, but at the edge towards the Rossville Flats. He marked a position which has been preserved at **AM286.10**. It should be noted that in relation to this position he stated as follows:

> "looking at . . . photograph [**P207**] . . . can you tell us where you saw somebody lying on the ground?
>
> A. (Marked with a yellow arrow) around here.
>
> Q. That appears to be on . . . around there, is that right?
>
> A. Yes, more on the footpath.
>
> Q. That is on the footpath?
>
> A. Yes.
>
> Q. In line with the pram ramp to the north of Glenfada Park South?
>
> A. That is only a rough idea.
>
> Q. Roughly?
>
> A. Yes.
>
> Q. But on the Glenfada Park side of the road?
>
> A. Yes, I think so, yes.

FS1·2140

Q. You think so?

A. Mmm.

Q. Could we preserve that image as AM286.10?" (emphasis added) Day 92/155/8 to Day 92/156/5

18.9.3.4 Mr. Harvey QC then questioned this witness about this 'missing casualty'. He was shown photographs **P637** and **EP26.20** he confirmed that the body he saw could have been in the same position as the body in the photograph, which is the body of Michael Kelly. **Day 092/157/21 to Day 092/157/23** He also acknowledged that when he had marked 'X' on the map attached to his original statement **AM286.7** that he had merely been trying to:

"give a rough estimate at a passage of some 28 years of what you had seen?

A. That is right, **I only got a quick flash." (emphasis added)**

Day 092/157/11 to Day 092/158/3

Finally, the witness was questioned by Mr. Lawson QC about this issue and he was taken to the position marked 'E' on his first map **AM286.9** and the position marked by the Yellow arrow in response to questions from Mr. Clarke QC **AM286.10** it was then suggested to him that despite the differences between the two locations, the body was:

Q "... still really on the pavement outside Glenfada Park South, yes?

A. No, I recall it was on the footpath, yes.

Q. On a footpath?

A. On a footpath in that general direction.

The photographer's side, at least, of the entrance to Glenfada Park North?

A. Well, as I already said, I got – I only got a quick glance, there was still firing going on at that time." **Day 092/160/8 to Day 092/161/2**

18.9.3.5 The witness was then questioned about the arrival of the ambulance referred to at **AM286.4 paragraph 25**. In oral evidence the witness stated that he simply remembered a couple of ambulances arriving, he could not state that it had picked up a person at the location identified by him as 'E' in his map. **Day 092/161/3 to Day 092/1612/2**

When questioned further by Mr. Clarke, the witness indicated that although in his statement the sequence was that: he saw the body; he saw the man crawling towards the body; and, he saw the ambulances, that there was in fact a gap in time between seeing the person crawl towards the body and seeing the ambulances. He estimated the time gap to be in the region of 5-10 minutes. **Day 092/162/8 to Day 092/163/11**

18.9.3.6 In conclusion therefore:

(i) The witness saw this body under very difficult conditions, he was taking cover in a house, in which there were large numbers of people, including the wounded Mickey Bradley. **AM286.4 paragraph 22**

(ii) Even in his Eversheds statement, although he marked the map, he stated that he was "hazy" about the exact details of the person. **AM286.4 paragraph 23**

(iii) In response to the initial questioning by Mr. Clarke QC, he moved the location of the body and the only matter he seemed to be clear about was that it was on the edge of the footpath. He acknowledged that the information he was giving was very approximate. **Day 092/155/8 to Day 092/156/5**

(iv) When questioned by Mr. Harvey QC, he confirmed that the photograph showing the dead Michael Kelly could represent the image he had seen. **Day 092/157/21 to Day 092/157/23**

(v) He also acknowledged that he had only seen a "quick flash" in 1972 and was really some 28 years later just trying to give a "rough estimate". **Day 092/157/11 to Day 092/158/3**

(vi) Questioned by Mr. Lawson QC he specifically stated that there had been firing going on at the time he saw this body, which would be consistent with the body having been that of Michael Kelly.

(vii) Finally, questioned again by Mr. Clarke QC he stated that there had been a gap of 5-10 minutes between seeing the body and the arrival of the ambulance, he was somewhat unclear in his timings. Again that would be broadly consistent with having seen the body of Michael Kelly.

(viii) It is also undoubtedly the case that the witness has after 28 years amalgamated a number of incidents, for example he does not appear to recall the removal of the bodies of John Young, Michael McDaid and William Nash from the Rubble Barricade, a scene which from his location he ought to have seen. Of course, if this was a genuine missing casualty, it means that it went unnoticed by the soldiers who picked up the bodies of John Young, Michael McDaid and William Nash.

(ix) This witnesses evidence lends no support to the theory that there was a missing casualty in Rossville Street, either at the location identified by him at 'E' in his map at **AM286.9** or at the position marked by him with a yellow arrow at **AM286.10**.

18.9.3.7 **Number 34 Robert Wallace**

AW3.2 paragraph 8: "South of Rubble Barricade. Body (other than Kelly's), which was dragged away from the barricade around the gable end of GPN. Aged 17-18, a bit smaller than Kelly. Witness saw no wound or blood on him."

In respect of this witness we refer the Tribunal to our submissions concerning the Aitken document below.

18.9.4. The Aitken Document

18.9.4.1 Stairwell of Block 1 Rossville Flats

The Aitken team appear to advance the proposition that "there is evidence of at least one body inside the stairwell of Block1 of the Rossville Flats whose identity is unknown." **OS8.42**

18.9.4.2 In respect of this proposition they cite the evidence of Alan Harkens (**AH8** and **Day 96**):

> "recalled two bodies in Block1 of the Rossville Flats: one on first half landing of the stairwell, the other on the ground floor foyer area propped up against the inside wall of the stairwell. Mr Harkens was certain that the second body was inside, not outside, the flats."

It should be pointed out that this witness also appears as Number 6 in the Lawton Team document at **OS7.34**.

18.9.4.3 Curiously the witness claims to have seen two bodies in the stairwell of Block1, the first on the landing between floors one and two, lying flat on the ground, covered with a coat, with his shoes next to him **AH8.4 paragraph 15**. He alleged that the second body was propped up against a wall with his boots on in the foyer entrance **AH8.4 paragraph 16**.

(i) It is contended that the witness saw Kevin McElhinney's body inside the stairwell of Block1.

(ii) It is further contended that one of the bodies that he refers to was that of Hugh Gilmore (given the fact that his shoes were removed **P669** and that his body was situated very close by).

(iii) The witness refused to acknowledge that he might be mistaken though he was prepared to concede that he was in a state of shock at the time and broke down when he returned home **Day 096/29/9 to Day 096/29/19**.

(iv) It is also worth recalling that this witness did not make a statement in 1972 and therefore was denied the assistance of a contemporary document when drafting his statement for this Inquiry.

(v) Whilst we do not challenge the witness' honesty in any way we respectfully submit that his recollection is mistaken and should not be relied upon.

18.9.4.4 Also in respect of this proposition they cite the evidence of Jim Norris (**AN20** and **Day 147**):

" "recalled crashing" through the doors of Block1 before being caught and lowered to the ground by Mr Norris. Mr Norris described this young man as wearing a bottle green suit and white collared shirt. This person was not wearing a pull-over."

18.9.4.5. Our comments in respect of this evidence are as follows:

i) Jim Norris is referring to Kevin McElhinney **AN20.10 paragraph 14**.

ii) Jim Norris is the only civilian witness who stands by the suggestion that Kevin McElhinney was upright as he entered Block1. **Day 147/95/14 to Day 147/95/18**. All of the other witnesses who saw Kevin McElhinney who were positioned either at the southern end of the eastern Block of Glenfada Park

North, or at Glenfada Park South or inside the entrance to Block1 say that Kevin McElhinney's body was either on the ground or very close to the ground when he entered Block1.

iii) Jim Norris accurately describes that Kevin McElhinney's left side was covered in blood **AN20.9 paragraph 13**.

iv) Jim Norris has inaccurately recalled Kevin McElhinney's clothing. He wore a brown suit jacket and trousers although his pullover was brown and green. It may be that where the witness has described a "white collared shirt" that he has confused this with the white handkerchief around Kevin McElhinney's neck **AN20.9 paragraph 13**, **D0215**.

v) Jim Norris accurately recalls that Liam Mailey was present in the "lobby" of Block1 when Kevin McElhinney entered the Rossville Flats **AN20.10 paragraphs 14 to 15**.

vi) In his 1972 account, the witness described the scene differently:

> "When I reached the bottom stair, I saw a camera man and just at that on (sic) boy aged between 16-20 years ***fell in the doorway, he was bleeding profusely and in a matter of seconds the ground was covered in blood. The cameraman and myself carried the injured man upstairs for shelter...***" (emphasis added) **AN20.19**

vii) It is therefore submitted that the witness' 1972 is more accurate and the witness was honestly mistaken when he said that the youth "crashed" through the doorway of Block1.

18.9.5. Conclusions

It is therefore submitted that the material relied upon does not provide evidence of "missing casualties" as defined by those representing the soldiers.

18.10 Conclusions

18.10.1 Shortly after 4.15 on the 30 January 1972, a convoy of soldiers from Support Company entered the Bogside. Soldiers P, U and 017 of

Mortar Platoon debussed to the western side of Rossville Street, while the rest of Mortar Platoon debussed to the eastern side. Soldiers from Anti-Tank Platoon and Composite Platoon also debussed on the western side of Rossville Street.

18.10.2 Soldier P, along with Soldier 017 positioned himself on the eastern side of Rossville Street while Soldier U positioned himself at the northwest gable end of Block 1 of the Rossville Flats. Anti-Tank Platoon, who had taken up the rear of the convoy, leapfrogged Composite Platoon and, having spoken with Soldiers P and 017 positioned themselves behind the Kells Walk Wall.

18.10.3 Meanwhile civilians who had run away from the soldiers as they de-bussed stopped behind the Rubble Barricade on Rossville Street to watch events unfold.

18.10.4 Within minutes of debussing Soldier P fired two shots from the hip over the Rubble Barricade, these shots did not result in any casualties. Soldier P's shooting was followed by shooting from soldiers from Anti-Tank Platoon. The first civilian killed behind the Rubble Barricade was Michael Kelly shot by Soldier F. Meanwhile on the other side of Rossville Street, Soldier U fired live rounds over the eastern side of the Barricade.

18.10.5 Michael Kelly's body was removed by civilians from the Rubble Barricade and shortly thereafter Hugh Gilmore, Michael McDaid, John Young and William Nash were shot and killed. On the evidence before this Tribunal Soldier U is the prime suspect for having murdered Hugh Gilmore, while Soldier P is the prime suspect for having murdered John Young, Michael McDaid and William Nash. However, Soldiers J and H, in particular must also be considered

suspects for the murder of John Young, Michael McDaid and William Nash.

18.10.6 What is clear is that the soldiers shooting from Rossville Street acted in concert and all, including Soldier G and Soldier E, bear criminal responsibility for the murder of the men shot and killed behind the Rubble Barricade.

18.10.7 After Hugh Gilmore, shot and fatally wounded, had made it to the gable end of Block 1 of the Rossville Flats and Michael Kelly's body had been removed from the Rubble Barricade, the intensity of the firing was such that civilians were unable to reach the bodies of John Young, Michael McDaid and William Nash. Anti-Tank Platoon then advanced forward of the Kells Walk Wall and a number, including Soldiers E, F, G, H, J, Dave Longstaff and Lieutenant 119 went into Glenfada Park North.

18.10.8 Meanwhile Alex Nash made his way out onto the Rubble Barricade to the body of his son William Nash. He sought help from the soldiers and was shot and wounded by a solider as he held his dying son.

18.10.9 Composite Platoon advanced up Rossville Street and positioned themselves at the Kells Walk Wall and on the pram-ramp at Kells Walk. One of soldiers K, L and M, acting in concert, shot and killed Kevin McElhinney as he tried to crawl to the safety of the entrance of Block 1 of the Rossville Flats.

FS1·2148

18.10.10 When the firing had stopped and soldiers from Support Company had killed, not just those on the Barricade, but also their victims in Glenfada Park, Abbey Park and behind the Rossville Flats, soldiers from Mortar Platoon drove up to the Rubble Barricade and threw the bodies of Michael McDaid, John Young and William Nash into the

back of an APC. They did so in a callous way and their conduct betrayed their contempt for those their colleagues had murdered.

18.10.11 The Tribunal has seen the evidence from video footage and photographs and heard the evidence of journalists, photographers, priests, civilians and soldiers about the shooting over the Rubble Barricade and the circumstances in which these 6 young men lost their lives.

18.10.12 It is submitted that the evidence clearly and indisputably establishes the following:

(i) Michael Kelly, Hugh Gilmore, John Young, Michael McDaid and William Nash were shot and killed by soldiers of Support Company, 1 Para.

(ii) They were shot and killed in circumstances which were unjustified.

(iii) None of the deceased was armed when shot and killed and no action taken by any of the deceased justified the use of lethal force by soldiers who fired down Rossville Street.

(iv) No action taken by any of the deceased either posed a threat, or could have been perceived as posing a threat, to the soldiers.

(v) When the vehicles and soldiers of Support Company appeared on Rossville Street they did not come under fire. Soldiers opened fire without justification and not as a result of having been fired on first.

(vi) The soldiers shot deliberately into an unarmed crowd, killing 6 young men.

(vii) There were no civilian gunmen, no nail bombers and no petrol bombers behind the Rubble Barricade on Bloody Sunday.

(viii) There was no action by any member of the crowd behind the Rubble Barricade which either posed a threat, or could have been perceived as posing a threat such as to justify the use of lethal force.

(ix) No action taken by any person behind the Rubble Barricade justified the use of lethal force by soldiers.

(x) Nobody was killed behind the Rubble Barricade other than, Michael Kelly, Hugh Gilmore, John Young, Michael McDaid, William Nash and Kevin McElhinney, all of whom were murdered by soldiers from Support Company of the Parachute Regiment.

18.10.13 Role & Responsibility of Soldiers of 1 Para

Based on the foregoing examination of the evidence, the role and responsibility of the individual soldiers involved in Sector 3 can be summarised as follows.

18.10.13.1 Corporal P

(i) Corporal P cocked his rifle either prior to getting into his vehicle, prior to debussing, or immediately on debussing in circumstances which were in breach of the Yellow Card.

(ii) Given that he was a Corporal his actions encouraged men less senior than him to do likewise.

(iii) His action in cocking his rifle in breach of the Yellow Card demonstrated a willingness to use lethal force on the slightest pretext.

(iv) Soldier P fired 2 live rounds from the hip over the Rubble Barricade, where large numbers of unarmed civilians were gathered in circumstances which were wholly unjustified.

(v) Soldier P probably shot one or more of John Young, Michael McDaid and William Nash. He did so without any justification.

(vi) In order to cover up the murder of John Young, Michael McDaid and William Nash he fabricated accounts of nail bombers and gunmen.

(vii) He fired a total of 11 shots on Bloody Sunday and had access to ammunition above the amount issued to him.

(viii) He fired shots over the heads of the crowd, in breach of the Yellow Card, in circumstances in which there was no threat to his life or the lives of his colleagues and in circumstances where no threat of any kind was posed to soldiers.

(ix) Soldier P as the person who probably fired the fatal shots and the person who commenced firing over the Rubble Barricade bears a personal responsibility for the murder of John Young, Michael McDaid and William Nash.

(x) He covered up his own criminal behaviour and that of soldiers in Anti-Tank Platoon by fabricating accounts of gunmen and nail bombers. He also failed to account for the shooting of live rounds by soldiers in Anti-Tank Platoon who he witnessed firing live rounds in circumstances which were unjustified and murdering civilians behind the Rubble Barricade, in particular Michael Kelly.

18.10.13.2 Soldier 017

(i) Soldier 017 did not fire any live rounds.

(ii) He fired his rubber bullet gun indiscriminately into a fleeing crowd on debussing.

(iii) Soldier 017 invented false accounts of witnessing civilian gunmen and hearing gunfire in order to justify the shootings of others.

(iv) Soldier 017 was involved in collusion with Soldier P and/or the RMP and invented an account of a nail bomber in order to justify Soldier P's use of lethal force and in particular Soldier P's firing from the hip.

(v) He covered up the criminal conduct of Soldier P and soldiers from Anti-Tank Platoon by inventing accounts of gunmen and nail bombers and denying that he had seen these soldiers' fire live rounds without justification.

18.10.13.3 Soldier U

(i) Soldier U fabricated accounts of automatic fire, pistol fire, and low velocity fire in order to justify his own use and his colleagues' use of lethal force.

(ii) Soldier U fabricated an account of seeing a man with a pistol operating in the Rossville Flats Courtyard in order to justify his colleagues' use of lethal force in that area.

(iii) Soldier U unlawfully assaulted and arrested James Charles Doherty.

(iv) Soldier U fired at least 1 live round over the Rubble Barricade, where significant numbers of unarmed civilians were gathered in circumstances which were wholly unjustified.

(v) Soldier U most probably shot Hugh Gilmore. He did so without any justification.

(vi) In order to cover up the murder of Hugh Gilmore he fabricated accounts of a pistol man operating at the Rubble Barricade. This account is not corroborated by any of his colleagues who were present as the potential targets of this gunman.

(vii) The original account as provided by Soldier 015 accurately reflects the circumstances in which Private U discharged his weapon.

(viii) In order to cover up the murder of William Nash and the wounding of Alex Nash he fabricated accounts of a pistol man operating and firing from the entrance to Block1.

(ix) Soldier U failed to explain how he did not see Kevin McElhinney being murdered directly south of his position.

(x) Soldier U failed to explain how he was unaware of the shooting by Soldiers C and D from the Kells Walk pram ramp at a time when attempts were being made to place the deceased and injured into ambulances directly south of his position.

(xi) Despite the fact he was in close proximity he failed to explain how he did not see the argument between Father Mulvey and Lieutenant N concerning the denial of spiritual aid to John Young, Michael McDaid and William Nash.

18.10.13.4 **Lieutenant 119**

(i) Lieutenant 119 failed to take any or any adequate steps to acquire sufficient understanding of the conditions in Derry and in the Bogside in particular, before the launch of the arrest operation.

(ii) He failed to take any or any adequate steps to obtain clear guidance and instructions about: the purpose of the operation to be undertaken by his battalion; his own role and that of his platoon; any restrictions and constraints imposed on the operation, concerning in particular the geographical limits of their deployment, the use of their firearms and their contingency plans in the event of gunfire of any kind; and the likelihood of coming under fire.

(iii) He failed to give any or adequate briefing to the members of his platoon concerning these matters and, if anything, permitted or encouraged them to believe that: they were likely to come under sniper fire; that they ought to adopt

aggressive tactics; that they ought to cock their rifles before debussing; and, that they were free to respond to any real or perceived threat by firing at civilians rather than disengaging in an orderly fashion.

(iv) In briefing his platoon Lieutenant 119 failed to disabuse members of his Platoon of the notion that: they were being sent to Derry to break the No-Go areas or that they were being sent to Derry to teach 8 Brigade a lesson.

(v) Prior to debussing Lieutenant 119 cocked his own rifle in contravention of the Yellow Card, thereby encouraging, soldiers in his Pig to do likewise.

(vi) The consequences of the failures detailed above was that mostly young, relatively inexperienced, overly-aggressive members of his platoon deployed in an unfamiliar, unfriendly environment in a heightened state of tension and under a misapprehension about the nature of the threat facing them. They did so in the belief that it was their role and function to teach the Bogsiders and 8 Brigade a lesson, significant numbers of them debussed with their rifles cocked and ready to use lethal force on the slightest pretext.

(vii) Upon debussing Lieutenant 119, as Platoon Commander, failed to exercise any supervision, command or control over Anti-Tank Platoon. Moreover he failed to exercise supervision, command and control at any material time, even when it became apparent that they were shooting unarmed civilians.

(viii) Lieutenant 119 failed to take any steps to organise his men to conduct an arrest operation on Rossville Street. In fact, contrary to their stated objective, Anti-Tank Platoon did not involve themselves in the arrest of a single person on Rossville Street. The arrests which they carried out later in Glenfada Park North were unlawful.

(ix) While positioned at the Kells Walk Wall Lieutenant 119 watched as members of his platoon fired live rounds over

the Rubble Barricade at unarmed civilians and failed to take any steps to stop them.

(x) Once Michael Kelly, John Young, Michael McDaid, William Nash and Hugh Gilmore had been murdered he either encouraged or permitted members of his Platoon to advance down Rossville Street. The advance involved all of those who had been positioned behind the Kells Walk Wall, and many, if not all went into Glenfada Park North.

(xi) Following the shootings, he covered up his and his men's criminal behaviour by inventing stories of gunmen while pretending not to have noticed any shooting by the men of his Platoon who had fired over the Rubble Barricade while standing and kneeling beside him.

(xii) As leader of the platoon whose members shot dead Michael Kelly, and also possibly John Young, Michael McDaid, William Nash and Hugh Gilmore, Lieutenant 119 bears a personal responsibility for their murder.

18.10.13.5 Soldier J

(i) Soldier J may have shot one or more of Hugh Gilmore, John Young, Michael McDaid or William Nash. The shots he fired were without any justification.

(ii) Soldier J cocked his rifle in contravention of the Yellow Card.

(iii) In order to cover up his involvement in unjustified use of lethal force and murder he fabricated accounts of nail bombers.

(iv) He also invented accounts of nail bombers and gunmen in order to justify the use of lethal force by other members of his Platoon.

(v) He falsely denied witnessing other members of his Platoon shooting unarmed civilians.

(vi) He also invented an account of gunfire coming from a window in the Rossville Flats in order to support Soldier F and Soldier G's account of firing at such a gunman.

(vii) Soldier J lied in an attempt to justify his own involvement in the use of unjustified lethal force, and probably murder and to cover up the criminal conduct of other members of his Platoon and also the conduct of Soldiers P and U of Mortar Platoon..

18.10.13.6 Soldier H

(i) Soldier H fired at least 22 shots. His account of how he came to fire those shots was completely false.

(ii) It is impossible to know whether he was responsible for any of the casualties behind the Rubble Barricade but given that he fired 22 shots he is likely to have been personally responsible for shooting one or more of the civilians shot and killed behind the Rubble Barricade.

(iii) In order to cover up his involvement in unjustified use of lethal force and murder he fabricated accounts of gunmen, nail bombers and acid bombers.

(iv) He also invented accounts of nail bombers and gunmen in order to justify the use of lethal force by other members of his Platoon.

(v) He falsely denied witnessing other members of his Platoon shooting unarmed civilians.

(vi) He invented an account of gunfire coming from a window in the Rossville Flats in order to support Soldier F and Soldier G's account of firing at such a gunman.

(vii) Soldier H lied in an attempt to justify his own involvement in the use of unjustified lethal force, and probably murder and to cover up the criminal conduct of other members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.7 Soldier E

(i) Soldier E may have shot Hugh Gilmore. The shots he fired were without any justification.

(ii) In order to cover up his involvement in unjustified use of lethal force and murder he fabricated accounts of nail bombers, petrol bombers, gunmen and a man with a machine-gun.

(iii) He invented accounts of nail bombers, petrol bombers and gunmen in order to justify the use of lethal force by other members of his Platoon.

(iv) He falsely denied witnessing other members of his Platoon shooting unarmed civilians.

(v) He invented an account of gunfire coming from a window in the Rossville Flats in order to support Soldier G's account of firing at such a gunman.

(vi) Soldier E lied in an attempt to justify his own involvement in the use of unjustified lethal force, and probably murder and to cover up the criminal conduct of other members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.8 Lance Corporal F

(i) Soldier F cocked his weapon in breach of the Yellow Card, when there was no justification for doing so.

(ii) Soldier F murdered Michael Kelly at the Rubble Barricade. The shot that killed Michael Kelly was wholly without justification.

(iii) He acted in concert with other members of his platoon in a joint enterprise in which Hugh Gilmore, John Young, Michael McDaid, William Nash and Michael Kelly were murdered.

(iv) Contrary to his evidence to the Widgery Inquiry, he fired more than one shot over the Rubble Barricade. He may thus be responsible for killing one of those behind the Rubble Barricade, in addition to Michael Kelly.

(v) He invented accounts of civilians with weapons and civilians with nail bombs. He further invented accounts of seeing and hearing a nail bomb explode, to justify his unlawful conduct and the unlawful conduct of his colleagues.

(vi) He invented accounts of coming under fire in Rossville Street.

(vii) He invented accounts of coming under fire from Rossville Flats.

(viii) Soldier F fired unjustified shots at a window in Rossville Flats.

(ix) He lied in his statements and on oath to justify his conduct and that of his colleagues in order to cover up the use of lethal force by himself and his colleagues.

(x) He lied about the locations where he fired shots in order to cover up his activity on Bloody Sunday.

(xi) He gave a false account of the number of rounds he discharged in order to cover up his activity on Bloody Sunday.

18.10.13.9 Soldier G

(i) Soldier G fired at least 6 live rounds on Bloody Sunday. The circumstances in which he fired live rounds were wholly unjustified.

(ii) In order to cover up his involvement in unjustified use of lethal force and murder he fabricated accounts of gunmen and a man with a machine-gun.

(iii) He invented accounts of gunmen in order to justify the use of lethal force by other members of his Platoon.

(iv) He falsely denied witnessing other members of his Platoon shooting unarmed civilians.

(v) Soldier G lied in an attempt to justify his own involvement in the use of unjustified lethal force and probably murder and to cover up the criminal conduct of other members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.10 Soldier 147

(i) Soldier 147 claimed to have fired no live rounds.

(ii) Soldier 147 also claims not to have been at or near the Kells Walk Wall.

(iii) However, he made up false accounts of hearing civilian gunfire, automatic fire and explosions in order to justify the shootings of others.

(iv) In particular he made a false statement purporting to support Lance Corporal F.

(v) He falsely denied witnessing soldiers shooting and killing unarmed civilians.

(vi) He covered up for the criminal conduct of others by fabricating accounts of civilian gunfire while falsely denying that he witnessed any improper shooting by members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.11 Soldier 036

FS 1 · 2159

(i) Soldier 036 claimed to have fired no live rounds.

(ii) In 1972 Soldier 036 made up false accounts of hearing civilian gunfire in order to justify the shootings of others,

although he now acknowledges that there were no "Irish gunmen".

(iii) In particular he made a false statement purporting to support Lance Corporal F and Soldier G.

(iv) He falsely denied witnessing soldiers shooting and killing unarmed civilians thus covering up for the criminal conduct of soldiers from his Platoon and Soldiers P and U from Mortar Platoon.

18.10.13.12 Soldier 018

(i) Soldier 018 claims to have fired no live rounds.

(ii) Soldier 018 made up false accounts of hearing civilian gunfire and seeing civilian gunmen in order to justify the shootings of others.

(iii) In particular he made a false statement purporting to support Lance Corporal F and Soldier G.

(iv) He falsely denied witnessing soldiers shooting and killing unarmed civilians.

(v) He covered up for the criminal conduct of others by fabricating accounts of civilian gunfire while falsely denying that he witnessed any improper shooting by members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.13 INQ 1581

(i) INQ 1581 claims to have fired no live rounds.

(ii) INQ 1581 entered the Bogside, not with the objective of carrying out an arrest operation but rather with the objective of breaking the 'No-Go' areas.

(iii) He falsely claimed to have heard civilian gunfire in order to justify the shootings of others.

(iv) He falsely denied witnessing soldiers shooting and killing unarmed civilians.

(v) He covered up for the criminal conduct of others by fabricating accounts of civilian gunfire while falsely denying that he witnessed any improper shooting by members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.14 Dave Longstaff

(i) Dave Longstaff claims to have fired a live round on Bloody Sunday, it is questionable whether he is telling the truth about either the fact of the firing of this round, or if fired, the circumstances in which it was fired.

(ii) He falsely denied witnessing soldiers shooting and killing unarmed civilians.

(iii) He covered up for the criminal conduct of others by falsely denying that he witnessed any improper shooting by members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.15 INQ 1237

(i) INQ 1237 claims not to have fired live rounds on Bloody Sunday.

(ii) He falsely claimed to have seen petrol bombs in order to justify the shootings of others.

(iii) He falsely denied witnessing soldiers shooting and killing unarmed civilians, although he acknowledged that he saw nothing to justify the use of lethal force over the Rubble Barricade.

(iv) He covered up for the criminal conduct of others by fabricating accounts of petrol bombs while falsely denying

that he witnessed any improper shooting by members of his Platoon and soldiers P and U of Mortar Platoon.

18.10.13.16 INQ 635

(i) INQ 635 denies firing over the Rubble barricade, although there is an allegation that he did fire from Kells Walk Wall over the Rubble Barricade.

(ii) He falsely claimed to have heard civilian gunfire and seen civilian gunmen in order to justify the shootings of others.

(iii) He falsely denied witnessing soldiers killing unarmed civilians, although he acknowledged that he saw soldiers shooting over the Rubble Barricade in circumstances where there was nothing to justify the use of lethal force over the Rubble Barricade.

(iv) He covered up for the criminal conduct of others by fabricating accounts of civilian gunmen while falsely denying that he witnessed any improper shooting by members of his Platoon and soldiers P and U of Mortar Platoon.

(v) He lied about the circumstances in which he conducted arrests and knowingly made false statements to police in order to ground unlawful arrests.

18.10.13.17 Captain 200

Although primarily concerned with the events which occurred at Sector 2 his overall role in respect of what happened in Sector 3 cannot be ignored. As the Officer in Charge of Composite Platoon he had overall responsibility for the actions of his men and the standards of discipline that they demonstrated during the course of the afternoon. In particular it is clear that:

(i) Captain 200 was a relatively inexperienced officer, who had been offered a command which in the prevailing circumstances had fallen outside the scope of his true experience and abilities.

(ii) Captain 200 failed to take any or any adequate steps to acquire sufficient understanding of the conditions in Derry and in the Bogside in particular, before the launch of the arrest operation.

(iii) Captain 200 failed to take any or any adequate steps to obtain clear guidance and instructions about: the purpose of the operation to be undertaken by his battalion; his own role and that of his platoon; any constraints imposed on the operation, concerning in particular the geographical limits of their deployment, the use of their firearms and their contingency plans in the event of gunfire of any kind; and the likelihood of coming under fire.

(iv) Captain 200 failed to give any or adequate briefing to the members of his platoon concerning these matters and, if anything, permitted or encouraged them to believe that: they were likely to come under sniper fire; that they ought to adopt aggressive tactics; that they were free to respond to any real or perceived threat by firing at civilians rather than disengaging in an orderly fashion.

(v) In briefing his platoon Captain 200 failed to disabuse members of his Platoon of the notion that: they were being sent to Derry to break the No-Go areas or that they were being sent to Derry to teach 8 Brigade a lesson. Rather, he deliberately hyped up his men and added to their lack of understanding by offering a bottle of whiskey for the arrest of Bernadette Devlin MP.

(vi) The witness failed to provide clear instructions to members of his platoon in respect of their objectives when entering the Bogside area. He did not expect 1Para to go beyond the junction of William Street / Little James Street as

evidenced by the need for him to receive orders from Major Loden in respect of how he should deploy his men. He demonstrated the uncertainties of his command by abandoning his men in Rossville Street and approaching Major Loden with a view to obtaining some guidance in respect of their deployment and use.

(vii) This officer failed to provide effective control in respect of the movement and activities of a number of soldiers under his command that day.

(viii) This officer was prepared to offer a dishonest explanation in order to justify the members of Composite Platoon firing a number of shots. For this reason he provided an untruthful account of what took place during a Thames Television interview. He provided an untruthful account to Royal Military Police and ultimately supplied an untruthful account to the Treasury Solicitor.

(ix) The witness was less than frank during his evidence before Lord Widgery and he provided misleading and inaccurate evidence which was designed to conceal the criminal activities of soldiers under his command.

(x) The witness's failure to observe any of the shots fired by K, L and M provides a significant pointer to the unreliability of the evidence which he has provided before this Inquiry.

(xi) The witness's failure to reprimand or record the identity of a soldier whom he observed discharge a rubber bullet weapon at virtually point blank range into the rear of a APC indicates a standard of leadership and behaviour which falls remarkably short of both the legal and military imperatives of the period.

(xii) The witness failed to either adopt or recommend any disciplinary action in respect of the unlawful activities of soldiers who were at all material times under his command. By failing to conduct a proper investigation into the

discharge of a weapon which in itself did not comply with the requirements of the Yellow Card the witness was providing a tacit endorsement for this type of lawless and unprofessional behaviour.

(xiii) This witness has presented a version of event, more consistent with the objective of exonerating soldiers under his command than with the requirement to be forthright and truthful with this Inquiry.

(xiv) As leader of a platoon whose members shot dead Kevin McElhinney, Captain 200 bears a personal responsibility for his murder.

18.10.13.18 Sergeant 106

(i) This witness in providing evidence before this Inquiry has been guided by the overall objective of protecting members of Composite Platoon who had behaved in an unlawful and reckless fashion. His alleged failure to observe members of Composite Platoon discharging their weapons or to see civilians unlawfully assaulted or otherwise subjected to unnecessary and violent behaviour is consistent only with a shared intent to obscure rather than highlight the truth of that day.

(ii) Having regard to the proximity of his position to the actions and activities of colleagues which provoked the concerns of both Captain 200 and Major Loden, it seems remarkable that this witness failed to make any observation which gave him cause for equal concern.

(iii) This witness' testimony is remarkable more for what he failed to see rather than what he actually saw.

18.10.13.19 Sergeant INQ 1318

(i) Notwithstanding his presence within Sector 3 whilst a considerable amount of firing was taking place he denied seeing soldiers discharging their weapons.

(ii) The approach adopted represents a determined and concerted attempt to conceal the unlawful activities upon which his colleagues were undoubtedly engaged while he remained present in this area.

18.10.13.20 Corporal INQ 739

(i) Recalled that Colonel Wilford and Captain 200 sought to motivate the men engaged in the arrest operation by offering a bottle of whiskey to whoever arrested Bernadette Devlin MP.

(ii) He claimed not to observe any of the events or incidents in Sector 3 which led to the death or injury of civilians in this area but falsely alleged that he heard AK47 gunfire.

(iii) The approach adopted represents a determined and concerted attempt to conceal the unlawful activities upon which his colleagues were undoubtedly engaged while he remained present in this area.

18.10.13.21 Private 203

(i) This former UDA/UFF commander claimed not to have observed any event which would imply any degree of criticism of a colleague or member of Composite Platoon.

(ii) However, he invented a false account of hearing civilian gunfire in order to justify the shootings by others.

18.10.13.22 Private INQ 24

(i) Despite being in close proximity to Captain 200, he falsely denied that he saw or heard any Paras firing.

(ii) The approach adopted represents a determined and concerted attempt to conceal the unlawful activities upon which his colleagues were undoubtedly engaged while he remained present in this area.

18.10.13.23 Private INQ 391

(i) Invented a false account of hearing Armalite rifle fire and bombs exploding in order to justify the shootings by others.

(ii) The approach adopted represents a determined and concerted attempt to conceal the unlawful activities upon which his colleagues were undoubtedly engaged while he remained present in this area.

18.10.13.24 Lance Corporal 229

(i) Withheld evidence in 1972 in relation to Private L's shot(s) fired in the derelict building in contravention of the Yellow Card.

FS1-2167

(ii) Tortured defenceless prisoners then lied about this to the RMP and made false declarations on his arrest forms.

18.10.13.25 Colour Sergeant INQ147

(i) He covered up the criminal conduct of members of his Platoon by suggesting that he heard civilian fire, denying he was aware of members of his platoon and suggesting that Major Loden had good control of his men.

18.10.13.26 Colour Sergeant 002

(i) Upon taking position at the low wall at Kells Walk, Colour Sergeant 002 as commander of Call Sign 71 Alpha, failed to exercise any supervision, command or control of his subordinates even when it became clear they were shooting at an unarmed civilian(s).

(ii) He ordered Soldiers L and M to fire at Kevin McElhinney in circumstances that were wholly unjustified.

(iii) He failed to take any steps to prevent Soldier K from opening fire.

(iv) Following the murder of Kevin McElhinney and the wounding of Mary Smith, he covered up his and his men's criminal behaviour by inventing stories of gunmen and heavy rioting in Rossville Street.

(v) As leader of the half platoon, Call Sign 71 Alpha, whose members shot dead Kevin McElhinney, Colour Sergeant 002 bears a personal responsibility for murdering Kevin McElhinney and wounding Mary Smith.

18.10.13.27 Sergeant K

(i) He covered up the unlawful wounding of Mary Smith by Corporal 039.

(ii) Sergeant K probably fired the fatal shot which killed Kevin McElhinney. He did so without any justification.

(iii) He failed to exercise any supervision or control over his subordinates even though he was in a position to witness the shooting by others when it was wholly apparent that they were shooting at Kevin McElhinney.

(iv) Along with Soldiers L and M he fired at Kevin McElhinney without any justification.

(v) In order to cover up his own murder of Kevin McElhinney and the unlawful shooting by other members of his Platoon, he fabricated accounts of hostile civilian activity.

(vi) By applying the safety catch to his weapon immediately after firing his 1 round he acknowledged in his own mind his confidence that the shot struck its target.

(vii) He gave deliberately misleading information to this Tribunal in respect of the dimensions of a weapon that he was intimately familiar with in an attempt to bolster a fabricated exculpatory account.

18.10.13.28 Private L

(i) Private L fired at least 4 shots.

(ii) He cocked his weapon in contravention of the Yellow Card.

(iii) He fired at least 1 shot in order to terrify a prisoner in contravention of the Yellow Card. He provided a false account of this to the RMP, Treasury Solicitor, the Widgery Tribunal and to this Tribunal.

(iv) He covered up the unlawful wounding of Mary Smith by Corporal 039.

(v) Along with Soldiers K and M he fired at Kevin McElhinney without any justification.

(vi) In order to cover up his own involvement in the murder of Kevin McElhinney and the unlawful shooting by other

members of his Platoon, he fabricated accounts of hostile civilian activity.

(vii) It is impossible to know where or at what Private L fired his 4th shot.

18.10.13.29 **Private M**

(i) Soldier M fired at least 2 shots.

(ii) He covered up the unlawful wounding of Mary Smith by Corporal 039.

(iii) Along with Soldiers K and L he fired at Kevin McElhinney without any justification.

(iv) In order to cover up his own involvement in the murder of Kevin McElhinney and the unlawful shooting by other members of his Platoon, he fabricated accounts of hostile civilian activity including firing from snipers, automatic fire, nail and petrol bombing.

18.10.13.30 **Lance Corporal 10**

(i) He made up false accounts of hearing machinegun fire in order to justify the shootings by others.

(ii) He covered up the unlawful wounding of Mary Smith by Corporal 039.

(iii) He saw no civilian with a weapon when two soldiers on either side of him opened fire from the low wall at Kells Walk.

(iv) He failed to exercise any supervision or control over his subordinates even though he was in a position to witness the shooting by others when it was wholly apparent that they were shooting at Kevin McElhinney.

18.10.13.31 Sergeant 014

(i) He fabricated accounts of nail and petrol bombs exploding to attempt to justify the criminal behaviour of others.

(ii) He made up false accounts of hearing and seeing automatic fire in order to justify the shootings by others.

(iii) He covered up the unlawful wounding of Mary Smith by Corporal 039.

(iv) He invented an account of a man trailing a weapon in order to justify the murder of Kevin McElhinney.

(v) He failed to exercise any supervision or control over his subordinates even though he was in a position to witness the shooting by others when it was wholly apparent that they were shooting at Kevin McElhinney.

18.10.13.32 Private 032

(i) Private 032 fabricated accounts of automatic fire, petrol bombs and acid bombs in an attempt to justify the criminal behaviour of others.

(ii) He covered up the unlawful wounding of Mary Smith by Corporal 039.

(iii) He was prepared to admit that Colonel Wilford was present at the low wall at Kells Walk and that Colonel Wilford informed those present if anyone was going to fire it would be Sergeant K.

(iv) He invented an account of a man trailing a rifle in order to justify the murder of Kevin McElhinney.

(v) He made up an account of a pistol man firing from the southern end of Block1 in order to justify the shooting of others.

18.10.13.33 Sergeant 035

(i) Sergeant 035 covered up the unlawful wounding of Mary Smith by Corporal 039.

(ii) He invented an account of two men dragging rifles in order to justify the murder of Kevin McElhinney

(iii) He failed to exercise any supervision or control over his subordinates even though he was in a position to witness the shooting by others when it was wholly apparent that they were shooting at Kevin McElhinney.

18.10.13.34 Corporal 39

(i) He fabricated an account of missiles being thrown from 2 Kells Walk in order to justify his unlawful discharge of a rubber bullet and the wounding of Mary Smith.

(ii) He invented an account of coming under high and low velocity fire and seeing muzzle flashes from the doorway of Block1 in order to justify the use of lethal force by colleagues.

(iii) He also invented an account of two men carrying a Thompson and the other trailing a weapon in order to justify the murder of Kevin McElhinney

(iv) He failed to exercise any supervision or control over his subordinates even though he was in a position to witness the shooting by others when it was wholly apparent that they were shooting at Kevin McElhinney.

18.10.13.35 Private INQ127

(i) Private INQ127 does not appear to have fired any shots.

(ii) Colour Sergeant 002 said he was positioned at the low wall at Kells Walk. He thinks a soldier next to him fired a shot. He does not mention that he saw a weapon.

18.10.13.36 Private C

(i) Private C cocked his weapon in contravention of the Yellow Card.

(ii) He admits to firing 5 shots in Sector 3. These shots were fired at a late stage and without any justification.

(iii) In order to cover up his own use of unlawful lethal force he fabricated accounts of witnessing gunmen, petrol bombs and hearing automatic fire.

(iv) He also lied in order to justify unlawful firing by Lance Corporal D.

18.10.13.37 Lance Corporal D

(i) Lance Corporal D admits to firing 2 shots in Sector 3. These shots were fired at a late stage and without any justification.

(ii) In order to cover up his own use of unlawful lethal force he fabricated accounts of witnessing a gunman and hearing low velocity / pistol shots.

(iii) He failed to exercise any supervision or control over his subordinate, Private C, even though he was in position to witness him shooting.

(iv) He also lied to in order to justify unlawful firing by Private C.

18.10.13.38 Private 024

(i) He fabricated an account of seeing a man with a nail bomb on the Barricade in order to justify the criminal conduct of his colleagues.

(ii) He invented an account of seeing a pistol man and hearing gunfire from a window in the Rossville Flats in order to justify the use of lethal force by Private C.

18.10.13.39 Private INQ405

(i) He invented an account of hearing intense and sustained Armalite rifle and AK47 gunfire in order to justify the use of lethal force by his colleagues.

18.10.14 Concluding Section

Finally, with the exception of Soldier 027, all of the soldiers of 1 Para identified in this Sector perverted the course of justice, individually and collectively, in relation to the events of Bloody Sunday by concealing the criminal behaviour of their colleagues in Support Company and ensuring that they would evade prosecution for their crimes. Those who gave dishonest evidence on oath also committed perjury.

Appendix 1

FS-1-2175

SECTORS 3 & 4 – SOLDIERS' EVIDENCE
TABLE 1 – DEPLOYMENT OF ANTI TANK PLATOON

SOLDIER	ROLE	PLACE IN PIG	MOVEMENT AFTER DEBUSSING	ARRESTS
Lt 119	CO	Front Passenger P1	Low wall at Kells Walk, then into GFPN after G,F,E,H,& J	Yes
INQ 1581	Pig Driver	Driver P1	Parked the pig in Rossville Street and the men deployed. Remained in the pig until 2 shots were fired from Block 1. Then remained the driver's door of the pig. Cannot remember withdrawing.	No
Private G	Not Specified / Internal Security	Rear P2	Debussed at Little James Street side of the junction at Aggro Corner. Took cover at an old building on West side of Rossville Street. (SMG) Fire was directed, probably from the Rossville Flats. G then advanced to the low wall at Kells Walk. G could not see any targets on the Rubble Barricade. Then moved forward from the low wall with L/Cpl F to NE corner of GFPN and engaged a target at the parallel (NW) entrance to GFPN. G then entered GFPN first and, standing at a parked car, saw two men at the opposite entrance carrying short M-1 type rifles. G opened fire. F also fired. Deployed along west side of GFPN and ran down the alley past the two bodies at the South end of GFPN. He then fired into Abbey Park. G assisted in conveying the arrested civilians to Columbcille Court and then reverted to his Pig. He redeployed from the pig and fired a further shot at a gunman in Block 1.	Yes. Patrick Joseph Norris. Christopher Doherty; John Noel Devine.
L/Cpl F	Not Specified / Internal Security	Rear P2	Deployed from the pig near junction of Rossville Street with G towards Rossville Flats. Took cover at a wall at west side of Rossville Street and then took position at the low wall at Kells Walk. Bombs thrown from direction of Rubble Barricade. Fired at a nail bomber. Pursued 3 men into Glenfada Park behind G. Opened fire with G at men inside car park. Moved to the gable wall and involved in arrests. Fired again in front of Block 2. Left Glenfada Park and returned to pig which had now come further down Rossville Street. Fired further rounds at targets in Block 1.[1]	Yes. Eugene Thomas Bradley; Patrick Martin Norris; Terence O'Keefe; Michael McCallion
Private H	Not Specified / Internal Security	Rear P1 according to most of 1972 evidence	Debussed near Columbcille Court on west side of Rossville Street and put on gasmask. Then to low wall at Kells Walk and took cover. Gunfire from Rubble Barricade from two gunmen with short rifles or machineguns. Followed F and G towards Glenfada Park and came under nail bomb attack but did not explode. Advanced into Glenfada Park and took position at rear of a parked car at NE entrance inside the courtyard. Saw group of youths and opened fire on one with a nail bomb hitting him. Opened fire on another youth who tried to throw the same nail bomb hitting him. Remained at the car to cover F and G who advanced southwards. Opened fire on a gunman at 57 Glenfada Park toilet window until ceasefire order and then deployed with the remainder of his platoon back to Rossville Street. Remained inside pig in Rossville Street.	No

[1] Note that this summary of Lance Corporal F's evidence is not based on that account in his 1st RMP statement which was substantially changed in his further statements and evidence to Widgery.

SOLDIER	ROLE	PLACE IN PIG	MOVEMENT AFTER DEBUSSING	ARRESTS
Corporal E	Brick NCO	Rear P2	Debussed at vacant ground in William Street, received briefing from 119 at 1st building on west side of Rossville Street, forward to Low Wall at Kells Walk, then into GFPN after G and F, possibly H. Opened fire in GFPN on petrol bomber / nail bomber. Took prisoners and reverted to pig in Rossville Street.	Yes. James Liddy; Barry Liddy; Joseph McColgan; Fergus McAteer
Private 027	Radio Operator	Rear P2	Debussed at west side of Rossville Street and received an order from Captain SA8 to "leap frog" Guinness Force and moved up to the Low Wall at Kells Walk and witnessed shooting incudents. "Cease Fire" order was called. Then advanced into GFPN following behind G,F,E and H. Witnessed further shooting incidents and then withdrew back to Rossville Street after receiving the order to withdraw on the radio.	No
L/ Cpl J	Not specified / Internal Security	Rear P2	Debussed at west side of Rossville Street then advanced to the Low Wall at Kells Walk, then into GFPN after G and F (and presumably after E and H although they are not mentioned). Arrested two prisoners and reverted to pig in Rossville Street.	Yes. Anthony Coll; John Gormley
Private INQ 023	Not specified / Internal Security	Rear P2	No mention of Low Wall at Kells Walk but did proceed to NW end of GFPN. (He probably went into the GFPN carpark). Took prisoners and reverted to pig in Rossville Street.	Yes. George Roberts; James Joseph Kelly
L/ Cpl 036	Pig Driver	Driver	It would appear that L/Cpl 036 did not debuss but stayed in his pig throughout.	No
Private 147	Radio Operator	Behind Front Passenger	Stayed either inside the same pig as L/Cpl 036 or at its rear door depending on which account is correct	No
Private 1237	Briefly radio operator for Major Loden	Rear P2	Was in the pig with F and 027. Unclear about his movements. Remembers a large crowd in front of him throwing missiles and 6-8 members of the Platoon including F, G and J standing in a line opening fire a the crowd. 30-40 shots were fired. 1237 does not think that this occurred at Kells Walk. He then remembers going to his west but is unclear where he went. He returned to the same pig as F,G and J for ammo count which was carried out by CSM 202	Yes. Charles Glenn and George McDermott
Pltn Sgt 1694	Platoon Sgt	Front Passenger P2[2]	We are unclear as there is no surviving statement. Sgt 1694 says that he remained "behind" with Colonel Wilford and Lt 119.However Lt 119 entered GFPN.	Yes. Hugh O'Boyle; Robert Wallace; Myles O'Hagan
L/Cpl 18	Unclear	?	NE end of Kells Walk and took cover. Then followed the rest of the Platoon to the low wall / SE end of Kells Walk . Then advanced to the pram ramp at NE corner of GFPN assisted INQ023 with prisoners and reverted back to Pig.	Yes. Does not specify.

CS1.2122

[2] Note that this is only an assumption that the front passenger of the Pig would tend to be the person in command of same.

SOLDIER	ROLE	PLACE IN PIG	MOVEMENT AFTER DEBUSSING	ARRESTS
L/Cpl 1940	Escort Colonel Wilford	?	Seems to entered on foot after having escorted Colonel Wilford and another (senior) Officer to a position from where they could view the riot. Later involved in escorting prisoners to the 4 tonne trucks	Believes he escorted 4-5 prisoners to the 4 tonne trucks used by Guinness Force
Private 635	Escort Major Loden / 236	Pig 1	To the low wall at Kells Walk and then assisted in escorting prisoners to a holding area which may have been Fort George.	Yes. George Irwin, James McNulty and John Anthony Rogers

FS1. 2178

ANTI-TANK PLATOON SOLDIERS' EVIDENCE
TABLE 2 – SHOOTING BY SOLDIERS

SOLDIER	LOCATION	TARGET	DESCRIPTION	SHOTS	SEEN BY	HIT	MOST LIKELY VICTIM
E	West side of Block 1	Gunman with Luger machine pistol.	None	1	No-one	"no idea"	Possibly Grimaldi and North but the timing is wrong.
	SW end of GFPN	Petrol and Nail bomber	None	2	No-one	Yes	Patsy O'Donnell; William McKinney
G	NW entrance to GFPN	Man with a gun (possibly a rifle)	None	2	No-one	No	?
	SW corner of GFPN	Two men with short rifles possible M-1 Carbines	None	3	No-one	One[1] but possibly both[2]	William McKinney; Joe Mahon; James Wray; Joe Friel; Danny Gillespe
	West side of Block ; 2nd storey; 3 windows from south western corner	Gunman – pointed out to him by Pig Driver	None	1	F; 018	No	Possibly Grimaldi and North

FS1.21179

[1] According to G's first RMP statement.
[2] According to G's TSOL statement and Widgery Evidence.

F	*West side of the Rubble Barricade* [3]	*Nail bomber*	*None*	*(1)*	*027, possibly Captain 200, INQ1237*	*Yes*	*Definitely Michael Kelly*
	Centre of GFPN [4]/ SW corner of GFPN near Number 24	Nail bomber	None	2 *(2)*	H, J possibly 119	Yes (both)	William McKinney; Joe Mahon; James Wray; Joe Friel; Danny Gillespe
	Wall at SW [5] Corner of Block 2	*Pistol Man*	*Darkish Clothes*	*(2)*	*G [8], Gunner030, Sgt 040, possibly Gunner 134, Lt 227*	*Yes*	*Barney McGuigan; Patrick Doherty; Patrick Campbell; Danny Magowan*
	Block 1 – 2nd Floor and 3rd Window across [6]	Sniper	None	3 *(3)* [7]	147; Possibly H	No Mention	Possibly Grimaldi and North
	Block 1 – 2nd Storey – 2nd window along	Sniper	None	4 *(3)*	G; J; 036; 147; 018 [9]; possibly H; Captain 028 [10]	Don't Know	Possibly Grimaldi and North
	Window second from the top floor of Block 1	Rifleman	None	4 *(2)*	Lt119; J, 018 [11], Possibly H	Don't Know	?

FS1. 2180

[3] F only admitted firing at his target, the "nail bomber" on the Rubble Barricade, who is undoubtedly Michael Kelly, in his statement that was given to Colonel Overbury on ***19th February 1972***.

[4] According to trajectory map attached to RMP statement dated 31st January 1972

H	S end of GFPN near No 59	Nail bomber	Youth aged 18-22 wearing dark trousers & bright coloured sweater / shirt	2	No-one	Yes, possibly in stomach	William McKinney; Joe Mahon; James Wray; Joe Friel; Danny Gillespe
	S end of GFPN near No 59	Nail bomber	Youth aged 18-22 wearing dark blue denim jacket and trousers	1	No-one	Yes in right shoulder / arm	William McKinney; Joe Mahon; James Wray; Joe Friel; Danny Gillespe
	S end of GFPN toilet window of No 57	Rifleman	None – " Silhouette"	19	No-one	Possibly	No-one
J	Rubble Barricade	Nail bomber	Youth	1	No-one	No	William Nash; Michael McDaid; John Young; Alex Nash
	SW end of Block 1	Nail bomber	None	1	No-one	No	Hugh Gilmore
023	West side of Block 1 either at the roof or a window	Gunman (although 023 did not actually see him)	None	1	No-one	"I could not see if my shot hit"	?

[5] F only admitted firing at his target, the pistol man, in his statement that was given to Colonel Overbury on ***19th February 1972*** at the same time as the admission concerning the nail bomber at the Rubble Barricade.

[6] In F's 1st RMP statement dated 31st January 1972 this was recorded as being F's first target but this account was substantially changed in his statement to Colonel Overbury on ***19th February 1972*** when F said that these shots were in fact fired after events in Glenfada Park. In his evidence to the Treasury Solicitor and the Widgey Tribunal F broadly maintained the order of targets and firing as set out above.

[7] Bracketed and Italicised shots for Lance Corporal F signify the re-arranged shots and targets relating to him first set out in F's statement to Colonel Overbury on ***19th February 1972***.

[8] However Private G did not mention this until his Treasury Solicitor statement.

[9] However 018 retracts this in his Eversheds Statement as he was inside the pig when shots were fired at the Rossville Flats.

[10] Captain 028 was the Press Officer of 22 LAD and was attached to 1 Para D Coy on Bloody Sunday. 028 says that the target was on the third floor. F's target in his Treasury Solicitor statement was on the third floor but he changed this to the second floor in his oral evidence.

[11] However 018 retracts this in his Eversheds Statement as he was inside the pig when shots were fired at the Rossville Flats.

FS 1.2181

ANTI TANK PLATOON SOLDIERS' EVIDENCE
TABLE 3 – WHEN SHOTS FIRST HEARD

SOLDIER	BEFORE DEBUSSED	AS DEBUSSED	AFTER DEBUSSED	TYPE
Lt 119	Yes	No	Yes at Low Wall from Block 1; and from corner of GFPN; later from Block 1	M1 Carbine; Pistol; unspecified fire later from the Flats
INQ 1581	No	No	Yes. However 1581 did not debuss straight away. Heard what he thought were 2 shots from either 3, 4or 5th storey of Block 1	Rifle Shots.
Private G	No	No	Soon after he debussed shots were fired from Block 1. May have been from a TSMG. Then firing from the Barricade. No mention of other firing inside GFPN. Later whilst inside the Pig in Rossville Street.	Possibly a Thompson SMG; no description; no description
L/Cpl F	No	Yes and "moved to the old houses before you come to Kells Walk."	Yes. At Low Wall from Block 1 2nd floor 3rd window across. No mention of shots heard when inside GFPN. When back at pig in Rossville Street several times from the second from the top floor of Block 1.	Rifle; Rifle; Rifle[1]
Corporal E	No	No	Yes as advanced along Rossville Street.	Automatic gunfire and also other gunshots coming from the Rossville Flats
Private H	Yes, Hail of bullets struck pig	No	Yes at Low Wall from Barricade; and from toilet window 57 GFPN; later from Block 1 whilst inside Pig	Does not say but "seemed to come from Rossville Flats"; not specified; rifle; not specified
L/Cpl J	No	Yes as advanced along Rossville Street.	Yes at Low Wall from Rubble Barricade. Later whilst inside pig in Rossville Street from Block 1.	5-6 shots of automatic fire from area of the Rossville Flats; possibly rifle fire from the Rubble Barricade; 2-3 LV shots from Block 1.
Private 023	No	No	When at the NW corner of GFPN	Does not know whether it was HV or LV fire
L/Cpl 036	No	No	Whilst staying in the Pig he saw a 2nd floor window in Block 1 move upwards and then heard a HV shot which passed close by	High Velocity shot followed by another from same location

CJ 1.2182

[1] Lance Corporal F mentioned for the first time when giving oral evidence at Widgery that when he fired at his final target, the rifleman on the 8th Floor of the Flats that he fired at the same time as the gunman.

SOLDIER	BEFORE DEBUSSED	AS DEBUSSED	AFTER DEBUSSED	TYPE
Private 027	No	No. Has repudiated account in RMP statements.	No.	None.
Private 147	No	No	Either whilst inside or standing at the rear of the same Pig he saw a 2nd floor window in Block 1 move and saw a muzzle flash. In Eversheds statement he says that he saw the hand come out of the window.	.22 calibre weapon (because he has fired one / because of the way the round hit the ground)
L/Cpl 18	No	Yes in Rossville Street	Yes as took cover at NW end of Kells Walk. Later at low wall at Kells Walk.	3-4 HV single well defined shots; "civilian incoming fire"; 2 shots from M1 Carbine by gunman at entrance to B1
Private 1237	No	No	No. "I did not hear any incoming rounds"	None
L/Cpl 1940	No	No	L/Cpl 1940 seems to have come into Rossville Street on foot after having acted as escort for Colonel Wilford and one other officer. He heard one shot that he thinks came from the Rossville Flats. This was the only shot or explosion that he heard all day.	LV pistol shot. "I think it came from the area of the Rossville Flats although I cannot say why I believe that."
Private 635	No	Unsure – he either was told they were under fire or heard it himself	No.	Not specified.

FS 1. 2183

TABLE 4 – POSSIBLE ORDER OF SHOTS FIRED
ANTI-TANK PLATOON SOLDIERS EVIDENCE SECTORS 3, 4 & 5

SOLDIER	TOWARDS	SHOTS	REMARKS
F	Rubble Barricade	1	Shot and killed Michael Kelly at the Rubble Barricade. It is generally accepted that he was the first person who was shot in Sector 3.
J	Rubble Barricade	1	Opened fire on the Rubble Barricade at an early stage. Fired at SW end of Rossville Flats later but before entering GFPN. Did not fire in GFPN.
G[1]	NW entrance of GFPN	2	These shots were fired by G before he lead F into GFPN. F makes no mention of them.
	SW Corner of GFPN	3	G fired these shots almost immediately as he entered the GFPN car park from the RHS of a parked car near the NE entrance. F was firing at roughly the same time according to G.
F	Centre of GFPN[2] / SW Corner of GFPN beside No 24	2	F entered GFPN after G. He claims to have fired 2 shots at the same nail bomber. At Widgery F said that it was only himself and G in GFPN at this stage.
E	SW Corner of GFPN	2	E entered GFPN after G and F. He may have shot Patsy O'Donnell given the position of the trajectory and intended target. He might also have shot William McKinney who was shot furthest east at the southern end of GFPN.
H	S end of GFPN near No 59	2	H entered GFPN after G and F. It is unclear if he entered before E but he remembers him being present after he fired. According to his 3rd RMP statement before he fired he saw one of the youths beside his 1st target fall. However in his Eversheds statement he now thinks that he fired first as he cannot remember anyone else fire in GFPN
	S end of GFPN near No 59	1	These shots were fired at a youth who attempted to throw the same nail bomb as H's 1st target.
	Toilet window of No 57 GFPN	19	These shots were fired at a point when Lt 119 had already entered GFPN and examined the bodies at the southern end of the carpark.[3]
F	SW end of Block 2	2	After he fired two shots at the nail bomber in GFPN F opened fire from near the lamp post at the GFPN gable at a pistol man and hit him. It is generally accepted that these shots were fired at Patrick Doherty and Barney McGuigan and were among the last fired in GFPN.
023	West side of Block 1 (whether at the roof / parapet or window)[4]	1	023 did not fire his shot until he resumed sentry duty at the pig in Rossville Street after the events in GFPN have concluded and he participated in arresting the civilians from the gable wall.
G	West side of Block ; 2nd storey; 3 windows from the end	1	G was told about this gunman by the driver after he had returned from GFPN and sat in the back of the pig in Rossville Street. It appears that he fired this shot at approximately the same time as F's target below.

[1] Key: Emboldened Letters signify firers within Sector 4.
[2] See Lance Corporal F's Trajectory Map for 1st RMP statement 31/1/72.
[3] See Private G's H's 1st, 2nd and 3rd RMP statements.
[4] Depending on which of his accounts is to be believed

FS1 2184

SOLDIER	TOWARDS	SHOTS	REMARKS
F	Block 1 Rossville Flats. 2nd Floor 3rd window from the end	3	F was told about this gunman after he had returned from GFPN and sat in the back of the pig in Rossville Street. He fired these shots from Sgt 1694's pig.
	Same floor either 2nd or 4th window from the end	3	These shots were fired almost immediately after the above shots and from Sgt 1694's pig also.
	Block 1 Rossville Flats. 8th Floor.	2	This might well have been the last admitted shots fired by Support Company on Bloody Sunday.

FS 1·2185

SECTORS 3 & 4 SOLDIERS' EVIDENCE
ANTI TANK PLATOON
TABLE 5 - CIVILIAN GUNMEN AND BOMBERS

Soldier	Saw Civilian with weapon	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
Lt 119	No	No	Yes	Yes	No	No	No	No
Private G[1]	Yes	No	Possibly[2]	Possibly	No	No	No	No
L/Cpl F	Yes	Yes	Yes	Yes	Yes	No	No	No
Corporal E	Yes	Yes	Yes	Yes	Yes[3]	Yes	Yes	No
Private H	Yes	Yes	Yes[4]	Yes	No	No	No	Possibly[5]
L/Cpl J	Yes	Yes	Yes	Yes	Yes	No	No	No
Private 023	No	No	No	No	No	No	No	No
Private 027[6]	No	No	No	No	No	No	No	No
L/Cpl 036	No	No	No	No	No	No	No	No
Private 147	Yes	No	Yes	Possibly	No	No	No	No
L/Cpl 018	Yes	No	No	No	No	No	No	No
Private 1237	No	No	No	No	No	No	Yes	No
INQ 1581	No	No	No	No	No	No	No	No
L/Cpl 1940	No	No	No	No	No	No	No	No
Private 635	Yes	No	No	No	No	No	No	No

[1] Bold: Soldiers who entered Glenfada Park North and fired shots.
[2] G says that he heard a "bang" whilst he was in Glenfada Park North which could have been a gelignite bomb or a nail bomb.
[3] E says that a nail bomb exploded in Glenfada Park North at a time when F,G and H were present.
[4] H says in his Widgery evidence that he heard a explosion which was either a gelignite bomb or nail bomb whilst in Glenfada Park however the explosion did not occur in Glenfada Park.
[5] H says in his 1st RMP statement that whilst in Rossville Street Support Company "were being stoned, nail bombed and acid bombed" however nowhere else in his evidence does he repeat this.
[6] Private 027 has repudiated his statements to the RMP and Tsol in relation to seeing a civilian with a gun on the Barricade and a petrol bomber in Glenfada Park.

P 1-2186

FS1·2187

ANTI-TANK PLATOON SOLDIERS' EVIDENCE
TABLE 6 – ORDER IN WHICH RMP STATEMENTS TAKEN

DATE	TIME	SOLDIER
31st January	01.40 hours	Corporal E
31st January	02.04 hours	L/Cpl F taken by W.S. Rowe (SIB)
31st January	02.10 hours	Private H taken by Cpl Brobson / INQ 1868 (SIB)
31st January	02.15 hours	Private G taken by J.L. Smith (SIB) (deceased)
31st January	02.30 hours	Private H
31st January	?	Lt 119
31st January	14.00 hours	Corporal E
31st January	14.10 hours	Corporal E or F
31st January	14.10 hours	L/Cpl F photographs shown by Cpl Brobson / INQ 1868 (SIB)
31st January	14.20 hours	Private G photographs shown by Cpl Brobson / INQ 1868 (SIB)
?[1]	20.15 hours	Private H taken at Holywood Barracks
1st February	15.15 hours	L/Cpl J taken by Cpl Brobson[2]
4th February	15.10 hours	L/Cpl J
4th February	19.15 hours	L/Cpl 018 taken by Cpl Smith (SIB) (INQ 2120) (deceased)
4th February	19.30 hours	L/Cpl 036
4th February	20.00 hours	Private 147
4th February	?	L/Cpl F
5th February	22.20 hours	Private 027
14th February	13.15 hours	Private G
? February	?	Private G
15th February	16.00	L/Cpl F taken by Sgt Middleton-Jones
?	?	L/Cpl 1940. Does not say whether he made an RMP statement
?	?	Private 023. Says he made an RMP statement but it seems to have disappeared
B226.002	?	Private 1237. Does not say whether he made an RMP statement
?	?	INQ 1581. Does not say whether he made an RMP statement
?	?	Private 635. Does not say whether he made an RMP statement

[1] The manuscript version of this statement records this statement taken at Holywood Barracks at 20.15 on 5th January 1972. Quare whether this should be 5th February 1972.

[2] Statement of Cpl Brobson C1868.5

Appendix 2

FS 1. 2189

SECTORS 2, 3 & 4 – SOLDIERS' EVIDENCE
TABLE 1 – COMPOSITE PLATOON DEPLOYMENT

CALL SIGN 71

SOLDIER	ROLE	BEDFORD LORRY	MOVEMENT AFTER DEBUSSING	ARRESTS
Captain 200	Composite Platoon / Guinness Force Commander	Front passenger seat 1st lorry	Debussed in the lee of buildings on the east side at the north end of Rossville Street. Then ran south to speak to Company Commander's APC in relation to where Major Loden wanted Guinness Force to be. Loden told him to back up the Anti-tank platoon on the west side of Rossville Street near Kells Walk and the Mortar Platoon on the east. Heard automatic fire. Returned and split his force in two. Saw at least 3 members of Anti-tank platoon firing at 2 men on the Rubble Barricade. May briefly have crossed to the west side of Rossville Street depending on which account one reads. Then moved to burnt out vehicle and escorted some women a short distance towards Chamberlain Street. Then returned to Major Loden near the gable end of Block 1 and saw bodies in the rear of a pig. Saw a Para fire a baton round into the rear of another pig. Major Loden and Captain 200 expressed concern about the amount of firing coming from soldiers at Kells Walk. Saw a man that sounds like Alex Nash on the barricade. Told to deploy Call Sign 71 across to the west side of Rossville Street. Crossed again to the west side of Rossville Street at Kells Walk and into a courtyard with his radio operator until he reached the northwest corner of Abbey Park where he saw a body that is probably Gerry McKinney being tended by a Knights of Malta. Then went back towards Rossville Street and to the east of Kells Walk. Withdrew to Clarence Avenue for ammunition check[1].	None.
Colour Sgt INQ 147	Not specified	Thinks that he came into the Bogside in a pig.	Unclear from statement but likely that Captain 200 would have deployed Colour Sergeant INQ 147 to the left (east) side of Rossville Street given that he put the other half of Guinness Force under the command of Colour Sergeant 002 on the west side of the street.	None.
Colour Sgt INQ1318	Section Commander[2]	Not clear	This witness is very unclear about his deployment though he says that his task was to "secure the housing estate to our right hand side". He recollects the houses as being 2 storey, some terraced and some detached. Nothing of note happened when he was there. Has a recollection of seeing a man aged 40-45 at the rubble barricade (Alex Nash) shouting that he had been shot and that a priest then came to help the man.	None.

[1] Captain 200 has given various conflicting accounts of his movements. This is taken from his RMP, Tsol and Widgery evidence that was given closer to the events. Captain 200 made clear even in 1972 that the sequence of events was not clear in his recollection and that he was "continually visiting the two halves" of his force (**B1987**).

[2] Note that the Nominal Role says that Colour Sergeant INQ1318 was part of Call Sign 71 though from his statement he recollects being deployed on the west side of Rossville Street which was area to which Call Sign 71 Alpha were sent under the command of Colour Sergeant 002.

FS 1 · 2190

Sgt 106	Section Commander	Unclear from statement but probably the 1st lorry.	Deployed near William Street and Rossville Street junction. Commanded a section of 4 or 5 men who were deployed onto the left (east) side of Rossville Street. Then leapfrogged along the back of the houses in Chamberlain Street while there was a mixture of HV and LV firing going on. There were incoming rounds coming from the Rossville Flats. Then took up position at northern end of Rossville Flats. Then escorted 15/16 prisoners probably to Little James Street.	None.
Private 203	Not Specified	Unclear from statement but probably the 1st lorry	Believes that he entered the Bogside on foot with the rest of Guinness Force. Went to the east (left) of Rossville Street. Took position at an old burnt out van for cover (possibly at **B2114.009**) but not for a long period. Then moved towards a pig that was the direction of, but not close to, Block 2 of the Rossville Flats. Believes that he was able to see arrests being made somewhere in the Rossville Flats car park and that CSM 202 was present.	None.
Lance Corporal 229	Not Specified	Unclear from statement but probably the 1st lorry as the Nominal Role places him in Call Sign 71	Cannot now remember where he debussed (though his RMP statement says it was "near Barrier 14 in Little James Street"). He saw a youth (Joseph Lynn) running across Rossville Street and chased him into a derelict building on the west side of Rossville Street at the northern end. He ordered the youth to come down from the rafters and was then joined by Private L who fired a warning shot to get the youth to come down. Handed the youth over to other elements of Guinness Force. Then went into Glenfada Park and was involved in further arrests (Patrick McGinley and Dennis McLaughlin). Possibly near the pram ramps at some stage. Later in Fort George with the prisoners.	Yes. Joseph Lynn (**ARR 29.1**); Patrick McGinley (**ARR 40.1**); Dennis McLaughlin (**ARR 42.1**)
Private C	Not Specified	Unclear from statement but probably the first lorry	Debussed near junction of William Street and Rossville Street. Made his way across waste round at Eden Place. Then wall at rear of houses at Chamberlain Street. Advanced south towards Rossville Flats. Came level with Block 1 and then advanced west across the car park and to Columbcille Court. He took some prisoners from "the William Street end of the front building of Columbcille Court back to the collection point and returned to Kells Walk and took up position at the top of the pram ramp. Fired 2 rounds at a rifleman with a Kalisnikov type weapon at the SW corner of Block 1. Then fired 3 rounds at a pistol man in a window (4th from the right) on the 3rd storey of Block 1.	None.
Private 024	Not specified	Unclear from statements	Debussed at junction of Rossville Street and William Street on east side of street. Then crossed Rossville Street and moved to the corner of east end of Kells Walk. Involved in taking two sets of prisoners to Little James Street. Then went back to the veranda two storey flats opposite Eden Place (must refer to the veranda at Kells Walk) and took up position with Private C. Saw a nail bomber near the barricade at the GFPN side but did not fire, as it was not lit. Then observed a pistol man at 3rd floor window Block 1 halfway along firing and Private C fire 2 rounds hitting the gunman. Then recalled to William Street.	None.

FS 1.2191

Private INQ 24	Radio Operator	Unclear from statement but probably the 1st lorry	Seems to have been deployed with Captain 200/SA8. Ran first to a derelict vehicle in the waste ground to take cover. Then deployed to Northern end of Block1. Then across Rossville Street to the right (west) side and probably into CCCT. Then deployed back across Rossville Street to the Rossville Flats.	None.
Private INQ 391	Driver Bedford Lorry	Driver	Remained at vehicle.	None.
Corporal INQ468[3]	Not specified	Unclear	"(V)ery very limited memory" of the day and does not recognise the area at all. But remembers running across some open space where there were buildings on his left hand side, a good distance back.	None.
Corporal INQ739	Not specified	Unclear from statement but probably the 1st lorry	Got out of the lorry and saw a waste ground area in front of him. Bursts of AK47 fire from the Rossville Flats followed. Has a memory of the bullets hit the ground near where he was crouching. Then headed towards the Rossville Flats and took cover at a burnt out car wreck. Further bursts of fire from AK47 followed by SLR fire. Then reached the north-western corner of Block 1. Then crossed Rossville Street on west side of the street and went to Kells Walk. Then into CCCT where heard further AK47 fire and saw a middle aged priest with a wounded person in a blanket.	None.
Corporal INQ 2047	Not Specified	Unclear[4]	Ran through Barrier 12 and went off to his left chasing rioters. He did not chase them very and then stopped. The map provided does not assist him in his recollection. One or two rioters were caught.	None

C-S 1.2102

[3] INQ468 has a very vague memory of the events but he does have a recollection of running across a large area of open ground to his left. We assume that the only place the witness is referring to is the Rossville Street waste ground. **C468.2 paragraph 15**.

[4] Note that the Nominal Role says that he was part of Call Sign 71, which was Captain 200's section, however the witness' current recollection is that he went through Barrier 12 on foot with the rest of Guinness Force.

SECTORS 2, 3 & 4 – SOLDIERS' EVIDENCE
TABLE 1 – COMPOSITE PLATOON DEPLOYMENT

CALL SIGN 71 ALPHA

SOLDIER	ROLE	BEDORD LORRY	MOVEMENT AFTER DEBUSSING	ARRESTS
Colour Sgt 002	Platoon Commander Call Sign 71A	2nd soft skinned lorry	Account taken from 1972 evidence as Eversheds statement appears confused. Debussed at corner of William Street and Rossville Street near derelict houses and then moved to west side of Rossville Street. Crossed Rossville Street and advanced south to low wall. Moved behind Sgt K and saw him fire. Saw 2 men crawling and ordered Privates L and M to fire one shot at the man in front as he had a rife. Did not order them to fire at rear man as he was unarmed. Then deployed to the rear of Kells Walk / CCCT and saw the prisoners who had been arrested from GFPN. He ordered his men to take the prisoners back to Barrier 12. Then carried out an ammunition check "at the north end of the block of flats". Then moved eventually to William Street.	None.
Sgt K	Protection Duties	Rear of 2nd soft skinned lorry	Debussed at corner of William Street and Rossville Street then moved to west side of Rossville Street. Then advanced until level with NW corner of a block of CCCT and then took over the position of anti-tank platoon at the low wall. Fired 1 shot at rear man performing a leopard crawl carrying a rifle. According to Private L he went down into GFPN. Then went into CCCT car park and saw civilians who had been arrested in GFPN by anti-tank platoon. Finally deployed at west side of Rossville Street at derelict houses.	None.
Private L	Not Specified	Unclear from Statements but likely the second lorry according to Colour Sergeant 002	Debussed at junction of William Street and Rossville Street then moved to the west side of Rossville Street entered a derelict house and arrested a youth firing a shot whilst in the house. Took youth to William Street and returned to the derelict house. Moved south down the low wall at Kells Walk and fired 2 rounds at front man performing a leopard crawl from barricade to Rossville Street entrance of Block 1. Moved further towards the barricade and saw an old man (Alex Nash). Gunman opens fire from entrance to Block1 and L moved back under orders from Captain 200/SA8. Deploys into CCCT at north east corner and sees a gunman firing a rifle from a burnt out factory at junction of Kells Walk and Abbey Street at whom L fires 2 rounds.	Yes. Joseph Lynn. Bundle **ARR.29.1-3**. L/Cpl 229 completed arrest report form alleging he was involved in throwing stones in Rossville Street.
Private M	Protection Duties (Protect Cpl	Unclear from Statements but likely the second lorry	Debussed at junction of William Street and Rossville Street then moved down the east side of Rossville Street. Saw shots strike ground near the Command Pig (Major Loden's pig) that was parked at Eden Place. Then crossed Rossville Street to the west side moving to Kells Walk.	None.

FS1-2193

	039)	according to Colour Sergeant 002	Took cover and nail bombs were thrown which exploded. A petrol bomb was thrown from GFPN that landed in front of the barricade. Shots were fired from behind the barricade[5]. Kneeling position at Kells Walk and fires a shot at both the front and rear "leopard crawler" both of whom had rifles. Then onto pram ramp to observe Rossville Flats. Returns to Cpl 039 and both go into CCCT to escort prisoners to Little James Street and returns to lorry in William Street.	
L/Cpl 10	Not specified	Unclear from Statements but likely the second lorry according to Colour Sergeant 002	Debussed at junction of William Street and Rossville Street then moved down the east side of Rossville Street. Ran to the area of the Command Pig (Major Loden's pig) and the Ferret car. Then crossed Rossville Street to the west side moving to the low wall at Kells Walk with INQ748. Saw Private L fire 2 shots at the Rubble Barricade. Did not see the target but saw one male dragging a second male towards the Rossville Flats. Then withdrawn to a derelict building on the corner of Rossville Street and William Street. Then heard a shot that seemed to come from Chamberlain Street and a burst of SMG fire but does not know from where.	None.
Sgt 014	Section Commander	Unclear from Statements but likely the second lorry according to Colour Sergeant 002	Debussed at junction of William Street and Rossville Street. Then moved to a 4 foot wall at 2 CCCT. Observed two performing a leopard crawl along the west wall of Block 1. He then took up position approximately 5 yards away from Private L and saw him fire 2 rounds at the rear man who was trailing a weapon. Then deployed into Kells Walk.	None.
Private 032	Not specified	Unclear from statements	Debussed at junction of William Street and Rossville Street. Deployed on the west side of Rossville Street in front of CCCT. Automatic fire was directed from the Rubble Barricade. Took position at 4 foot brick wall 6 metres north east of 2 CCCT. Saw Private L open fire at the rear man of two men crawling along Block1. Then saw a man with a pistol run from south end of Block1 in a westerly direction across Rossville Street into Glenfada Park. Then moved to a burnt out building on the north west corner of Kells Walk.	None.
L/Cpl D	Not specified	Thinks he was in the rear of the second lorry	Debussed at the junction of Rossville Street and William Street. Dropped his baton and threw it back into the lorry. Given a prisoner called "Finn" (probably Joseph Lynn) who he escorted to buildings at the junction. Waited with other prisoners in William Street before taking them to the RMP in Little James Street. Then rejoined his unit at CCCT. Then moved onto the 1st floor balcony on the west side of Kells Walk. Private C passed him on the balcony. Heard LV shots and saw C fire a round. Advanced to Private C's position at the top of the pram ramp. Spoke to C and then fired 2 rounds at a pistolman at the 3rd floor of Block 1. Returned to William Street.	None.

[5] Only mentioned in Pte M's first RMP statement. **B372.011**

1.2194

Sgt 035	Section Commander	Unclear from statements but likely the second lorry according to Colour Sergeant 002	Debussed at junction of William Street and Rossville Street. Then took position at south end of Kells Walk approximately 30 metres west from the junction of Pilots Row and Rossville Street. He saw Private M fire 2 rounds at two men who were crawling to the entrance of Block 1. Then involved with the prisoners in CCCT and saw a priest bringing two wounded men out of the maisonettes there (This must be a reference to Fr Carolan, John Johnson and Damien Donaghy.)[6]	None.
Corporal 039	Not specified.	Unclear from statements but likely the second lorry according to Colour Sergeant 002	Debussed "just inside Rossville Street and advanced to the junction of Eden Place, Rossville Street" beside two APCs that were stationed in the centre of the road facing the Flats. Crossed Rossville Street to Kells Walk and fired a rubber bullet at a first floor window as missiles were thrown from that flat apparently striking a woman in the face. Then came under fire from the Rossville Flats. Then moved to the low wall and observed two men crawling to the entrance to Block 1. One had a TSMG the other trailed a weapon with him. He ordered Privates L and M to open fire. Each fired 2 rounds. Both men were hit. Then went to opposite side of Kells Walk with Private M and escorted prisoners to junction of William Street and Rossville Street.	None.
Corporal INQ 0025	Escorting Prisoners from snatch squad	Unclear from statements	Unsure where debussed but then told to report to an area near some small blocks of flats on the RHS of some waste ground and waited for prisoners to be fed back by the other troops. Mainly involved with prisoners in the vicinity of the City Cabs Taxi office.	Unclear. Seems to have made an arrest but there is no arrest form.
Private INQ405	Driver	Second lorry	Remained at vehicle near front wheel on driver's side. Eventually redeployed at a residential area.	None.
Private INQ449	Not specified	Mainly deployed on RHS of Rossville Street so I assume that he would have been in the second lorry.	Rossville Street then in CCCT with C Company (!) where he says that he engaged a gunman at a window along with UNK 541. Later on waste ground where he saw a priest tend to a body on the ground. Seriously unreliable account – see "Review" section.	None.
Private INQ748	Not specified	Exclusively deployed on the RHS (west) of Rossville Street so I assume that he would	Thinks that he ran through Barrier 12. Then to the south corner of Kells Walk of Rossville Street. Then into the courtyard of CCCT. Heard shots and the crowd from Rossville Street. Then saw a group of soldiers with prisoners. Followed a second group of soldiers out of the northern end of the courtyard towards William Street.	None.

[6] Note that the account of Sgt 032's deployment comes from his RMP statement as his statement to Eversheds places him in a position on a roof considerably more south than he actually would have been.

FS 1. 2195

		have been in the second lorry.		
Private INQ812	Not specified	Not clear.	Debussed and was immediately affected by gas and then returned to the truck to get his gas mask. By this time his colleagues had gone. He remained at the tailgate of the lorry and did not advance on foot. He did not see any of the events in front of the Rossville Flats or on the waste ground. Mostly heard high velocity shots and cannot remember any explosions.	None.
Private INQ816	Not specified	Not clear.	This witness does not think that he went into the area but has a memory (perhaps from TV) of soldiers advancing up Rossville Street from a distance. He says that it is possible that he was split up from everyone else when they went into their lorries.	None.

FCS 1.2196

COMPOSITE PLATOON SOLDIERS' EVIDENCE
TABLE 2 – SHOOTING BY SOLDIERS

SOLDIER	LOCATION	TARGET	DESCRIPTION	SHOTS	SEEN BY	HIT	MOST LIKELY VICTIM
Sgt K	Low wall at Kells Walk.	Rear man of two persons who were performing a leopard crawl away from the Rubble Barricade carrying what he believed to be a .303.	Dark suit and medium height	1	**CS002**[1]; Possibly Colonel Wilford; Sgt14; Cpl 39; L/Cpl 10; **Soldier 13; Possibly Private 006;** Private 32; Possibly Captain 21 Sgt 35; Cpl	"I think I may have hit the gunman" "Difficult to say whether I hit him" "He appeared to lurch"	Kevin McElhinney
Private L[2]	Low Wall at Kells Walk.	Front man of two persons who were performing a leopard crawl away from the Rubble Barricade carrying what he believed to be a rifle – a carbine or armalite but "definitely not" a .303	Light grey suit and fair hair Man at the rear wore a dark blue suit	2	**CS002**; Very likely *Colonel Wilford*; Private M; Private 006; **L/Cpl 10; Sgt 14**; Captain 21; **Private 032**; Sgt 035; **Cpl 039**.	Sure hit first man with 1st shot. May have hit both men with the 2nd shot.	Kevin McElhinney
	NE corner of CCCT.	Man with rifle in 2nd floor window of	White shirt and black tie.	2	***None*** *of the Widgery*	Shots went through the window	?

[1] Emboldened cipher signifies soldiers who actually saw and refer to the shooter firing. Un-emboldened ciphers describe shooting by colleagues that is very similar to the circumstances in which the shooter says that he opened fire.

[2] It is not intended to consider Private L's Eversheds account in this Table due to its obvious unreliability.

2197

		burnt out factory on west side of the junction of Kells Walk and Abbey Street			*soldiers said that they saw Private L fire at the second target. Nor did any of them describe shooting which could have been the same.*		
Private M	Low wall at Kells Walk	Front man of two persons who were performing a leopard crawl away from the Rubble Barricade carrying what he believed to be a rifle	Dark Coloured jacket, dark trousers, dark longish hair and a very light coloured short or jumper	1	**Sgt K;** Possibly Private L; **CS002;** Possibly Colonel Wilford; Private 006; Captain 21;	"The man appeared to jerk and fall forward. Both of his hands were forward with the rifle and he was dragged inside"	Kevin McElhinney
	From the same positon	Rear man of two persons who were performing a leopard crawl away from the Rubble Barricade carrying what he believed to be a rifle	Light brownish jacket and a black or dark sweater or shirt. Fairly long brownish hair and light coloured trousers or jeans	1	**Sgt 035; Cpl 039;**	"He gave a jerk and fell to his side and rolled slightly but he carried on crawling cradling the rifle in his arms"	
Private C	From the top of the Kells Walk pram ramp.	Man with a Kalashnikov rifle at the SW corner of Block 1	1972 description was "a male person wearing a dark coat". Now has a vague memory of "a dark shadow and a long coat"	2	**L/Cpl D;** Captain 200/SA8[3]	1st shot missed. 2nd shot hit. "...Man jerked backwards and weapon went into the air".	Hugh Gilmore (but the timing is wrong); Patrick Campbell

[3] Captain 200/SA8 whilst not actually referring to seeing Private C fire told Lord Widgery two soldiers fired on the top of the Kells Walk pram ramp. He heard the 2-3 shots but did not see what they were firing at. He looked up at the pram ramp and saw two soldiers (who must be C and D). Incidentally, Captain 200/SA8 did not hear firing from the Rossville Flats prior to the soldiers firing.

FS 1. 2198

	From the same position.	Man firing a pistol from a window on 3rd storey of Block 1	Long hair wearing a dark blue jumper / pullover	3	**L/Cpl D; Private 24;** Captain 200/SA8	1st shot hit masonry. A couple of minutes later the 2nd. shot went through the window and 3rd shot hit him.	Fulvio Grimaldi (with camera)
Lance Corporal D	From the top of the Kells Walk pram ramp.	Man firing a pistol from a window on 3rd storey of Block 1	Fairly long hair and a dark jumper	2	**Private C;** Captain 200/SA8; Private 24	1st shot missed and hit the framework of the window. 2nd shot hit. The man appeared to be thrown backwards.	Fulvio Grimaldi (with camera)

FS 1. 2199

TABLE 3 COMPOSITE PLATOON
WHEN SHOTS FIRST HEARD

CALL SIGN 71

SOLDIER	BEFORE DEBUSSED	AS DEBUSSED	AFTER DEBUSSED	TYPE
Captain 200	No[1]	No	Yes. After speaking to the Company Commander. When the light was failing from the south end of Rossville Street / Free Derry Corner.	Automatic Fire. Both automatic (5 rounds) and single shot (4 rounds).
Colour Sgt INQ 147	No	No	Yes. When standing against a building he remembers hearing firing.	No description but has the impression that it was both civilian and military firing.
Colour Sgt INQ 1318	No	No	Yes. Shortly after debussing.	Heard firing but cannot comment on the amount, direction or type.
Sgt 106	Yes	No	Yes. As Sgt 106's section were leapfrogging along the back of the houses in Chamberlain Street.	No description. High velocity & low velocity…different types of weapons being fired.
Private 203	No	No	Yes. Whilst at the east side of Rossville Street seemingly on the waste ground at the burnt out van he heard small arms fire "a dull thump"/ low velocity followed by high velocity shots come from the west.	"…a dull thump" / low velocity.
Lance Corporal 229	No	No	Yes. Whilst inside a derelict building in Rossville Street. Later "seemed to be coming from above us".	1 SLR round fired by Private L. Not specified.
Private C	Yes	No	Yes. Either just after debussing or at rear of houses in Chamberlain Street. At the top of the Kells Walk pram ramp observing a man at the far end of Block 1. When observing Block 1.	One LV shot. One shot then two shots from same rifleman (later referred to as having a Kalashnikov). One shot then two shots from same pistol man in Block 1.
Private 024	No	No	Yes. Saw pistol being fired from 3rd Floor of Block 1 half way across.	Pistol

[1] Note that this table does not deal with the shot that struck the drainpipe at the Presbyterian Church or any accounts of firing before the Paras went through Barrier 12.

FS1 2200

TABLE 3 COMPOSITE PLATOON
WHEN SHOTS FIRST HEARD

Private INQ 24	No	No	No. Witness was wearing headphones and says he did not hear firing.	None.
Private INQ 391	No	No	Yes. Remained beside lorry.	One round, possibly Armalite. Then SLR.
Corporal INQ 468	No	No	No	None
Corporal INQ 739	No	No	Yes. Just after debussed. Then when at burnt car wreck on Rossville Street waste ground. Then when in Columbcille Court.	All AK47.
Corporal INQ 2047	No[2]	No	Yes. After his unit returned through the barrier he heard shooting.	SLR

FS 1. 2201

[2] Corporal INQ2047 thinks that he went into the Bogside on and that he ran, with the rest of Guinness Force, through Barrier 12. Whilst standing at Barrier 12 he heard "two short bursts of Thompson machine gun fire" that seemed to come from his left. C2047.1

TABLE 3 COMPOSITE PLATOON WHEN SHOTS FIRST HEARD

CALL SIGN 71 ALPHA

SOLDIER	BEFORE DEBUSSED	AS DEBUSSED	AFTER DEBUSSED	TYPE
Colour Sergeant 002	No	No	Not clear. "I have no memory myself of incoming shots but I do remember soldiers in front of me taking cover and behaving as if they were under fire.[3]" Says that the firing may have come from the roof of the gable end of Block1.	Not clear. This witness was a weapons training officer and believes that one cannot tell what type of weapon is firing in a built up area[4].
Sgt K	No	No	Not clear. In his TSOL statement he says "During the afternoon also there had been a good deal of firing going on but I did not pick out any in particular which I could comment on in this statement.[5]"	Not clear.
Private L	No	No	Says in his RMP statement that his unit was met with sporadic fire from the barricade but in his TSOL statement L only says that he "heard firing". In his oral evidence to Widgery he said he heard firing when taking cover in the derelict house.	Described as "several single shots, not high velocity at various intervals" to Lord Widgery.
Private M	No	No	Says in his RMP statement as they advanced they came under fire from snipers in the Rossville Flats and behind the barricade. In the TSOL statement he says that he saw about 3 bullets strike the ground at the junction of Eden Place and Rossville Street. In his TSOL statement he says that this were automatic fire from the upper storeys of Block 2 landing near the Command Vehicle.	Automatic Fire.
L/Cpl 10	No	No In his Eversheds statement he says that there was 2-3 rifle	Yes. One shot that seemed to come from Chamberlain Street. Then a short burst but he could not tell from where it was coming. However in his Eversheds statement he refers to 20 rounds being fired at the Paras in Rossville Street and 3-4 pistol shots being fired from the entrance to Block1. These were never mentioned before.	High Velocity shot. Short SMG burst.

[3] B1363.003
[4] B1363.003
[5] B299

FCS1.2202

TABLE 3 COMPOSITE PLATOON
WHEN SHOTS FIRST HEARD

		shots from the direction of the Rossville Flats.		
Sgt 014	No	No	Yes. Heard shooting but unable to pinpoint where it was coming from. After shooting of the "leopard crawler" shots were fired from GFPN that struck Block 1.	Automatic Fire. 4-8 rounds.
Private 032	No	No	Yes. From Rubble Barricade[6].	Automatic Fire
L/Cpl D	No	No	Yes. After dealing with a prisoner rejoined his unit at Columbcille Court. On balcony at Kells Walk.	SLR and Low Velocity weapons. Low Velocity pistol shots.
Sgt 035	No	No	No. "I thought I could hear shooting but it was really all background noise to me because I was so focused on what I was watching in front of me."	None.
Corporal 039	No	No	Yes. Whilst at Kells Walk came under fire from Rossville Flats.	Low Velocity and a couple of high velocity.
Corporal INQ25	No	No	Yes. Heard occasional shots. "I could not say what kind of weapons were being used or where the shots were coming from."	No memory of machine gun fire.
Private INQ 127	No	No	Yes. Heard shooting going on but did not know where it was coming from and did not feel under threat.	None.
Private INQ 405	Yes. Intense fire for a couple of minutes.	Yes. Fire continuing as before.	Yes. Intense fire continuing for a couple of minutes. Then sporadic for a couple of minutes.	All different types of high velocity (**only**) including SLRs and "automatic weapons, such as Armalites or AK47s. No SMG fire.
Private INQ 449	No	No	Yes. From Kells Walk. Then from Chamberlain Street. Then from Columbcille Court. Further gunfire possibly from the Embassy building	High velocity. High velocity. Pistol. Low velocity. High Velocity.
Private INQ 748	No	No	Yes. Whilst in Kells Walk / Columbcille Court courtyard area.	Could not say whether high or low velocity.

[6] However there is no mention of automatic fire at all in his statement to Eversheds.

S1.2203

TABLE 3 COMPOSITE PLATOON
WHEN SHOTS FIRST HEARD

Private INQ 812	No	No	Yes. Whilst at the tailgate of lorry in Rossville Street.	Mostly heard high velocity shots. Makes no mention of low velocity.
Private INQ 816	No	No	No. Claims that he did not hear any firing after the Paras went in.	None.

FS1.2204

TABLE 4 – POSSIBLE ORDER OF SHOTS FIRED
COMPOSITE PLATOON SOLDIERS EVIDENCE SECTOR 3

SOLDIER	TOWARDS	SHOTS	REMARKS
Sgt K	Rear Leopard Crawler	1	CS002 says in his evidence that he saw Sgt K fire at the rear man who was crawling just as he was moving up behind Sgt K's position. CS002 then gave Privates L and M orders to fire at this man. CS002 then gave orders to cease fire. Note however Sgt K in his TSOL statement said that Privates L and M fired "almost simultaneously".
Either **Private L**	Front Leopard Crawler	2	CS002 says that he saw Sgt K fire before ordering Privates L and M to fire. See above comments by Sgt K in relation to the almost simultaneous firing. Private L says that after he fired his shot at the first man "several or one of the other platoon fired at him as well". We know that Private L did not shoot at the front man at all though his second shot may have struck him on his evidence.
Or **Private M**	Front Leopard Crawler	1	As above.
	Rear Leopard Crawler	1	Private M has consistently said that he fired at the rear man after he shot the front man. Note also that Private M says that after he fired his second shot that another member of his platoon fired. In his evidence to Widgery this was approximately 10seconds later.
Private C	Rifleman at SW corner of Rossville Flats	2	Private C fired these shots after he had been deployed for some time on the west side of Rossville Street with Call Sign 71 took a party of about 20 prisoners to the collection point. He over took Lance Corporal D on the balcony at Kells Walk and took up position at the south end.
	Pistolman on 3rd storey of Block 1.	1	Roughly one minute after his first shooting, Private C fired 1 round and then informed Lance Corporal D where the gunman was.
	As above	2	Private C said that Lance Corporal D fired his 2 rounds at the same time that he fired his 2 rounds at the pistolman on 3rd storey of Block 1.
Lance Corporal D	Pistolman on 3rd storey of Block 1.	2	Lance Corporal D fired his two rounds at the same time that Private C fired his 2 rounds at the pistolman on 3rd storey of Block 1. Note however at Widgery Lance Corporal D changed his evidence to say that "Soldier C fired just a split second before me" (B81)
Private L	Rifleman in second storey window of burnt out factory on west side of the junction of Kells Walk and Abbey Street.	2	This occurred after the final shooting on the barricade ended and when L was redeploying back to William Street via CCCT which would indicate that it happened at a very late stage in the events. It is hard to fit in with the other firing in Rossville Street at Block 1 from Soldiers C, D, F and G as no other military witness seems to have seen Private L fire these shots. Note however that Lance Corporal 229 said that Private L fired 1 shot whilst in a derelict building in Rossville Street shortly after debussing[1] in the course of arresting Joseph Lynn said that Mr Lynn said that the soldier who arrested him fired 2 shots inside the building. Perhaps this accounts for the fact that none of the military witnesses corroborate Private L's account of firing 2 rounds at this target?

SECTORS 2, 3 & 4 SOLDIERS' EVIDENCE
COMPOSITE PLATOON
TABLE 5 - CIVILIAN GUNMEN AND BOMBERS

CALL SIGN 71

Soldier	Saw Civilian with weapon	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
Captain 200/SA8	Possibly[1]	No	No	No	No	No	No	No
Colour Sgt INQ 147	No	No	No	No	No	No	No	No
Colour Sgt INQ1318[2]	No	No	No	No	No	No	No	No
Sgt 106	No	No	No	No	No	No	No	No
Private 203	No	No	Yes	No	No	No	No[3]	No
L/Cpl 229	No	No	No	No	No	No	No	No
Private C	Yes. Pistolman 3rd storey Block 1.	No	Yes[4]	No	No	No	Yes[5]	No

[1] In his Eversheds statement Captain 200 says that he has a fleeting look at someone who might have had a pistol in Block 1 (**B2022.007**). Also says that he saw a man with something in his hand that looked like a SMG (but he could not be sure as he had no binoculars) who was near a wall in the vicinity of Free Derry Corner (**B1987**).

[2] Note that the Nominal Role says that Colour Sergeant INQ1318 was part of Call Sign 71 though from his statement he recollects being deployed on the west side of Rossville Street which was area to which Call Sign 71 Alpha were sent under the command of Colour Sergeant 002.

[3] Whilst he was at the apex of the Presbyterian Church) "I cannot remember hearing any other shots, although I had head explosions, which I assumed were petrol bombs, but I don't know" **B2114.004**

[4] Possibly a petrol bomb (**B68.006**)

[5] Private C did not mention petrol bombs being thrown until his Eversheds statement (**B68.003**)

S1. 2206

Private 24	Yes, Pistol man 3rd storey Block 1	Yes	No	No	No	No	No	No
Private INQ 24	No	No	No	No	No	No	No	No
Private INQ 391	No	No	Yes	Possibly	No	No	No	No
Corporal INQ 468	No	No	No	No	No	No	No	No
Corporal INQ 739	No	No	No	No	No	No	No	No
Corporal INQ 2047	No	No	No	No	No	No	No	No

FSI 2207

SECTORS 2, 3 & 4 SOLDIERS' EVIDENCE
COMPOSITE PLATOON
TABLE 5 - CIVILIAN GUNMEN AND BOMBERS

CALL SIGN 71 ALPHA

Soldier	Saw Civilian with weapon	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
Colour Sgt 002	Yes. Possibly a 303	No	No	No	No	No	No	No
Sgt K	Yes. Mk4[6] **303**[7]	No	No	No	No	No	No	No
Private L	Yes. **Rifle –possibly carbine or armalite.** Then man with carbine. Then man with pistol. Then man	No	No	No	No	No	No	No

FSI.2208

[6] Note however that Sgt K was unable to say that it was this type of .303 until his statement to Eversheds. Note also Sgt K told Eversheds that he viewed the complete weapon via his sniperscope which allowed him 2½ times magnification.

[7] Emboldened signifies leopard crawler.

	with rifle .							
Private M	Yes. Sniper on top floor balcony of Block 2 with rifle. **Then man with rifle.** **Then man with rifle.**	No	Yes	Yes	No	No	Yes	No
L/Cpl 10	Yes[8]	No	No	No	No	No	No	No
Sgt 014	**Yes, trailing a rifle.**	No	Yes[9]	Yes	No	No	No	No
Private 032	**Yes, trailing a rifle** Then Pistol man.	No	No	No	No	No	No	No
L/Cpl D	Yes, Pistol man 3rd storey	No	No	No	No	No	No	No

[8] L/Cpl 10 says that he saw a man who had been shot at the Rubble Barricade having a rifle. **B1395.007**. Note however that he omitted to mention this to the RMP.
[9] Sgt 14 says that he heard what he believed to be nail bomb explosions to the east side of Rossville Street. **B1412.004**. Note however that he omitted to mention this to the RMP.

FC 1. 2209

	Block 1.							
Sgt 035	**Yes, dragging a rifle.** **Yes, dragging a rifle.**	No	No	No	No	No	No	No
Cpl 039	**Yes, carrying a TSMG.** **Yes, trailing a weapon on a sling – a short low calibre rifle.**	No	No	No	No	No	No	No
Corporal INQ25	No	No	No	No	No	No	No	No
Private INQ 127	No	No	No	No	No	No	No	No
Private INQ 449	Yes, pistol man.	No	No	No	No	No	No	No
Private INQ 748	No	No	No	No	No	No	No	No
Private INQ 812	No	No	No	No	No	No	No	No
Pte INQ 816	No	No	No	No	No	No	No	No

FS1. 2210

FS 1· 2211

COMPOSITE PLATOON SOLDIERS' EVIDENCE
TABLE 6 – ORDER IN WHICH RMP STATEMENTS TAKEN

DATE	TIME	SOLDIER
31st January 1972	12.35	Private M
31st January 1972	01.30	Private C
31st January 1972	02.00	Lance Corporal D
31st January 1972	02.05	Private L taken by? Captain
1st February 1972	No time given.	Sergeant K taken by W.S. Rowe
2nd February 1972	16.30	Corporal 039
2nd February 1972	17.00	Sergeant 035 taken by J.L. Smith[1]
2nd February 1972	17.30	Colour Sergeant 002
4th February 1972	Unclear	Private M
4th February 1972[2]	15.10	Lance Corporal 10
4th February 1972	16.00	Sergeant 014
4th February 1972	16.40	Sergeant 106
5th February 1972	15.00	Private 032 taken by J.L. Smith
5th February 1972	No time given	Captain 200/SA8
14th February 1972	11.00	Private 203
15th February 1972	16.30	Lance Corporal 229 taken by WOII SIB
No date given	No time given	Private 024
No date given	No time given	Private 024

[1] Corporal JL Smith (deceased) also took some statements of members of the Anti-tank platoon. These include Private G and Lance Corporal 018. He took Lance Corporal 018's RMP on 4th February and Lance Corporal 018 has said in his statement to this Inquiry that he was persuaded by 018 to fabricate an account of gunmen in Block 1 of the Rossville Flats to corroborate Private G's account in relation to shots that he fired towards the end of the incident.

[2] Note that both on the written and typescript RMP statements that the date is recorded as "4th Jan". Presumably this is an error and should say 4th February 1972.

Appendix 3

FS-1·2213

TABLE 1 (a) – DEPLOYMENT OF COMMAND PIG[1]

SOLDIER	ROLE	PLACE IN PIG	MOVEMENT AFTER DEBUSSING	ARRESTS
Major 236 / Loden	Company Commander	Front Seat Passenger	16.10 hours CO ordered company to deploy down Little James Street. Around 16.13 until Coy moved. Travelled in the 3rd pig escorted Ferret car. Approximately 30 second delay occurred at Barrier 12. Command pig stopped at the junction of Pilots Row and Rossville Street in close vicinity of two young men who were throwing stones. Crew of his vehicle debussed and arrested two men throwing stones. Heard approximately 15 LV automatic shots which were seen strike the ground by his signaller. Returned to his vehicle with his crew. Ordered his driver to move vehicle against the north wall of Block 1. Remained there for 10 minutes during which time the majority of the firing occurred. Made a "fleeting visit" to Kells Walk[2]. Ran back to Block 1 and can be seen on actuality footage wearing a red beret. Spoke to Colonel Wilford there. When volume of the firing died down can be seen on Rossville Street ordering his men to "Cease Fire". Returned to the F.U.P. (Forming Up Point) in Clarence Avenue and interviewed Firers in the rear of the Command Pig.	No. But grappled with and batoned a man (breaking his baton) in Rossville Street.
CSM 202	Company Sgt Major	Unclear (possibly the rear)	Debussed from Command Pig on Rossville Street and soon after heard 2 HV incoming rounds. Went to the back of the Command pig and saw Corporal 33 point his gun at the Rossville Flats balcony. Heard rubber bullets fired. Remained in vicinity of the Command Vehicle. Ran across to Kells Walk **on his own** and saw INQ1694 along with other members of the Anti-tank Platoon. Saw the Paras there fire 2 shots at the barricade. CSM202 did not see any gunmen on the barricade but he was satisfied if INQ1634 told him there was. Saw Colonel Wilford run to the low wall as he ran back towards the Command Pig. Loden was at the Command pig and told him that they needed to get cover and they got inside the pig and moved the pig to the north end of Block1. Remained at the pig until the company withdrew back towards William Street.	No.

[1] N.B. We do not yet have a statement from the driver of the Command pig. When we receive same this report will be updated.
[2] This was mentioned for the first time in his Eversheds statement **B2283.007**

Corporal 33	Signaller	Unclear (probably the rear)	Debussed from pig in Rossville Street. Then arrested a man taking him back to the ACV. Then came under fire from a Thompson SMG (20-25 shots) at the corner of Eden Place and Rossville Street. Present with Loden and another soldier (possibly INQ 0627). Did not see gunman. Saw one person lying dead on the barricade and another beside him waving his arm. A pistol man opened fire from Block1 at ground level. The gunman then opened fire on the man at the barricade.	Yes. Unclear who it is. 33 signed an arrest form for PIRA 1 but he was arrested in GFPN.
L/Cpl 0627	Signaller	Unclear (probably the rear)	Debussed approximately 500 feet north of the Rossville Flats. With Major Loden throughout. Saw numerous petrol bombs explode in the carpark. Came under fire from various weapon from the flats. Later walked around the flats area with Loden and claims to have seen 4 bodies in various unlikely positions[3].	Yes. James Charles Doherty. **ARR15.1**.

AS1 2215

[3] C627.4. These are inside the car park west of the low wall facing Block2; Lying on the east side of Rossville Street level with the Glenfada Park North pram ramp; Carried out of the rear of approximately 34 Chamberlain Street; Lying on the elevated ground outside of Block3.

TABLE 1 (b) – DEPLOYMENT OF FERRET CAR

SOLDIER	ROLE	PLACE IN FERRET	DEPLOYMENT	ARRESTS
Private INQ993	Ferret Driver	Driver	From Barrier 12 to Rossville Street following Command pig and saw Major Loden and CSM 202 debuss. Saw a gunman on the barricade with a rifle which he pointed out to Cpl INQ1826[4]. The gunman "disintegrated with the amount of fire directed at him". Loden warned them not to fire the Browning. Then went back to base.	No
Sgt INQ1822	Escort to Coy Commander	Unclear	Mistakenly believes that the Ferret car was the first vehicle in the convoy. Moved from Barrier 12 to Rossville Street. Scanned Block 3 of the Rossville Flats with the Browning machine gun fitted to the vehicle. The occupants of the Ferret car did not debuss. Returned back to a meeting point with the other Command vehicles.	No
Cpl INQ 1826	Escort to Coy Commander	Radio Operator	Followed Company Commander's pig down Rossville Street. Moved from Barrier 12 to Rossville Street. Stayed with Command Pig and cocked Browning briefly. Then moved to north end of Block 1 of the Rossville Flats. Remained inside the vehicle. No memory of withdrawing from the area.	No

FSI. 2216

[4] Cpl INQ1826 however says "At no time did I see a civilian with a weapon. I did not hear any low velocity gunfire."

TABLE 2 (b) – FERRET CAR - WHEN NON- ARMY SHOTS FIRST HEARD

SOLDIER	DRIVING SOUTH DOWN ROSSVILLE STREET	WHEN STATIONARY IN ROSSVILLE STREET	AFTER DEBUSSED	TYPE
Private INQ 993	No	Yes couple of shots from a rifleman on the barricade.	Occupants of the Ferret car did not debuss	Rifle.
Sgt INQ 1822	No	Heard shots in the distance.	Occupants of the Ferret car did not debuss.	The shots heard in the distance sounded smaller calibre.
Cpl INQ 1826	No	No[1]	Occupants of the Ferret car did not debuss.	None.

FS 1.2217

[1] INQ1826 heard shots from Glenfada Park North that he assumed were civilians only because he did not know that the Army had deployed that far south.

TABLE 2 (a) – COMMAND VEHICLE WHEN SHOTS FIRST HEARD

SOLDIER	BEFORE DEBUSSED	AS DEBUSSED	AFTER DEBUSSED	TYPE
236	No	No	Yes. His signaller (33) told him they struck the ground 20 metres in front of his crew in Rossville Street / Waste ground. Further hostile firing for about 10 minutes when parked at north end of Block 1. After 16.35 "the odd hostile shot".	Approximately 15 rounds of LV automatic fire; Mixture of HV and LV firing.
CSM202	No	No	Yes. Near the Rossville Flats. Did not hear the burst of automatic fire heard by Loden. Later after the cease fire order and the ambulances had arrived.	2 HV Rounds. 2 or 3 HV Rounds.
Corporal 33	No	No	Yes. After coming into contact with the rioters, making an arrest and delivering the prisoner to his ACV . He was with Loden and came under fire from a Thompson SMG from the junction of Blocks2 and 3. 20-25 shots hit the ground nearby. Then saw a pistolman firing from the ground floor of Block1 3 or 4 windows from the end.	Thompson SMG; Pistol
Lance Corporal INQ0627	No	No	Yes. From the Rossville Flats.	A mixture of pistol fire and rifle fire that sounded like 1 handgun and several rifles; inc possibly a pump action weapon.

FS 1. 2218

TABLE 3 - CIVILIAN GUNMEN AND BOMBERS

Soldiers from Command Pig	Saw Civilian with weapon	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
Major 236	No	No	Yes[1]	No	No	No	No	No
CSM 202	No	No	No	No	No	No	No	No
Corporal 33	Yes[2]	No	No	No	No	No	No	No
L/Cpl INQ 0627	No	No	No	No	No	No	Yes[3]	No

Soldiers from Ferret Car	Saw Civilian with weapon	Saw Civilian with nail bomb	Heard Explosion	Heard nail bomb	Saw nail bomb explode	Saw civilian with petrol bomb	Saw petrol bomb explode	Saw civilian with acid bomb
Private INQ 993	Yes	No	No	No	No	No	No	No
Sgt INQ 1822	No	No	No	No	No	No	No	No
Corporal INQ 1826	No	No	No	No	No	No	No	No

CS 1.2219

[1] Mentioned for the first time during his Widgery Evidence but not mentioned previously. **B2258**

[2] Whilst looking at the barricade and seeing one man dead and another waving his arms in the air Corporal 33 saw a pistol man firing from the ground level of Block1 approximately 3 or 4 windows from the end. The gunman then fired at the man behind the barricade. (Reference to Alex Nash.) **B1619**

[3] Lance Corporal INQ 0627 saw "quite a few" petrol bombs explode in the Rossville Flats car park. The area was covered in black smoke. According to him there was also a mixture of pistol and rifle fire from the Rossville Flats. **C627.4**

19. Sector 4

19.1. Introduction and summary of submissions

19.1.1. Four people were shot dead and five people wounded by the Anti-Tank Platoon in sector 4 - Glenfada Park and Abbey Park.

19.1.2. The deceased are Willie McKinney, Jim Wray, Gerard McKinney and Gerard Donaghey. The wounded are Patrick O'Donnell, Joseph Mahon, Joseph Friel, Michael Quinn and Danny Gillespie.

19.1.3. The evidence before this Tribunal makes it abundantly clear that Willie Mc Kinney, Joseph Mahon, Joseph Friel and Patrick O'Donnell along with Jim Wray, Michael Quinn and Danny Gillespie were shot in Glenfada Park North and that Gerard McKinney and Gerard Donaghey were shot in Abbey Park.

19.1.4. In considering the deaths of Jim Wray, Gerard McKinney, Gerard Donaghey and Willie McKinney Lord Widgery said "I deal with the cases of these four deceased together because I find the evidence too confused and too contradictory to make separate consideration possible" **Widgery Report, Page 31, Paragragh 83**

19.1.5. Despite this confusion in the evidence Lord Widgery **was** able to say:

> "it seems to me more probable that the civilians in Glenfada Park were running away than that they were seeking a battle with the soldiers in such a confined space....the balance of probability suggests that at the time when these four men were shot the group of civilians was not acting aggressively and that the shots were fired without justification." **Widgery Report, Page 3, Paragraph 85**

19.1.6. He further concluded that:

"...in Glenfada Park, firing bordered on the reckless." **Widgery Report, Page 38, Paragraph 8**

19.1.7. The evidence shows that a significant number of people made their way into Glenfada Park when Support Company's convoy of vehicles entered the Bogside. Many attempted to leave the area via the various exits out of Glenfada Park, others sheltered there in the belief that soldiers would not come that far down Rossville Street.

19.1.8. It quickly became apparent to those who remained in Glenfada Park that soldiers were firing live rounds and that they were indeed advancing down Rossville Street. Those sheltering at the south gable wall of the eastern block of Glenfada Park North saw what took place at the Rubble Barricade across Rossville Street and also the shooting of Kevin McElhinney as he crawled on the eastern side of the street near the entrance to Block 1. Many of them had seen Michael Kelly shot and brought into the shelter of the gable wall from the Rubble Barricade.

19.1.9. In our submission the evidence clearly shows that at least eight members of the Anti-Tank Platoon entered Glenfada Park from Rossville Street. Those soldiers are Lt 119, Soldiers E, F, G, H, J, 027 and David Longstaff. While it is not entirely clear in which order they entered Glenfada Park the evidence is clear that Soldiers F and G led the way. Soldiers E and G are dead but the others all gave evidence before this Tribunal.

19.1.10. Immediately upon, or very soon after entering the courtyard of Glenfada Park North soldiers opened fire from the north east corner of the car park on people fleeing across the southern end of the courtyard to the alleyway in the south-west corner of the car park which leads into Abbey Park. At least one of the soldiers shot from the hip. A number of the people who were fired on were carrying Michael Kelly across the car park from east to west. Also among the people running across the car park were Jim Wray, Willie McKinney, Joseph Mahon and Joseph Friel.

19.1.11. Soldiers E, F, G and H claim to have fired 29 shots in Glenfada Park.

19.1.12. After the shooting stopped three bodies lay in the car park, on or beside the pavement that runs along the southern end of Glenfada Park North. Trevor McBride's chilling photograph of what the Anti-Tank Platoon left in their wake can be seen at **P439**. The bodies that can be seen in that photograph are William (Willie) McKinney, Joseph Mahon and Jim Wray. Only Joseph Mahon survived.

19.1.13. Soldiers F and G then made their way south into Glenfada Park North – Soldier F along the eastern side of the car park and Soldier G along the western side - from where Soldier F opened fire across Rossville Street along Block 1 of the Rossville Flats and Soldier G entered the alleyway which leads to Abbey Park and opened fire, killing Gerard McKinney and Gerard Donaghey. There is a large body of photographic evidence that shows clearly that Gerry McKinney fell and was treated on the shallow steps just inside Abbey Park.

19.1.14. After the shooting finished a number of people who had remained at the south gable wall of the eastern block were arrested and marched in a northerly direction through Columbcille Court to transport that conveyed them to Fort George.

19.1.15. There is little photographic evidence available as to what took place in Glenfada Park. Such evidence as exists does not show the actions of soldiers in sector 4. The same is true in relation to the events in Abbey Park.

19.1.16. The civilian evidence relating to sector 4, although confused in parts, is clear as to what took place there. The military evidence on the other

hand, relying as it did on the statements made by the soldiers in 1972[1] was far from credible.

19.1.17. In our submission, the evidence supports the following conclusions:

i) All of the deceased and injured in Sector 4 were shot by members of the Anti-Tank Platoon;

ii) All of the deceased and injured in Sector 4 were unarmed when shot;

iii) They were shot deliberately - not accidentally - and without any justification;

iv) None of the deceased or injured had handled a gun or bomb at any time on Bloody Sunday. None of the deceased or injured had acted in support of any person handling or using a gun or bomb at any time on Bloody Sunday;

v) None of the deceased or injured was doing anything at the time they were shot which would have led the soldiers responsible for shooting them to believe that they posed a threat of any kind;

vi) None of the deceased or injured was in the vicinity of civilian gunmen or bombers when shot. Nothing was taking place in the vicinity of the deceased or injured at the time they were shot which would have led the soldiers to believe that their lives or those of their colleagues were at risk;

vii) None of the deceased or injured was shot in crossfire or in the course of a 'gun-battle' with civilian gunmen;

viii) There was no 'gun battle' and no 'exchange of fire' as alleged by the soldiers;

ix) There are no "missing casualties" - all of the persons killed and injured in Sector 4 have been accounted for;

x) All of the civilians arrested in Sector 4 were arrested unlawfully and without justification;

xi) Soldiers may have fired more rounds than they accounted for.

[1] Except of course for David Longstaff who did not make any written statement before making one to this

19.1.18. The evidence concerning the arrests in this sector is dealt with in Section twenty one. In this section, firstly, we provide an overview of the civilian evidence concerning the events of Sector 4. Secondly, dealing with each of our clients individually, we examine the civilian evidence concerning the circumstances of their shooting as well as the medical and forensic evidence relating thereto. Thirdly, we examine the evidence of the soldiers involved in this sector, i.e. those of Anti-Tank Platoon as well as those soldiers in Observation Posts overlooking the area. Finally, on the basis of the evidence, we shall specifically address the Soldiers' case that civilian gunmen and bombers were present in Sector 4 and that those who were hit were spirited away from the scene.

19.3. Civilian Evidence

19.3.1. Introduction and Summary of Submissions

19.3.1.1. The civilian evidence to the Tribunal is clear that when soldiers arrived in Glenfada Park a number of people were attempting to escape from the area via the southwestern alleyway, which leads to Glenfada Park South and Abbey Park. Among that number were three young men who, in an attempt to make their escape, ran from the eastern side of the car park along the southern end of Glenfada Park in a westerly direction. As this group of people ran they were shot at by soldiers who had entered Glenfada Park North via the northeastern entrance. Three men fell alongside or on the pavement on the south side of Glenfada Park North. They are Willie McKinney, Joseph Mahon and Jim Wray and they can be seen where they fell in the photographs taken by Trevor McBride at **P438** and **P439**. Another young man, Joseph Friel, was struck in the chest by a bullet as he approached the southwest corner of the car park but managed, with the help of others to make it through the exit. A fifth man, Patrick O'Donnell, was wounded in the shoulder as he sheltered behind fences at the

southeastern corner of Glenfada Park North. Michael Quinn was shot in the cheek in the area of the southwestern corner of Glenfada Park North and Danny Gillespie was at the southern end of the car park when a bullet grazed his head.

19.3.1.2. The civilian witnesses who give evidence about what took place in Glenfada Park fall, broadly speaking, into one of a number of categories as follows:

(i) Those who took shelter at the south gable end of the eastern block of Glenfada Park North. Many of these people had views of the rubble barricade and across Rossville Street to Block 1 of the Rossville Flats and also into Glenfada Park North. The people among this group give the best descriptions of the actions of the three men who can be seen in **P439**;

(ii) Those who at some point crossed Glenfada Park from east to west in an attempt to leave the area via Abbey Park (the three men seen in **P439** were doing just that);

(iii) Those who were taking shelter in Glenfada Park itself, either behind cars, in houses or in gardens behind fences.

19.3.1.3. The civilian evidence as to what took place in Glenfada Park North does not provide any support for the version of events given by the soldiers of the Anti-Tank Platoon who fired there. There is no evidence from any civilian witness that suggests that those killed or injured in Glenfada Park or any of them was:

(i) In possession of or throwing a stone towards soldiers when he was shot;

(ii) In possession of or throwing a petrol or nail bomb towards soldiers when he was shot;

(iii) In possession of or pointing a firearm towards soldiers when he was shot;

(iv) In any way acting aggressively or in a hostile manner towards soldiers when he was shot;

(v) In the vicinity of a gunman/bomber when he was shot;

(vi) In the vicinity of someone who may have been mistaken for a gunman/bomber when he was shot;

(vii) In the vicinity of someone who was acting aggressively towards soldiers when he was shot.

19.3.2. The South Gable End of the Eastern Block of Glenfada Park North

19.3.2.1. This group of people provides a number of key witnesses as to what took place in Glenfada Park. Photographs **P428**, **P433**, **P434** and **P435** show this group at various stages before the shooting in Glenfada Park took place. One of the deceased, Willie McKinney, can be seen in P433 (he is marked in the annotated version at **P433.001**).

19.3.2.2. Professor (then Father) Terence O'Keefe was one of the crowd of people at the south gable end of the eastern block of Glenfada Park. He can be seen at **P435** and **P435.001**. In his written evidence to the Tribunal he told of seeing a number of young men shot on Rossville Street while he was at the gable wall and then:

> "four young fellows tried to make a dash across the courtyard of Glenfada Park. A crowd stopped one youth from going by holding on to him but the other three dashed across the courtyard and there were more shots and they fell. All three of them fell. They all fell more or less at the same time. Two fell in the courtyard itself. One fell with his body halfway onto the pavement which runs at the edge of the maisonettes. Again I'm certain that these young fellows weren't carrying arms and they were running in a direction which seemed to be away from the troops" **H21.11 paragraph 19**

19.3.2.3. Giving evidence to this Tribunal he described:

"four youths, all of whom were extremely upset. We, or the crowd, managed to restrain one young person, but the other three ran across Glenfada Park." **Day 127/109/6 to Day 127/109/9**

19.3.2.4. At the time the three young men ran out Professor O'Keefe thought that there were less people at the gable wall than are shown in **P428**, perhaps 25 to 30. At the time they ran out he was not conscious of anything going on in the car park or of people milling about in the car park **Day 127/120/4 to Day 127/120/15**. When shown **P438** Professor O'Keefe confirmed that the scene depicted in that photograph is very close to his recollection of how the three men who ran across fell. **Day 127/121/16 to Day 127/121/25**

19.3.2.4.1. Professor O'Keefe was clear that he was not conscious of nor did he see or get any impression of any hostile activity in the car park from civilians. He did not see anyone with weapons or firearms or anything that appeared to be weapons or firearms nor did he hear any explosions: **Day 127/122/21 to Day 127/123/5**

"Can you say, as the three people that you saw made their way across, were there other people about, near or adjacent to them, at the time?

A. I no longer have any memory of there being people in that top alleyway to which the young men were running. If anything, my memory is that the alleyway was empty.

Q. And I think your evidence to this Tribunal, and also when you gave your Widgery evidence...you were being questioned by Mr Stocker and you were asked

"Question: Were any of these three men, as far as you could see, armed in any way?

"Answer: No, I am quite positive they were not armed, they were not carrying guns. What they were carrying in their pockets I have no idea, but I am quite positive they were not

carrying guns in their hands and I presume they were not carrying any offensive weapons at all. They were in fact running away from where they thought the soldiers would have been, I think"

That is still your evidence?

A. Yes it is. I was being very scrupulous there in saying that since I could not tell what they had in their pockets. I should say that, but certainly that paragraph is my present recollection as well as my recollection then.

Q. As they made their way across in the direction of the other alleyway, did you see them do anything at all which would have justified them being shot?

A. No my memory was they were running and as they ran, they fell.

Q. The case which has been made by the soldiers in this case is that the soldiers who fired reacted reasonably to mob violence and to the use of lethal force against them, that is the case that is being made on behalf of the soldiers in respect of all the killings and the wounded. Was that your impression of what you saw that day?

A. No, I think my impression is contained in that answer."

Day 127/155/2 to Day 127/156/21

19.3.2.5. Giving evidence Professor O'Keefe was clear that when the three men were running across the square he could not see anybody else in the square. **Day 127/178/3 to Day 127/178/6** While he did not see who shot the men or even soldiers shooting he was conscious that the shots he heard were "recognisably different" from the shots he had heard from the Rossville Street direction and that they were coming from Glenfada Park. **Day 127/178/7 to Day 127/178/12**

19.3.2.6. While Professor O'Keefe admitted that because of his position he does not believe he would have seen more of the Glenfada Park car park than is shown in **P428**, **Day 127/177/5 to Day 127/177/7** and that

what he describes is a brief sighting of an event over 10 seconds or so **Day 127/176/19 to Day 127/176/22** he was a clear, impressive and thoughtful witness to this Tribunal. His evidence about what happened in Glenfada Park has been consistent over the years and is supported by other civilian evidence and the photographs at **P438** and **P439**.

19.3.2.7. Professor O'Keefe was one of those arrested from Glenfada Park and taken to Fort George as to which see **ARR50.1 to ARR50.4**. He has described how soldiers arrived at the gable wall from inside Glenfada Park after the shooting had finished. Giving evidence to this Tribunal he said that they appeared to be pumped up with adrenalin and very aggressive. **H21.48 paragraph 19**

19.3.2.8. Professor O'Keefe also gave evidence that he requested permission from the soldiers to be allowed to attend to the bodies lying in Glenfada Park. This permission was refused crudely by soldiers and he was struck about the body with a rifle. **Day 127/125/19 to Day 127/126/11**

19.3.2.9. Two brothers who also found themselves at the southern gable end of the eastern block of Glenfada Park North are Eamon McAteer and Fergus McAteer.

19.3.2.10. Eamon McAteer has identified himself in photograph **EP23.11**, his marked version appears at **AM41.35**. He describes what took place in Glenfada Park thus:

> "I became conscious of people running in Glenfada Park North, and saw three men from our group run from the gable wall where I was in the direction of the south west exit of Glenfada Park North going into Abbey Park. People were saying, "Don't run" but they did. I think they were frightened and running to get away. They were not doing anything other than trying to make their escape." **AM41.13 paragraph 27**

19.3.2.11. Giving evidence Mr McAteer also indicated that at the time when the three people ran out from the gable end there were less people there than appear in **P428**, **Day 135/20/1 to Day 135/20/6**.

19.3.2.12. His statement goes on to say:

> "I heard three shots "Bang, bang, bang" and two just dropped, one after the other. I do not know what happened to the third one. In the movies people seem to go down dramatically but these men just dropped to the ground. It was very frightening. It was like a grouse or turkey shoot; the men were running at speed but still got shot. It was very precise – bang and down – that sudden. The impression I had is that they were shot from inside Glenfada Park North because I have a memory of hearing people shouting "They're in, they're in"." **AM41.14 paragraph 28**

> "I had the impression that shots were still coming down (north to south) Rossville Street like a stream but the shots fired in Glenfada Park North were more deliberate and more selective." **AM41.14 paragraph 29**

> "I cannot describe the three men as they were running or the bodies that I saw on the ground. Each just looked like a single bundle. A lot of people wore jackets then and these just looked like young fellows in jackets. I was conscious of one furthest away from me...lying half on and half off the pavement with another man...lying just behind him....I don't know what happened to the third person. I saw it happen, I knew what happened but I cannot recall the detail." **AM41.14 paragraph 30**

19.3.2.13. Shown **P438** he said "I only recall seeing two bodies, but when the people actually ran from our group and then the shots occurred I felt as if three people went down, three positive single shots. Although I may have scanned the area, my eyes became fixed on one particular body." **Day 135/20/24 to Day 135/21/4**

19.3.2.14. When asked if he had seen any sign of hostile activity in Glenfada Park and then if he had seen anyone with a weapon Mr McAteer said "There were people hurrying to and fro, I did not see any bombs or weapons or any such things." **Day 135/21/19 to Day 135/21/25**

19.3.2.15. Eamon McAteer's brother Fergus was also at the southern gable wall of the eastern block of Glenfada Park North. He describes the group of people there as "very frightened, terrified, people, isolated..." **Day 168/56/20 to Day 168/56/21** In 1972 he described what he saw there thus:

> "Suddenly three men dashed away from my right along the footpath in Glenfada Park. They had only got a few yards away from me when there was a burst of firing which came from the other end of Glenfada Park. The three men fell. I could see two of them clearly lying on the footpath." **AM42.1**

19.3.2.16. He then said:

> "I thought at first that they had thrown themselves on the ground for protection. As they did not get up I looked harder. They were still. They did not move at all. I realised then that they had been shot. No one went to their aid. As they lay there, I could not see any gun or weapon about them. They had been shot while in flight. No one reached the men before the troops did." **AM42.2**

19.3.2.17. Mr McAteer confirmed this account in his statement to this Tribunal **AM42.9 paragraph 30 to 31**. Giving oral evidence he admitted that when this group of three men first caught his eye they were already running so he did not know where they had originally come from **Day 168/65/6 to Day 168/65/9**.

19.3.2.18. He said that, aside from that group of three men he was not aware of others running in the same direction **Day 168/65/20 to Day 168/65/23**. When shown **P439** Mr McAteer indicated that the position of the bodies in that photograph approximated to the position where he saw the men fall in Glenfada Park **Day 168/66/16 to Day 168/66/22**.

19.3.2.19. When asked if he was aware of any hostile or potentially hostile activity in Glenfada Park as the men ran across the south side of the car park Mr McAteer was clear:

> "None at all, absolutely none. I mean again all I saw are people either sheltering with me at the gable wall or people trying to exit the area with the increasing amount of gunfire that seemed to be, maybe on reflection, trained on some spots...So all of the people in my picture, all of the people at the gable wall and in front of me, or if they were there, wherever the voices were coming from were all people desperate to shelter and people trying to get out of the way." **Day 168/67/4 to Day 168/67/15**

19.3.2.20. Giving oral evidence Fergus McAteer, like Professor O'Keefe, indicated that " the burst of fire in Glenfada Park that I associated with the shooting of the three people who had run in front of me was in some ways qualitatively or distinctly different for me, because it was so close." **Day 168/58/23 to Day 168/59/2**

19.3.2.21. Mr McAteer then described how soldiers appeared at the gable wall from inside Glenfada Park. They were, he says "...terribly agitated

and excited. They were yelling and shouting and acting rather weirdly. They seemed to be crazed. Their manner and demeanour was very frightening. Perhaps they were intentionally trying to scare us, but they seemed strange and almost wild" **AM42.10 paragraph 33**. His abiding impression was the "conduct and state that they seemed to be in when they appeared around the corner." **Day 168/69/4 to Day 168/69/5**.

19.3.2.22. Mr McAteer also indicated that when the soldiers came around the corner "to my knowledge and in my vision there was no-one else anywhere. I cannot even recall, there were no voices or anything...We were simply the isolated group in the gable wall itself and there was to, again my best recollection, no one near or opposite or down at the southwest corner. There may have been people hiding in the gardens with the wooden fences or taking shelter, but I saw no-one and I did make the point that I was one of the first then taken from the gable wall under arrest." **Day 168/82/19 to Day 168/83/4**.

19.3.2.23. This version of events is very similar to that given by James Kelly who in 1972 said, "...I saw three youths make a dash for a safer refuge in the Glenfada Park area. They were shot, either dead or wounded (personally I think they were dead). At that moment troops from the 1st Parachute Regiment appeared and I am of the opinion, I can't swear to it, that these were the troops responsible" **AK12.1**. In his statement to this Tribunal Mr Kelly confirmed that he was at the southern gable wall of the eastern block of Glenfada Park North with a number of other people:

> "All of a sudden Jim Wray, who was wearing a woolly hat and a black jacket...made a dash for it across the square with two other men...They all seemed to fall at the same time and were lying quite close together. They appeared to be dead. I can't say whether I actually saw them being shot, or heard the shots that killed them as there were so many shots being fired

at the time, but I remember seeing all three bodies lying close together and I took it that they had been shot. All three were just running away; there was nothing antagonistic about their actions, nor were they waving their arms or throwing anything. They had no weapons or bombs that I could see." **AK12.4 paragraph 17**

19.3.2.24. Giving evidence to this Tribunal Mr Kelly indicated that he believed that the shots fired at the three men were fired from the William Street end of Glenfada Park **Day 145/31/12 to Day 145/31/17**. Having seen these men fall Mr Kelly's recollection is that he moved around the western corner of the gable end to see who had shot them **Day 145/32/6 to Day 145/32/10**. At that point he was confronted by a soldier who he believed was called "Falstaff" but now knows to be David Longstaff **Day 145/32/11 to Day 145/32/19**.

19.3.2.25. In his 1972 account Mr Kelly also indicated "Two priests were in my company at that time and despite repeated protests they were refused permission to treat the wounded." **AK12.33**. While Mr Kelly initially only remembered Fr Bradley (as he then was) being present, when shown photographs he recalled that the second priest was Fr O'Keefe **Day 145/44/24 to Day 145/45/11**.

19.3.2.26. Giving evidence to Lord Widgery Fr O'Keefe (as he then was) indicated that the boy who was prevented by the group from running out across Glenfada Park with the other three had red hair **H21.62D**. This was Patrick "Ginger" McGinley. He gave evidence to the Tribunal on Day 425. Mr McGinley indicated that he was one of a group of four young men at the gable wall who decided to make a run for it across Glenfada Park North into the alleyway at the **north east** corner of Glenfada Park South **AM 241. 4 paragraph 22**, (emphasis added). The other three boys made a dash for it but someone caught Mr McGinley from behind, around his neck. Mr McGinley at first

thought it was a policeman but it was in fact Barry Liddy **AM 241.4 paragraph 22**. This account is confirmed by Mr Liddy:

> "Members of the Paratroop Regiment who were at this time in Glenfada Park. On seeing this some of the crowd who were with me started to run for some safer (?) place. I managed to get hold of one lad and pleaded with him not to run, as he would be shot. Some of the people ran up an alleyway facing us and got away, but some other people ran in a different direction these people were shot at. Three of these lads fell, and again I found out they were shot dead." **AL13.8**

19.3.2.27. Mr McGinley then described one of the three boys who had run out in front of him crumple to the floor less than 20 feet away near a gate and a wooden fence. Mr McGinley went back to the area recently but cannot now locate the fence **AM241. 4 paragraph 23**.

19.3.2.28. Mr McGinley is not sure if the other 2 boys were shot **AM241. 4 paragraph 23**. In his 1972 statement however he said "There were three young fellows across from us, they went to run and they were shot down." **AM241.10** When this was brought to his attention the witness said "One fella crumpled and the other two fell forward as though diving for cover" **AM 241.8 paragraph 47**.

19.3.2.29. Mr McGinley did not have time to see what happened to the boy who was shot as soldiers then appeared at the corner of the gable wall. He was arrested and taken to Fort George **AM 241. 5 paragraph 24**. His 1972 statement says that he saw the soldiers before the three boys ran out **AM 241.10** but he now says that he remembers the soldiers arriving after this happened **AM 241. 8 paragraph 48**.

19.3.2.30. Giving evidence to this Tribunal Mr McGinley was "more or less certain" that the group of boys including him tried to run for the **north east** corner of Glenfada Park **South Day 425/141/20 to Day**

425/141/22. He thought it was more likely to have been this alleyway than that leading into Abbey Park **Day 425/145/1 to Day 425/145/6**. However when the evidence of his friend Myles O'Hagan was put to Mr McGinley he indicated that Mr O'Hagan could be right when he said that the group that ran out into Glenfada Park were running towards the south west alleyway into Abbey Park. **Day 425/147/2**

19.3.2.31. Myles O'Hagan also gave evidence to this Tribunal. He indicated that he had made his way to the Rubble Barricade and then into Glenfada Park North where he stood in the area of the south end of the car park. There were about 20 people there with him, just milling around **AO43.2 paragraph 15**. He remembers hearing someone shouting, "The Brits are coming back up" and "Stand your ground" **AO43.2 paragraph 15**.

19.3.2.32. Mr O'Hagan believes shooting must have started then and he ran to the south gable end of the eastern block of Glenfada Park North. He got in tight against the wall with the other people who were in Glenfada Park North. He does not remember the shooting starting, but from the position they took believes it must have been coming from the north. Giving oral evidence he was clear that the shooting was coming from the Kells Walk direction **AO43.3 paragraph 16**, **Day 388/102/18**. Mr O'Hagan could not identify the type of shooting **Day 388/102/11**.

19.3.2.33. Mr O'Hagan then saw some people try to run west towards the alley between Glenfada Park North and Glenfada Park South which leads into Abbey Park **AO43.3 paragraph 17**. He knew one of the people to be Patrick McGinley. Mr McGinley tried to run towards the alleyway but someone shouted at him and he ran back towards the gable **AO43.3 paragraph 17**. While Mr O'Hagan understands that people were shot in this area he has no memory of seeing it **AO43.3 paragraph 20**.

19.3.2.34. Mr O'Hagan then said that a soldier appeared right beside him and that the soldier must have come from inside Glenfada Park North. He was followed by about 20 other soldiers who appeared out of the blue. There were about 20 people there and all were arrested **AO43.3 paragraph 21**; **Day 388/104/4**.

19.3.2.35. James Patrick McNulty, another of those arrested at the gable wall **ARR43.1 to ARR43.3**, gave evidence that he thought that the three men who were shot in Glenfada Park North had also been at the southern gable end of the eastern block of Glenfada Park North **Day 152/4/2 to Day 154/4/14**.

19.3.2.36. Mr McNulty's evidence was that they fell down separately but quite quickly after one another and almost at the same time and that they fell in a row almost parallel with the length of the northeast block of Glenfada Park south. When he was shown the photograph that appears at **P438** Mr McNulty indicated that that is roughly how he remembers the three men lying after they had been shot **AM377.2 paragraph 10**

19.3.2.37. Mr McNulty indicated that he remembered shots being fired at the men but does not remember how many there were. He was facing west at the time and he thought that the shots came from his right from inside Glenfada Park North **Day 152/7/10 to Day 152/8/2**.

19.3.2.38. At the time they fell Mr McNulty believed that the three men had been shot **Day 152/8/3 to Day 152/8/8**. While it appears that Mr McNulty may now be confused about some aspects of his evidence such as his own actions[2] the statement he made in 1972 is clear about the three men who fell in Glenfada Park. There he describes three fellows making a break for it towards the Stardust (i.e. in the direction of the

[2]Mr McNulty now indicates that he himself started to run across Glenfada Park but turned back. The statement made by him in 1972 indicates however that he considered "making a break for it" but he did not actually do so. When asked about this giving oral evidence Mr McNulty was clear that he had run out and turned back because of the shooting **Day 152/25/11 to Day 152/25/12**.

alleyway in the south west corner of Glenfada Park). The statement then states that Mr McNulty heard more shots and all three fell one after the other before they reached the opening they were heading for **AM 377.8**. Giving evidence Mr McNulty indicated that he thought the statements he made at the time would be the most reliable **Day 152/41/4 to Day 152/41/7**.

19.3.2.39. When Soldier E's account of a "full scale riot" going on in Glenfada Park was put to Mr McNulty he commented "He is lying, there were no rioting then" **Day 152/31/8**. He also gave evidence to the effect that he had not heard any nail bombs or seen anybody in Glenfada Park with weapons. Mr McNulty also indicated that he did not see anybody in Glenfada Park who posed a risk to soldiers **Day 152/31/11 to Day 152/32/8**.

19.3.2.40. The questioning of Mr McNulty is worthy of note for what it reveals about the case being made by those acting on behalf of the soldiers who were present in Glenfada Park. Peter Clarke QC suggested the following to Mr McNulty:

(i) "there was not so much a riot, but there was a great crowd of people in the car park when that soldier arrived; was there not" **Day 152/47/1 to Day 152/47/3;**

(ii) "The soldiers come into that car park and those three men are shot amongst a large group of people who are making for the southwest corner.." **Day 152/49/1 to Day 152/49/3;**

(iii) the three men were "surrounded by many other people" when they were shot **Day 152/49/23;**

19.3.2.41. Mr McNulty did not agree with these suggestions **Day 152/49/24 to Day 152/50/1**. In our submissions they are not substantiated by either the civilian or military evidence relating to Glenfada Park.

19.3.2.42. Another witness who gave a similar version of events is Denis Patrick McLaughlin. Mr McLaughlin was also at the gable wall and is the man with the distinctive trousers who is marked in **P435.001**. Mr McLaughlin says that he saw a group of 4 people who were standing furthest away from Rossville Street. He thinks that they had a better view of the soldiers approaching and made a run for it across the courtyard of Glenfada Park North towards the south west corner **AM326.6 paragraph 23**. Mr McLaughlin says that there were about 3-5 boys who ran but he cannot really remember anything about them as he was in a complete state given what he had seen happen on the rubble barricade **AM326.6 paragraph 23**.

19.3.2.43. Mr McLaughlin then says he heard one soldier shout "stop or I'll shoot". That soldier lifted his rifle to his shoulder but did not sight it and shot in quick succession, rapid fire. Mr McLaughlin saw one of the boys who was running fall along the southern side of Glenfada Park North. One of the boys, Patrick McGinley, came back with his hands on his head **AM326.6 paragraph 23**. Mr McLaughlin indicates that within seconds other soldiers arrived from the Glenfada Park North courtyard **AM326.7 paragraph 24**.

19.3.2.44. Mr McLaughlin's evidence is somewhat confused as to whether he saw the boys shot before or after he saw soldiers. Giving oral evidence the witness indicated that the group of four made a run for it before the soldiers reached the gable end **Day 159/42/14**. The witness marked with a red square the area in which the first soldier was when he fired **AM326.37**, **Day 159/43/2 to Day 159/48/19**. Mr McLaughlin is quite clear that the man he saw shot in Glenfada Park North was not carrying or throwing anything **AM326.9 paragraph 34**.

19.3.3. Running Across the Car Park

19.3.3.1. The second of the above mentioned groups of people are those who attempted to escape from Glenfada Park North by crossing the car park

from east to west towards the alleyway that leads into Abbey Park. Some people can be seen doing this in **P428**.

19.3.3.2. These people were best placed to see the soldiers, how and where they entered Glenfada Park North and what they did upon entry, including the shots they fired. Perhaps of most significance in this category, the Tribunal has the evidence of a number of those injured in Glenfada Park as to what happened there on that day.

19.3.3.3. Joseph Mahon was shot and injured in Glenfada Park North on Bloody Sunday. He is one of those who can be seen in **P439**. He is the figure lying closest to the fencing at the southern end of Glenfada Park. Mr Mahon, who was an impressive witness and was visibly moved on a number of occasions throughout his testimony, told of how he was standing just at the footpath at the north eastern corner of Glenfada Park South when the soldiers entered Glenfada Park North. He describes a group of four or five soldiers entering Glenfada Park North from the north eastern entrance **AM18.2 paragraph 12**. One of the soldiers, who wore a distinctive jacket, fired a number of shots from the hip. This soldier came in first and was followed by at least three or four others **AM18.2 paragraph 12**.

19.3.3.4. Mr Mahon then said that he ran from where he was standing on the eastern side of Glenfada Park towards the gap between Glenfada Park North and Glenfada Park South, banging on the fences of the houses on the southern side of the courtyard as he ran to see if any were open for him to take cover **AM18.2 paragraph 12**.

19.3.3.5. Mr Mahon says that he had run perhaps twenty or thirty yards when something hit him. He fell to the ground and lay sprawled on his stomach on the pavement with his head pointing towards the alleyway between Glenfada Park North and Glenfada Park South and his feet pointing back towards the Rossville Flats **AM18.3 paragraph 13**.

19.3.3.6. Mr Mahon also describes two other bodies lying near to him. One was two or three feet behind him and to his right, lying just to the north of the pavement. He was also lying on his stomach with his face in Mr Mahon's direction. He wore glasses and a heavy dark coat. The man was still alive and called out "I'm hit – I'm hit!". Mr Mahon now knows this man to be William McKinney. **AM18.3 paragraph 14**. The second body was in front of him and he now knows it to be Jim Wray **AM18.3 paragraph 15**.

19.3.3.7. Joseph Friel is another of the wounded who was shot in Glenfada Park North. He now remembers cowering down behind the cars which can be seen parked in the southeastern corner of Glenfada Park North in **P428 Day 155/53/20 to Day 155/55/13**. At that stage he indicated that he could not really see what was going on in the body of the car park, the only thing he was aware of was people milling about on the footpath along the back fence - "nothing untoward" **Day 155/55/16 to Day 155/55/20**.

19.3.3.8. At one stage Mr Friel, along with a number of others in that area, ran towards the exit in the southwest corner of Glenfada Park. When he was about eight to ten feet away from the alleyway he heard a shout from someone he now knows to have been Gregory Wilde and he turned and looked over his right shoulder **AF34.2 paragraphs 14 to 15**. He saw soldiers about five or six feet into Glenfada Park coming from the northeastern corner. Mr Friel describes one soldier at the front with two or three others right behind him. The soldier in front was moving forward with his gun in front of him at just above waist height and was moving it from side to side. He was firing randomly **AF34.3 paragraph 16**. Mr Friel was then shot.

19.3.3.9. Giving evidence Mr Friel indicated that when he was running across Glenfada Park South and was fairly close to the alleyway there were perhaps six or seven people in front of him **Day 155/113/10 to Day 155/113/18**. He confirmed that when he saw the soldiers there was no

one else between him and the soldiers "...There was a direct line. I could see directly over towards the soldier..." **Day 155/76/9 to Day 155/76/10**.

19.3.3.10. He further indicated that the soldier who fired had his gun halfway between his waist and his arm **Day 155/59/13 to Day 155/59/21** and that the memory of that soldier "firing from the hip" is one of the few memories that is "totally crystal clear because, as I said, I came that close to being killed, that could have been my last vision on this entire earth" **Day 155/116/1 to Day 155/116/3**.

19.3.3.11. Michael Quinn, another of those wounded in Glenfada Park North took shelter in Glenfada Park North after hearing shots on Rossville Street. Once inside Glenfada Park North he moved for safety up to the middle of the eastern block. He has indicated that there were few people in the area at this stage and that all those present appeared to be passing through **Day 169/67/12 to Day 169/67/14**. He has further stated that after the shooting of Michael Kelly, crowds began flooding into courtyard although he had no recollection of a bottleneck in the alleyway **Day 169/86/17 to Day 169/87/8**.

19.3.3.12. Among the group of people running across Glenfada Park are those who carried Michael Kelly from east to west across the car park after he had been attended to at the south gable end of the eastern block of Glenfada Park North. Joseph Donnelly was one of that group. At **AD124.4 paragraph 17** he described making his way west across Glenfada Park North, when three Paratroopers entered Glenfada Park North from the northeast entrance. The crowd carrying Michael Kelly almost dropped him in panic at the sight of the soldiers. At **AD124.4 paragraph 18** Mr Donnelly indicated that he noticed one of the soldiers was taking up a firing position. He was kneeling on the ground with his rifle at his shoulder and was aiming towards them. The two other soldiers had their rifles at waist height. All three soldiers fired shots at the crowd. He thought that the soldiers who had weapons at

waist height had, roughly, only a 20% chance of hitting him, but he was afraid of the third soldier who knelt down. He confirmed that he thought the three soldiers were firing at them since the sound came from the three of them. **Day 128/99/20 to Day 128/99/25**

19.3.3.13. At **AD124 paragraph 19** Mr Donnelly described the scene thus:

> "I ran across Glenfada Park North towards the entrance to Abbey Park carrying Michael. Paddy was running beside me to my right and Michael's brother-in-law, George Downey, ran in front of us. I am sure that had there not been so many people in Glenfada Park North the soldiers would have had a clear shot at me and I am in no doubt that I would have been fired at. As it was bullets were flying past me and hitting the wooden fence, which was splintering. The soldiers seemed absolutely determined to hit someone. I was in no doubt that I was running for my life". The witness confirmed that there was no threat to the soldiers or anyone apart from a soldier with a firearm. **Day 128/100/8 to Day 128/100/10**

19.3.3.14. Another of this group, Paddy Doherty, confirmed that he had been in Glenfada Park North with Mr Donnelly and assisted with carrying Michael Kelly. After the shooting began people scattered, leaving about three of them, who continued to take Michael Kelly to a house in Abbey Park. He heard the shooting but did not see the soldiers himself. He was running for his life. **AD97.3 paragraphs 7 to 11** and **Day 157/159/7 to Day 157/160/5**.

19.3.3.15. Pearse McCall described running to the southern gable end of the eastern block of Glenfada Park North as soon as live shots were fired. He said there were about fifteen to sixteen people sheltering there. From his position he could see people sheltering behind fences of houses in Glenfada Park North **AM93.3 paragraph 12**.

19.3.3.16. He then went on to describe picking up another body, which he recently found out was the body of Michael Kelly. They each took hold of one of his legs and possibly his shoulder and carried him from the Rubble Barricade west toward and through the Glenfada Park North car park. He saw the bullet entry wound in his abdomen and he recalled the clothing on his back felt very wet. The witness identified himself in the photograph which shows him helping to carry Michael Kelly west through the Glenfada Park car park **EP27.10**. He identified himself as the man without a beard, whose face is facing the cameraman. **AM93.3 paragraph 13**

19.3.3.17. At **AM93.3 paragraph 15** Mr McCall described how, when they reached a point just before the southwest entrance to the alleyway leading into Abbey Park he looked up and saw two soldiers sauntering into the car park from the direction of Rossville Street through the alleyway at the northeast corner of Glenfada Park North. They were both tall soldiers, approximately the same height. The witness believes that they may have been wearing face paint but he may be wrong about this. He was unsure if they had facial hair or what they were wearing on their heads, although they may have been wearing helmets with the visors raised. The soldier on the left was holding his rifle at his chest in a very casual fashion "like John Wayne". The soldier on his right was holding his rifle higher up. The witness did not see them shoot, but had no doubt in his mind that they were about to start shooting. As soon as he saw the soldier, he believes he must have either dropped Michael Kelly on the ground or put him down somewhere in the car park. He and Seamus Friel started to run towards the northwest corner of Glenfada Park North. Mr McCall was unsure where the other person who had helped him to carry Michael Kelly was. The gunfire started almost immediately and he recognised different types of gunfire and the distinct crack of Army rifle fire.

19.3.3.18. Gregory Wild who was fourteen years old at the time of Bloody Sunday has made a statement to this Tribunal. In that statement he describes how he would not be willing to give oral evidence to the Tribunal due to the pain and distress that it would cause him **AW15.10 paragraph 31**. That Mr Wild's distress is genuine and heartfelt is obvious from the terms of his statement **AW15.10 paragraphs 30 to 31**.

19.3.3.19. Mr Wild's evidence is important however. He describes how when he went into Glenfada Park North he thought he was in a safe, enclosed area away from the riot and trouble. He says that at that stage there was a "crowd of us in the car park just milling around." **AW15.6 paragraph 9**.

19.3.3.20. As the crowd was milling around he saw a soldier standing in the north west corner of Glenfada Park and another standing in the north east corner **AW15.6 paragraph 10**. He says the soldier at the northeast corner of the car park:

> "had the standard issue SLR. He was holding it with both hands with the butt of the gun at his hip and the barrel of the gun leaning against the wall of the wheelchair ramp which was in front of him. I don't know if anyone else saw this guy at the same time as me, but the minute I saw him I shouted "there's a limey!" or something to that effect. I shouted as a natural reaction and at the same second as I shouted I started running to the southwest corner at the exit to Abbey Park. It seemed like everyone else started running as well." **AW 15.6 paragraph 11**

19.3.3.21. Mr Wild says "everyone was running for their lives in sheer panic." He says that it seemed as though in the same second that he shouted "there's a limey", the soldier started firing with his gun resting casually

on the wall. He was standing still and firing and Mr Wild thinks he fired two or three shots in all **AW15.6 paragraph 12**.

19.3.3.22. Mr Wild says that as he exited the south west corner of Glenfada Park North "the sound of gunfire from the army really started to increase. It seemed that things really kicked off then." **AW15.7 paragraph 13**

19.3.3.23. The material elements of Mr Wild's statement to this Tribunal also appeared in the note made by Peter Pringle which appears at **AW15.12 to AW15.13** and is dated April 6. Mr Pringle has commented that Mr Wild "is very bright, good witness, in spite of his age. also very articulate". Mr Wild agreed with most of the content of that note but confirmed that his recollection is of seeing soldiers in both of the northern corners of Glenfada Park whereas Mr Pringle's note only mentions the one he saw in the north eastern corner **AW15.9 paragraph 27**.

19.3.3.24. Paul Coyle's written evidence, confirmed when he testified to the Tribunal, was:

> "As I was running I came into the Glenfada Park courtyard and looked to my right where, I noticed two paras entering Glenfada Park North from the north east entrance. There were two or three people in front of me running in the same direction at the time and there could have been some people behind me. Their faces were blackened or they were wearing gas masks and they were carrying SLR rifles. I only glanced at the soldiers but I remember that the two soldiers stood side by side and began firing their weapons at us from the hip. I put my head down and ran as fast as I could to the southwestern exit. I have a vague recollection of jumping over somebody in front of me who had fallen to the ground....In all, the soldiers fired between 10 and 20 shots at us as we ran across the courtyard." **AC105.7 paragraph 14**

19.3.3.25. When he gave evidence the following exchange took place:

"were you aware of anyone who looked as if they were getting ready to throw something at the army, at the soldiers?
A.No
Q. In the time that you were in Glenfada Park North, were you aware of anyone who looked as if they were getting ready to engage with the army?
A. Absolutely not.
Q. Were you aware of anybody carrying anything that might have looked like a weapon?
A. No" **Day 152/76/16 to Day 152/77/2**

19.3.3.26. Mr Coyle also made the following comments about the numbers and location of people in Glenfada Park while he was there:

(i) As he ran out of the south western exit into Abbey Park he had "no recollection whatsoever of there being any people to his right as he looked towards the soldiers." **Day 152/86/18 to Day 152/86/21**

(ii) "When I left that gable and looked to my right there was nobody in Glenfada Park except two soldiers stepped into an alleyway and started firing from the hip." **Day 152/100/18 to Day 152/100/21**

(iii) "the image you have in your mind is quite a narrow file of people making their escape across the south side of the car park?
A.Correct.
Q. Not 10 abreast?
A.No
Q. Almost in Indian file?

A.No, no, might have been more in a bunch, you know.

Q. More in a bunch?

A.Yeah. My biggest fear was tripping the person in front of me.

Q. Do you remember colliding with people coming southwards having dropped Michael Kelly's body?

A.No." **Day 152/101/24 to Day 152/102/13**

19.3.3.27. In his statement to this Tribunal Dennis McFeely indicated that he was in Glenfada Park North and walking towards the southwestern exit when somebody shouted "there are the Brits". At this, he turned and saw that two soldiers had come in to the courtyard through the northeastern entrance. The soldiers came out from behind cars parked in the northeastern corner and started shooting from the hip in the direction of the person who had shouted the warning **AM7.9 paragraph 15**.

19.3.3.28. Mr McFeely says that he saw at least three people standing in front of the garden fences of the southern block of Glenfada Park North "The boys appeared to be petrified as the paras came in and began running parallel to the fence, towards the south western exit out of the courtyard. I heard two or three shots, and saw two of the boys fall." **AM7.9 paragraph 16**

19.3.3.29. Mr McFeely says that his "clear memory is of two" soldiers although he has "always believed that there may have been more" **Day 409/105/25 to Day 409/106/1** and that they were shooting from the hip "that is my firm memory that they had their weapons low and at hip level" **Day 409/110/6 to Day 409/110/7**.

19.3.3.30. Mr McFeely also gives evidence that the soldiers had come some way into Glenfada Park when they started to shoot. He says that the soldiers were no more than 12 yards maximum from the people they shot **Day**

409/183/23 to Day 409/183/24. On this point his evidence does not accord with other evidence that the Tribunal has heard.

19.3.3.31. Mr McFeely also says there was a "bottleneck" in the SW corner of Glenfada Park **Day 409/108/17 to Day 409/108/18**. His impression was that the "bottlenecking" was caused by the group carrying Michael Kelly through the alleyway. He did not see that but he thinks it can be the only explanation **Day 409/137/15 to Day 409/137/22**. When shown **P428** he said that there are perhaps more people on the pavement in the photo than he remembers but it is close to the scene that he saw **Day 409/137/12 to Day 409/137/14**.

19.3.3.32. John O'Kane remembers approximately 15 people trying to get through the southwestern exit when he was there **Day 163/18/14 to Day 163/18/17**. He has indicated that at some stage himself and his brother-in-law Gerry McKinney helped to carry a youth across Glenfada Park. In 1972 he said that as they ran through the opening at Glenfada Park "another youth was shot down who was running with us." **AO48.40:**

> "As we dropped the boy, I looked to my right and saw that three paras had entered Glenfada Park North, two via the north eastern entrance and one via the north western entrance. These Paras were wearing battle gear, headgear and visors and were carrying rifles. They were walking towards us, pointing their rifles ... Gerry and I ran with the crowd along the southern block of Glenfada Park North, towards the southwestern exit. The paras were firing, and I could hear the bullets whizzing past my head and hitting the wall to my left. I do not know if all three paras were shooting but I assumed they all were. I would describe the shooting as random rather than specifically aimed and quite heavy. Any one of us could have been shot. When we ran from the Paras we left the boy where he fell... **AO48.3 paragraph 13**.

19.3.3.33. Brendan Harley who was also fourteen years old on Bloody Sunday states that he took shelter in the alleyway at the southwest corner of Glenfada Park North. He was frightened and did not know where to go. He did not notice any soldiers in Glenfada Park North at the time that he was there but did say that at some stage there was a "bottleneck in the south west corner" **AH35.3 paragraph 17**. Giving evidence he confirmed that the scene in **P428** resembles the "bottleneck" to which he was referring **Day 121/139/1 to Day 121/139/13**.

19.3.3.34. George Patrick Hillen also ran towards the alleyway leading to Abbey Park when he heard people shouting, "they are coming, they are coming" **Day 164/30/17 to Day 164/31/1**. There were approximately 40 to 60 people ahead of him in the alleyway trying to get away **AH74.14 paragraph 19**. As he tried to get through the alleyway he saw Jim Wray to his right **AH74.14 paragraph 19**. Mr Hillen says that he looked back into the car park and saw one soldier standing near the car parked to the north-east end of Glenfada Park North lift his gun and aim in his direction **AH74.14 paragraph 20**. At that Jim Wray said 'I'm hit' and fell forwards. Mr Hillen did not see him hit the ground. Mr Hillen has marked the soldier as being just to the north of the central reservation in Glenfada Park when he saw him **AH74.20**.

19.3.3.35. Benn Keaveney has identified himself in a photograph inside Glenfada Park North. This is photograph **P685** which is also found at **AK2.14**. This photograph places Mr Keaveny in Glenfada Park North at a time after Michael Kelly's body is brought into the mouth of the car park from the Rubble Barricade but before the shootings in Glenfada Park itself.

19.3.3.36. Mr Keaveney stated that he saw two soldiers enter Glenfada Park North via the northeast entrance. He thought that one of the soldiers had a Sten gun because he seemed to be firing without aiming. This soldier was kneeling down when he fired **AK2.9 paragraph 38**. The

other soldier fired from a standing position. Giving oral evidence Mr Keaveney confirmed that he did not see a riot of any kind taking place in Glenfada Park North **Day 160/65/9 to Day 160/65/12**.

19.3.3.37. Mr Keaveney then describes a person standing to his right being hit in the face or neck. The person had not been holding anything that looked like a weapon **Day 160/15/20 to Day 160/15/22**. Nor was he running or crouching **Day 160/67/25 to Day 160/68/2**. This person is likely to be Michael Quinn although when shown a photograph of Mr Quinn the witness was unable to say that it was in fact him **AK2.9 paragraph 39**. Mr Keaveney there were about 10-15 persons in this corner of the car park at this time and a further 5-8 persons in the square **Day 160/20/4 to Day 160/20/21**.

19.3.3.38. Mr Keaveney remembers two soldiers moving towards him at the southwest exit. He also saw a soldier move to the area of the gable end at the southeastern end of Glenfada Park North and seemingly fire into the ground **AK2.9 paragraph 42**.

19.3.3.39. Patrick Noel McLaughlin also ran towards the southwest alleyway with a group of people. Just before he reached the southwest exit, he saw 4 or 5 soldiers standing in the northeast alleyway of Glenfada Park North. The soldiers were pointing their rifles in the direction of the group at the southwest exit. He remembers one as being tall and thin. Mr McLaughlin managed to get through the alleyway. About 20 people were trying to get through in front of him **Day 153/105/6 to Day 153/105/17**. A few seconds later he heard 3 or 4 gunshots.

19.3.3.40. Gerry McLaughlin thought that the safest option would be to run through the alley directly in front of him into Glenfada Park South and on over to Lisfannon Park **AM 332.3 paragraph 14**. Before he made a move however a soldier appeared in the gap that he had just come through (i.e. the north east corner). As the soldier appeared he looked over his shoulder in the direction of Rossville St and yelled "here the

bastards are, Sarge" **AM 332.3 paragraph 15**, **Day 162/120/7 to Day 162/120/18**, **Day 162/122/1 to Day 162/122/7**. As the Tribunal knows the Sergeant of the Anti-Tank Platoon was INQ 1694.

19.3.3.41. Mr McLaughlin began to run and others who had been taking cover at the southern gable end of the eastern block of Glenfada Park North ran too **AM 332.3 paragraph 17**. Some people ran in the same direction, others ran to the right (i.e. SW alleyway) **Day 162/122/18 to Day 162/122/24**.

19.3.3.42. Before Mr McLaughlin reached the gap he glanced over his shoulder and caught a fleeting glimpse of possibly four or so helmets of soldiers running into Glenfada Park North at the NE corner. He does not know if more of them were already in Glenfada Park North but he did not stop to look. Mr McLaughlin could hear the sound of gunfire from behind him and it sounded so close he was certain they were firing **AM 332.3 paragraph 18**, **Day 162/124/1 to Day 162/124/16**.

19.3.3.43. Mr McLaughlin did not see anyone shot Glenfada Park although he thinks he heard a shout "I'm hit, I'm hit". This shout seemed to come from his right **AM 332.3 paragraph 19**.

19.3.3.44. He thinks that there were 40-50 people behind him, possibly more **AM 332.3 paragraph 19**, **Day 162/125/5 to Day 162/125/6** and there was a lot of pushing and shoving to get through the alleyway which leads from the south east corner of Glenfada Park North into Glenfada Park South **AM 332.3 paragraph 20**.

19.3.4. Sheltering Elsewhere in Glenfada Park

19.3.4.1. Behind a Car

19.3.4.1.1. Hugh O'Boyle, who has identified himself with an arrow in **AO1.21**, indicates that he hid behind a car in the southeast corner of Glenfada Park (he has circled the car in **AO1.11**). "There was a young boy who was about 12 years old who was also crouched behind the car and I

remember telling him to stay where he was and not to move. There were two or three others crouched behind the same car." **AO1.5 paragraph 25**

19.3.4.1.2. At some point after he crouched behind the car Mr O'Boyle saw three bodies in Glenfada Park:

> "Two of the bodies were lying very close together and were lying face down but leaning on their left sides...and the other body (which was furthest from me) was lying half on the pavement and half on the tarmac of the car park....I did not see these people running but they were definitely not on the ground when I first got behind the car. I remember that all three bodies were just crumpled on the ground. They were all lying face down and their heads were all pointing west towards Abbey Park and their feet were all pointing east towards the Rossville Flats." **AO1.5 paragraph 27**

19.3.4.1.3. Mr O'Boyle then describes how a soldier came into the car park and shouted "hands above your head" and motioned him forward **Day 132/18/12 to Day 132/18/19**. Mr O'Boyle indicated that when the soldier shouted he was in the northeast corner of Glenfada Park (at point K on his map **AO1.18**). He then said that a second soldier entered the car park shouted "do not shoot, do not shoot, press, press" Giving evidence Mr O'Boyle indicated that he was sure about that but that because he was concentrating on these two soldiers there may have been more soldiers in Glenfada Park that he was not aware of **Day 132/19/12 to Day 132/20/19**. Mr O'Boyle estimated that he was behind the car for between 5 and 15 minutes. **Day 132/98/17 to Day 132/98/20**

19.3.4.1.4. Anthony Coll, at the time of Bloody Sunday a fifteen year old schoolboy, may be the young boy to whom Mr O'Boyle was referring. Mr Coll has indicated that he hid behind a car in the southeastern

corner of Glenfada Park North with a number of others **AC84.6 paragraph 16**. He says:

> "While I was behind the car I could hear shooting all the time. I could hear the crack-crack of rifle shots, non-stop. This was the heaviest shooting I ever heard in my life. It went on for 4 or 5 minutes and there was an awful echo. When I had been on the Rubble Barricade, I heard the clear crisp crack of rifle shots, but in Glenfada Park North the sounds were echoing. I assumed that soldiers were at both northern ends of Glenfada Park North, but I did not look to see where they were. Sometimes the shooting seemed to be at a distance and sometimes very near. I cannot say that the soldiers fired in the square, as I didn't see, but I would say that the sounds were echoing and they were different sounds to those that I heard when I was on the Rubble Barricade. They were so intense; I could hear the difference. I was not aware of any bullets hitting the car." **AC84.6 paragraph 17**

19.3.4.1.5. When the shooting stopped Mr Coll describes putting his head up and seeing soldiers advancing towards him. "They were in a line, coming down along the fence and yard on the east of Glenfada Park North. They were spreading out towards the middle of the courtyard as they moved towards me. They were also on the left hand side (west side) of Glenfada North, moving south and again spreading out. They were at both sides and were also cutting into the centre in a pincer movement. This was a deliberate approach. To the left of me were three or four people lying on the ground. I do not know if they were dead or alive, I had not seen them fall..." **AC84.7 paragraph 21**

19.3.4.1.6. When shown **P438** Mr Coll said "I do recognise this scene and I was behind the car. As I have said, I recall two bodies close together but my recollection was of these together with one behind. However my recollection is that there was only one body where there are two shown

on the photograph and two where there is one shown. I did not see them fall and I do not know who they are." **AC84.9 paragraph 39(7)**.

19.3.4.1.7. Another witness, John Devine who did not give oral evidence to the Tribunal also claims to have been hiding behind a car in the southeast corner of Glenfada Park. While his statement to this Tribunal is confused in a number of respects Mr Devine did give two accounts in 1972. One was an interview to Kathleen Keville **AD41.16 to AD41.19** and the other a "NICRA" statement **AD 41.12**. He told Ms Keville:

> "...so I threw myself behind a car and there were three other fellas behind the car too and we got up and run and about 12 paratroopers came in around the back way and opened fire on the three fellas". **AD41.16**

19.3.4.1.8. His "NICRA" statement indicates that:

> "Paratroopers came running round the corner, and in Glenfada Park took aim from about 10-15 yards and I saw them shoot 3 people" **AD41.6**

19.3.4.2. In Back Yards

19.3.4.2.1. John Michael McCourt was one such person. He said that when he entered Glenfada Park North there was "pandemonium" and people were running trying to run through the alleyway in the southwestern corner into Abbey Park **Day 152/137/25 to Day 152/138/4**. Mr McCourt went into the yard of 21 Glenfada Park North, which is on the western side of the park. He pulled a young boy in with him **Day 152/139/22 to Day 152/139/24**.

19.3.4.2.2. Mr McCourt has described how he lay behind the fence and called to people to lie down and stay still. There were some people lying outside the fencing, some lying in the square and some to his right towards the alleyway **Day 152/139/25 to Day 152/140/7**. Mr McCourt

has two vivid memories from the time that he was in the yard. The first is of a soldier in the northeast corner in a kneeling position pointing his gun towards the southeast corner. The second is of soldiers at the southeast corner and people with their hands up against the wall **Day 152/160/15 to Day 152/161/22**.

19.3.5. The View From the Rossville Flats

19.3.5.1. Celine Dunleavy was in 11 Garvan Place (Block 1 of Rossville Flats) looking towards the Rossville Street entrance to Glenfada Park North. Her written evidence to this Tribunal indicated that she saw three men casually walking towards the southwest corner of Glenfada Park North **AD168.3 paragraph 12**. She heard shots fired and the men then lay prone on the ground **AD168.4 paragraph 13**.

19.3.5.2. Ms Dunleavy did accept however that in 1972 she had said that "The crowd started to run from Glenfada Park and I heard gunshots. Three fell" **AD168.5**. She also accepted that this account could be correct **Day 132/177/10 to Day 132/177/19**.

19.3.5.3. Sheila Stewart was also observing from a flat at the North end of Block 2 where she had taken shelter. The window from which the witness was observing was on the west side overlooking Joseph Place but with a view of Glenfada Park North **AS 36.2 paragraph 9**. She looked into Glenfada Park North and saw bodies there. She couldn't see any soldiers or people there. The bodies were all lying on their bellies and were lying with their heads pointing towards the west block of Glenfada Park North. They were not moving **AS36.3 paragraph 14**. Ms Stewart has marked the bodies as lines on a map attached to her statement **AS36.10**. Although these lines are not terribly clear they appear to have been marked in the area of the footpath at the south of Glenfada Park North and in the area of the south west corner.

19.3.6. Other Evidence

19.3.6.1. Numbers and Locations of People in Glenfada Park North

19.3.6.2. Although Julien Daly did not recall seeing anybody injured in Glenfada Park North he did say that there were approximately 12 to 20 people in total in the car park who were running or sheltering but not doing anything else **Day 183/13/5 to Day 183/13/19**.

19.3.6.3. Gerry Doran says that there was pandemonium in the car park and everybody was running in different directions **Day 157/177/7 to Day 157/177/13**. People were climbing into alcoves trying to get out of the way **AD187.3 paragraph 16**. Mr Doran ran across Glenfada Park North from east to west but did not find it difficult to push past any people to get through the alleyway **Day 157/184/9 to Day 157/184/13**. He did not see soldiers in Glenfada Park but the "general message was coming across that the army were in that area at that time" **Day 157/184/17 to Day 157/184/20**.

19.3.6.4. Joseph Martin Gallagher said that when he saw Mr Wray fall, there was still a number of people (possibly as many as 10 or more) around Glenfada Park North. They were all running **Day 165/36/1 to Day 165/37/4**.

19.3.6.5. Charles Lamberton said that he remembers there was a crowd of people at the gable end, and people continuing to enter the area through Columbcille Court and from Rossville Street **AL3.13 paragraph 37**. As the shooting in Rossville Street was continuing he made a run for the alleyway leading to Abbey Park where his aunt lived (Michael Kelly's body was still by the gable end at this stage). The alleyway was packed with people trying to get into Abbey Park, and as he joined the crowd he looked back into Glenfada Park North and saw a soldier standing at the northeastern entrance wearing a gas mask and holding his SLR in the air **AL3.13 paragraph 38**. As he continued to make his way through Mr Lamberton heard shots fired in Glenfada Park North, though he did not actually see the soldier fire **AL3.13 paragraph 39**.

19.3.6.6. John Gabriel McGee said that there were about 30 to 50 people in the car park of Glenfada Park North before the shooting started there. He says that the area near the ramps at Rossville Street was very congested **AM224.4 paragraph 24**.

19.3.7. Entry and Position of Soldiers

19.3.7.1. Don Campbell has said that he noticed about 10 soldiers running along behind the garages to the north of Glenfada Park. He thought the soldiers were sealing the whole lot of Glenfada Park off **AC8.2 paragraph 6**.

19.3.7.2. Gerry Campbell is a nephew of William O'Reilly who lived in Abbey Park. He says that he saw about 4 or 5 soldiers at the north west end of the western Block of Glenfada Park North though he does not say that they fired **AC13.3 paragraph 15**.

19.3.7.3. Eileen Collins walked through Columbcille courtyard and had got as far as the alleyway on the northwest side of Glenfada Park North when somebody shouted that she should not proceed any further as there were soldiers in the vicinity. She then saw seven or eight soldiers on the northern side of the northern block of Glenfada Park North **AC72.2 paragraph 14** laughing and joking. They were all carrying rifles or baton guns. One of them attempted to stop her going any further, but she ran on **Day 161/138/3 to Day 161/139/12**.

19.3.7.4. Ms Collins made her way through the alleyway between Abbey Park and Glenfada Park North and along the western side of Glenfada Park North where she was stopped by a soldier who emerged from behind the wooden fence. She also saw one or two other soldiers behind this fence and a further few kneeling on the walkway over the northeast corner of Glenfada Park North **AC72.3 paragraph 17**. The latter soldiers were facing towards Rossville Street.

19.3.7.5. Daniel Pius Hutton saw soldiers positioned at the northeastern end of Glenfada Park North as he ran across the southern side of the car park hugging the fence **AH93.5 paragraph 20**.

19.3.7.6. While sheltering in Glenfada Park North Brendan McCrossen saw three soldiers come through an opening opposite him. He recalls two of the soldiers standing around and one of them grinning while lying back as if against a wall **Day 062/159/21 to Day 062/160/18**. This soldier was "fresh-faced, about five-foot nine or ten and wore a hat, not a helmet" **Day 062/160/23 to Day 062/161/3**. A young boy who had been hysterical shouted 'you murdering bastards' and the soldier who had been grinning started firing, from the hip and not taking aim. He fired two or three shots **Day 062/161/16 to Day 062/162/5**.

19.3.7.7. Patrick Moyne then looked up and saw soldiers – no more than about four - running into Glenfada Park from the north west and north east corners, with rifles at the hip. The first soldier came in from the northeast corner; one or two soldiers came in behind him **Day 162/22/23 to Day 162/23/25**. The same number came in from the northwest corner **Day 162/24/1 to Day 162/24/3**.

19.3.7.8. Mr Moyne recalls in particular the first soldier who came in from the northeastern corner ahead of the other soldiers. This soldier proceeded towards the centre of the square on his own in front of the others **Day 162/24/4 to Day 162/25/18**.

19.3.8. The shot fired at Eibhlin Mahon

19.3.8.1. Eibhlin Mahon (nee Lafferty) has told the Tribunal how, when she was in Abbey Park, she looked into Glenfada Park and saw three bodies lying around the footpath near the wooden fence. She also saw a soldier in a position almost in the centre of the car park **AM17.4 paragraph 24**. There were other soldiers at the northeast entrance. Mrs Mahon has also always had the firm impression that one of them was at the north western entrance **AM17.4 paragraph 26**.

19.3.8.2. As she went through the alleyway leading into the car park the soldier without the helmet turned his gun straight towards her as if taking aim and a shot rang out **AM17.4 paragraph 25**. Mrs Mahon did not see either a flash or recoil come from the soldier's rifle **Day 166/54/14 to Day 166/54/18**. A consistent account is found in her "McGovern interview" at **AM17.24**.

19.3.8.3. After the shot was fired and Mrs Mahon entered Glenfada Park North she again shouted out "first aid". A soldier shouted, "Your white coats are a target but your red heart is a better one". Mrs Mahon says she then threw down her bag in anger **AM17.4 paragraph 26**.

19.3.8.4. Mrs Mahon's evidence that a shot was fired at her is corroborated by Joseph Mahon who has given evidence that after the shooting in Glenfada Park and Abbey Park and while he was still lying on the ground as can be seen in **P439** he noticed a soldier at the north east entrance to Glenfada Park. He believes that the soldier appeared to notice him moving, got down on one knee and aimed his rifle at him. However, a person Mr Mahon now knows to be Eibhlin Lafferty enters Glenfada Park North at this stage from Abbey Park shouting "First Aid—don't shoot" and a shot was fired **Day 167/29/8 to Day 167/30/4**.

19.3.8.5. Mrs Mahon's colleague in the Knights of Malta, Sean MacDermott, remembers Eibhlin Lafferty arriving in Abbey Park where he was treating Gerry McKinney. He thinks she had seen other bodies on the ground through the entrance to Glenfada Park North although he had not at that stage seen any other bodies himself. Ms Lafferty (as she then was) called to Mr MacDermott and started to walk into Glenfada Park North. She had her hands on her head and was shouting "First Aid – don't shoot" **AM188.2 paragraph 9**. Mr MacDermott followed her, also with his hands up. As they entered Glenfada Park he saw two or three sparks on the pavement or chips of concrete flying up. While he does not remember hearing the shots he remembers that the sparks

or chips were very close to Eibhlin and on her left hand side (i.e. to the north of her) **AM188.2 paragraph 9**, **Day 180/104/11 to Day 180/104/25**.

19.3.8.6. Mr MacDermott saw two soldiers in the northeast corner of Glenfada Park North, taking cover by a wooden fence **Day 180/105/19 to Day 180/105/25**. One was standing with his rifle raised pointing towards him and Ms Lafferty. The other was kneeling with his rifle pointing towards them. The soldier kneeling was also laughing. Although Mr MacDermott previously said it was the soldier standing who was laughing he now remembers it to have been the kneeling soldier **AM188.3 paragraph 10**.

19.3.8.7. Seamus Doherty arrived in Sector 4 largely after the shooting was over **Day 166/121/14 to Day 166/121/25**. He said that as he ran towards Glenfada Park North through Abbey Park he saw the body of Gerry McKinney who was being given heart massage **AD102.2 paragraph 8**. Eibhlin Lafferty (as she then was) had been standing in front of him in the alleyway leading into Glenada Park North. He saw her move into the courtyard **Day 166/127/12 to Day 166/129/6**. There was still shooting and he agreed that someone may have tried to stop her going out. Miss Lafferty shouted 'stop that' whilst the shooting was going on. One or two shots were fired and she ran back into the alleyway **Day 166/128/7 to Day 166/131/10**.

19.3.8.8. Thomas Heaney was on the edge of the alleyway between Glenfada Park North and Glenfada Park South. As he was about to enter Glenfada Park North Eiblin Lafferty ran out in front of him. She threw her hands in the air and shouted 'first aid.' He could see a line of about a dozen British soldiers on the northern side of Glenfada Park North. **AH56.10 paragraphs 25 to 27**. Mr Heaney looked up and saw the soldiers in the firing position with their rifles pointed in their direction however he did not hear any shooting **Day 140/42/2 to Day 140/42/13**.

19.3.8.9. Journalist Nell McCafferty also describes an incident that corresponds to Mrs Mahon's evidence about being fired on. While Ms McCafferty readily admitted that her memory of the day was faulty she gave a description of a young woman who she saw walk from the eastern walkway linking Glenfada Park North with Columbcille Court towards the bodies that were lying in Glenfada Park. As she approached the middle of the courtyard the soldiers fired at her feet to "make her dance" **M54.7 paragraph 14**. Ms McCafferty had said in 1972 that the woman threw herself to the ground as one of them fired at her **M54.14**. When questioned by Mr Glasgow QC Ms McCafferty accepted that her current description of the female Knight of Malta being made to "dance" was somewhat colourful although she is certain that the soldiers fired at the woman **Day 169/39/10 to Day 169/41/12**.

19.3.9. Conclusions

19.3.9.1. It is submitted that as a result of the civilian evidence relating to the events in Glenfada Park North on Bloody Sunday the following conclusions can be drawn:

(i) No one in Glenfada Park at the material time was in possession of any sort of weapon;

(ii) None of those who were shot in Glenfada Park and no-one in their immediate vicinity was in possession of any sort of weapon when soldiers opened fire;

(iii) They were not carrying anything that could have been mistaken for such a weapon;

(iv) There was no hostile, aggressive or threatening behaviour displayed towards the soldiers who entered Glenfada Park;

(v) Those who were shot in Glenfada Park and those in their immediate vicinity did nothing that could in any way have been mistaken for hostile, aggressive or threatening behaviour;

(vi) Soldiers opened fire on a crowd fleeing for their lives;

(vii) At least one soldier fired from the hip;

(viii) Soldiers were aggressive, abusive and "hyped up";

(ix) When the shooting was over soldiers prevented the priests in the area from administering spiritual aid to the deceased and wounded

(x) When the shooting was over soldiers attempted to prevent first aiders in the area from attending to the deceased and wounded by opening fire on them.

19.4 Photographic Material

19.4.1. As the Tribunal knows, when compared to other sectors there is a dearth of photographic material relating to the events that took place in Glenfada Park. Having said that the material that does exist is of considerable assistance to the Tribunal in its task of finding out the truth of what happened on Bloody Sunday.

19.4.2. The Liam Mailey photographs **EP23.10**, **EP23.11** and **EP23.12** show scenes at the south gable wall of the eastern block of Glenfada Park North. Willie McKinney can be seen in **EP23.10** moments before his death, standing over the body of Michael Kelly. The photographs show in the region of 30-40 people in the area at that time. The Tribunal knows that eventually 24 people were arrested from that gable end.

19.4.3. The provenance of **P428** is not clear. It is listed on the Inquiry's index to Bundle P5 as having been taken by Fulvio Grimaldi, however such a photograph does not appear to fit with Mr Grimaldi's evidence of his movements. In addition Mr Grimaldi, when shown the photograph (which also appears at **P869**) indicated that he had only taken one photograph from the flats, that of the two army vehicles in Rossville Street which can be seen at **P520** **Day 131/186/23 to Day 131/187/14**. It appears clear from

these two photographs in any event that they are not taken from the same position.

19.4.4. **P428**, which has clearly been taken from a position in one of the flats in Block 1 of the Rossville Flats shows a considerable number of people at the south gable end of the eastern block of Glenfada Park North and also a number of people in the alleyway that leads from the south western corner of Glenfada Park North through to Abbey Park. It shows three people in the centre of the southern end of the car park two of whom are clearly heading for that southwestern corner. It also shows, at the southern end of the group of people within the shelter of the gable end, a number of whom appear to be just about to take flight across the car park. There are no bodies in view in the photograph, either on Rossville Street or in Glenfada Park North.

19.4.5. It is not clear when this photograph was taken. It bears a handwritten note which reads "Sheltering in Glenfada as the Paras advance" thereby suggesting it was taken on Bloody Sunday. Only one other photograph in the Inquiry's possession bears a similar note which appears to be in the same handwriting i.e. **P919**. That photograph was taken by Sam Gillespie, but he was clear when he gave evidence that he the handwriting that appears on **P919** is not his **Day 142/54/9 to Day 142/55/12**. He was also clear that he had not taken **P428 Day 142/100/16 to Day 142/100/21**.

19.4.6. In addition the following issues arise about this photograph:

(i) Michael Kelly's body is nowhere to be seen in the photograph. This means that either the photograph has been taken before he was shot or it was taken after and his body has been taken both away from behind the Rubble Barricade and also from the entrance on the eastern side of Glenfada Park. In any event his body is not visible in the photograph.

(ii) It is submitted that the former scenario is unlikely because the photograph shows no people behind the barricade on Rossville Street, as can be seen in **P412** for example.

(iii) It is submitted that the latter is also unlikely because of the evidence before the Tribunal that by the time Michael Kelly's body was taken from where it lay in the entrance to Glenfada Park, as to which see **P433**, others had fallen at the barricade and should be clearly visible on this photograph.

(iv) The Tribunal also knows that a much smaller group than can be seen in **P428** was arrested by soldiers in Glenfada Park and it is clear that there are no bodies lying in Glenfada Park in the manner seen in **P439**.

(v) The exact date, timing and provenance of this photograph are therefore unclear.

19.4.7. C.J. Donnelly's photographs show how Michael Kelly's body was carried from the gable end around the corner in a northerly direction and then across Glenfada Park North. They appear at **P432**, **P436** and **P437**.

19.4.8. **P438** and **P439** were taken by Trevor McBride and show two bodies and the legs of a third lying along the south end of Glenfada Park. These photographs were not before Lord Widgery

19.4.9. The Tribunal has also seen the photograph at **P440**, also taken by Trevor McBride, which shows the bodies of Willie McKinney and Jim Wray being carried from Glenfada Park North. The Knight of Malta Eibhlin Mahon can be seen in the background of the photograph.

19.4.10. The figure on the far right hand side of **P440** holding a cine camera is Michael Rodgers. His video footage of the bodies being taken out of

Glenfada Park and into various houses in Abbey Park can be seen at **V19/3.52 to 4.05**.

19.5 William (Willie) McKinney

19.5.1 Personal Details and Background

19.5.1.1. William (Willie) McKinney was 27 when he was murdered. He lived at home with his parents and was engaged to be married. Willie was from the Creggan area of Derry and had six brothers and three sisters. He worked as a compositor at the Derry Journal and his colleagues there paid tribute to him in the first edition of the paper published following Bloody Sunday **L130.5**. Willie McKinney was a keen amateur photographer; he had taken his cine camera with him to the march at Magilligan the previous week and on the march on Bloody Sunday. The results of his filming on those and other days can be seen on Video 32. Willie McKinney had no criminal record or political affiliations.

19.5.2. Civilian Evidence

19.5.2.1. Willie McKinney went on the march with his next-door neighbour Peter Barnes Harrigan **AH37.1 paragraphs 2 to 3**. They were together on William Street **AH37.1 paragraph 7** but as gas was fired decided to make their way out of the area. Mr Harrigan lost Mr McKinney on Macari's Lane as they attempted to escape the gas **AH37.2 paragraph 10**.

19.5.2.2. Father Andrew Dolan saw Willie McKinney on William Street **H7.4 paragraph 7**. Fr Dolan says that Willie and he helped a man who had been wounded on the forehead, probably by a stone, into a house at the junction of William Street and Chamberlain Street **H7.5 paragraph 8**. Fr Dolan then lost Willie back on William Street **H7.5 paragraph 9**.

19.5.2.3. Willie's brother George McKinney met him at the junction of William Street and Rossville Street where he believed he had come from further to the east along William Street **AM301.2 paragraph 11**. George gave evidence that himself and Willie ran a short distance up Rossville Street together before he lost him **AM301.3 paragraph 13**.

19.5.2.4. John McLaughlin, an old school friend of Willie McKinney's saw him standing "just past the end of Kells Walk" as the march proceeded down Rossville Street **AM 339.1 paragraph 5**. Mr McLaughlin asked Willie "whether he was going to hear the speeches at Free Derry Corner....He said that he wasn't and he wanted to hang around for a little while longer. He had his hand on his camera as he said this and I took it to mean he must be going to stay around to take some photographs. I shook his hand and got off." **AM 339.2 paragraph 7**.

19.5.2.5. Thomas Heaney was Willie McKinney's apprentice compositor at the Derry Journal. Heaney also saw Willie before he was shot on Bloody Sunday. Heaney saw Willie McKinney standing on some rubble near the northern gable of Glenfada Park South. Willie was looking north up Rossville Street towards the Army. He had a camera bag over his shoulder. The men spoke briefly. **AH56.3 paragraph 14**.

19.5.2.6. The evidence about the shooting of the three men who fell in Glenfada Park, including Willie McKinney, is rehearsed in detail at section 19.3 above. The only one of the three to survive, Joe Mahon, describes how he had run perhaps twenty or thirty yards along the southern end of Glenfada Park North when something hit him. He fell to the ground and lay sprawled on his stomach on the pavement with his head pointing towards the alleyway between Glenfada Park North and Glenfada Park South and his feet pointing back towards the Rossville Flats **AM18.3 paragraph 13**.

19.5.2.7. Mr Mahon also describes two other bodies lying near to him. One was two or three feet behind him and to his right, lying just to the north of the pavement. That man was also lying on his stomach with his face in Mr Mahon's direction. He wore glasses and a heavy dark coat. The man was still alive and called out "I'm hit – I'm hit!". Mr Mahon now knows this man to be William McKinney. **AM18.3 paragraph 14**. The second body was in front of him and he now knows it to be Jim Wray **AM18.3 paragraph 15**.

19.5.2.8. Don Campbell who knew Willie McKinney says that he met him first in Glenfada Park North. In the statement prepared by him for this Tribunal he describes seeing at least three people lying just to the south of the Rubble Barricade (one was obviously wounded), and hearing that another had been shot at the southern gable of Block 1 of the Rossville Flats. He then says that himself and Willie McKinney went across to the Rossville Flats, and both then went to the forecourt of the Flats, in the area in front of the maisonettes at Joseph Place. They then noticed a commotion near the northern gable wall of Glenfada Park South and Willie McKinney wanted to return to take photographs. Mr Campbell describes how on three occasions Mr McKinney had to be restrained from running across Rossville Street as gunfire continued from further up Rossville Street. However he says Willie McKinney then got up and ran across Rossville Street and he saw him bend over the body of a man. Mr Campbell saw him fall over, but could not associate his falling with a particular shot **AC8.2 paragraphs 6 to 15**.

19.5.2.9. Mr Campbell says he ran across Rossville Street to Mr McKinney, who was conscious and complaining of pain in his back. Two other bodies lay in close proximity to him. Mr Campbell then helped carry McKinney to the O`Reilly home at 7 Abbey Park. **AC8.4 paragraphs 18 to 19**.

19.5.2.10. Mr Campbell's description of how and where Willie McKinney was shot is at odds with other evidence before the Tribunal including that of Joe Mahon. When he appeared before the Tribunal Mr Campbell confirmed that his statement to this Tribunal was the first he had made. He had not made a statement at the time and he agreed that being asked to recount his experiences some thirty years later was "very confusing" **Day 157/79/4 to Day 157/79/8**. He also agreed that his recollections are "extremely vague" **Day 157/79/9 to Day 157/79/12**.

19.5.2.11. Such was the vagueness of Mr Campbell's recollection that he could not even identify himself with certainty from the photographs and video that

show Willie McKinney's body being carried out of Glenfada Park North **Day 157/75/8 to Day 157/77/9**.

19.5.2.12. John McGee arrived in Glenfada Park after the shooting had taken place. He

> "came across two more men lying on the ground. The first was lying on the pavement and against the wooden fence which fronted the houses at the southern end of Glenfada Park North, approximately at the point marked B on the map (grid reference H14 on **Q8**) and the second, slightly to the east of the first, was at the point C (grid reference H15 on **Q8**). I recognised the man lying at point B as Jim Wray; he was at school with me. The second man was William McKinney." **AM 223.5 paragraph 9**.

19.5.2.13. Mr McGee also said, when shown **P438** that he recognised that as the scene he saw in Glenfada Park "save that I only saw two and not three bodies." **AM 223.5 paragraph 12**.

19.5.2.14. Giving evidence Mr McGee indicated that he knew Willie McKinney **Day 065/44/17**. He also states

> "Jim Wray's body was taken away I think by St Johns Ambulance but I cannot be more precise. I then went over to William McKinney. I was still in a state of shock and I remember little of what I saw. I cannot be certain whether he was already dead when I reached him. My only clear recollection is picking up his glasses. I recall that some months after Bloody Sunday, when I learnt that he was William McKinney, I offered to return the glasses to his mother but was told not to do so by his brother as I would only be re-opening wounds." **AM 223 .5 paragraph 11**

19.5.2.15. He confirmed this account when giving evidence before the Tribunal **Day 065/44/4 to Day 065/46/1**.

19.5.2.16. Greg Doherty recognised himself on the Michael Rodgers cine film carrying a body towards a house in Abbey Park **V19/3.31 to 4.30**, **AD66.5 paragraph 23**. He had a white armband on and was wearing a tweed coat. He subsequently discovered that it was Willie McKinney's body he carried **AD66.5 paragraph 24**.

19.5.2.17. Michael Feeney also assisted in carrying Willie McKinney into 7 Abbey Park, the O'Reilly's house **AF9.2 paragraph 9**.

19.5.2.18. Anthony Martin saw a body in Glenfada Park North. The man was wearing a black coat and his glasses had fallen off. Mr Martin helped carry this man from the square to a house. He was still alive. Mr Martin now knows the man to be Willie McKinney **Day 176/81/22 to Day 176/81/25**.

19.5.2.19. Mr Martin did not go far into the square. He now thinks that the body had been lifted before he got to it and he then assisted **Day 176/84/3 Day 176/84/6**. He recognised himself in a photograph **AM 24.15** carrying the body **Day 176/81/15 to Day 176/81/17**.

19.5.2.20. A number of people claim to have seen Willie McKinney shot in Abbey Park. This evidence has, in our submission, been demonstrated to be wrong. It appears that confusion has arisen due to the fact that Gerry McKinney and Willie McKinney were shot in close proximity to each other and that Willie McKinney was later carried into Abbey Park.

19.5.2.21. John Carr initially indicated that a man who answered the description of Willie McKinney had been shot as he ran towards the body of Gerry McKinney in Abbey Park. He accepted however when he gave evidence that the man he saw could have been Leo Young. Mr Young told the Tribunal that he was shot at by a soldier and fell to the ground **Day 159/112/25 to Day 159/115/25**. Mr Carr was thirteen years old on Bloody Sunday **AC42.1 paragraph 1**.

19.5.2.22. Maureen Mary Doherty is sure that before she saw Gerard McKinney and Gerard Donaghey shot she "saw the young McKinney whom I knew because he worked for the "Journal" creeping along at the Glenfada Flats. He appeared to be injured but I did not see him shot. **AD85.11**"

19.5.2.23. In her statement to this Tribunal Mrs Doherty placed Willie McKinney crawling along the wall of the western block of Glenfada Park towards the entrance between Glenfada Park and Abbey Park **AD85.2 paragraph 11**. It is difficult to see how Mrs Doherty can possibly be correct about this in light of the other evidence, which puts William McKinney being shot inside the Glenfada Park courtyard apparently running towards the exit into Abbey Park.

19.5.2.24. When she gave oral evidence Counsel for some of the soldiers suggested to Mrs Doherty that the person she saw at this position might well have been Gerard McKinney however the witness maintained that the man that she saw in this position was Willie McKinney **Day 161/112/18 to Day 161/113/19**.

19.5.2.25. Noel Kelly initially thought that William McKinney, whom he knew, was one of the bodies he had seen in Abbey Park **AK17.11 paragraph 13**. However when he gave evidence he was shown photographs of William McKinney and James Wray being carried through the alleyway from Glenfada Park North into Abbey Park. Mr Kelly can be seen on the photograph as one of the people carrying Mr McKinney. He has identified himself in the photo at **AK17.29**. Having recognised himself in this

photograph Mr Kelly agreed that he was mistaken in his belief that Willie McKinney was one of the bodies on the steps of Abbey Park **Day 062/54/13 to Day 062/54/21**.

19.5.2.26. A number of witnesses saw Willie McKinney in 7 Abbey Park. Bridget O`Reilly and her husband William both remember Willie McKinney being in their house **AO66.3 paragraphs 20 to 21**, **AO69.3 paragraph 16**. **Mrs** O'Reilly witnessed him being carried up the steps towards her house. He was taken into her living room and was alive at that stage but "pure grey" in colour. Two doctors and a priest treated him. He remained in the house for about a half an hour. He was not wearing his glasses **AO66.3 paragraph 20**.

19.5.2.27. When Jim McDaid a volunteer in the Order of Malta treated William McKinney in the O`Reilly home he was still breathing. Dr Raymond McClean was with Mr McDaid as was the Knights of Malta volunteer Sophia Marley. After some attempts on their part to control his blood loss Willie McKinney`s pulse stopped and Dr McClean indicated that he was dead **AM166.5 paragraphs 33 to 36**.

19.5.2.28. Dr McClean says he knew Willie McKinney slightly but did not recognise him as he treated him, probably because he was not wearing his glasses. While he was in 7 Abbey Park Willie McKinney spoke to Dr McClean telling him he was not in pain and did not require morphine. Within 20 minutes of first treating Willie McKinney, Dr McClean says that his pulse became weaker and he died **AM105.6 paragraphs 34 to 35**.

19.5.2.29. John Joseph Doherty whose brother worked with Willie McKinney also saw him in 7 Abbey Park **AD75.3 paragraphs 12 to 13**, .

19.5.3. Injuries Sustained

19.5.3.1. Dr Carson carried out the post mortem examination on Willie McKinney at 7.30pm on 31st January 1972. The report of Dr Shepherd and Mr O'Callaghan appears at **E2.42, E2.43, E2.44, E2.45** with the

accompanying diagram at **E2.77**. The morgue photographs are at **P128 to P142**.

19.5.3.2. Willie McKinney sustained four gunshot wounds. A bullet entered the right side of his back and exited the left side of his lower chest. A bullet also entered the palm side of his left arm exiting at the back of that arm.

> "***Assuming the Normal Anatomical Position William McKinney was shot in the right back and the bullet has passed horizontally (or very nearly so) through the body and exited on the left side of the chest***" **E2.0045**

19.5.3.3. The cause of Willie McKinney's death was stated to be Laceration of Diaphragm, Right Lung, Liver, Spleen, Stomach and Colon due to Gunshot wound of Trunk **D0281**.

19.5.3.4. Gunshot wounds were present as follows on the trunk:

(i) An entrance wound 5mm in diameter on the right back centred 9cm directly below the lower angle of the scapula and 13cm from the mid-line **D0281** **P133**, **P139**, **P140**, **P141**.

(ii) An oval exit wound 20mm x 16mm on the left side on the anterior axillary line, centred 8 cm below the nipple and 10cm to its left **D0281**; **P134**, **P138**, **P142**.

19.5.3.5. The track connecting these two wounds through the body passed in a horizontal plane from back to front and from right to left at an angle of 33 degrees to the coronal plane **D0281**.

> "***The entrance wound was located on the right side of the back, 9cm below the lower end of the shoulder blade and 13 cm from the mid-line. The bullet had then penetrated the 10th right rib***

and crossed the lower chest and upper abdomen before fracturing the 6th and 7th left ribs and leaving the left side of the trunk well below the armpit. In its course through the trunk the bullet had lacerated the diaphragm, the right lung, the liver, colon, stomach and spleen. These injuries were associated with bleeding into the chest and abdominal cavities and death, which would probably have been rapid but not instantaneous was due to their combined effects. " **D0285**

19.5.3.6. Further gunshot wounds were present as follows on the right upper limb:

i) An irregular elliptical wound 15mm x 10mm vertically on the flexor surface on the forearm, centred 7cm above and 2 and a half cm in front of the tip of the radial stolid **D0282**, **P135**.

ii) A gaping elliptical wound 8cm x 3cm vertically on the back of the lower forearm, its lower end 2 and a half cm above the tip of the radial styloid **D0282**, **P136**, **P142**.

19.5.3.7. The two wounds were connected by a ragged track through the tissues of the forearm associated with a comminuted fracture of the lower third of the radius **D0282**.

19.5.3.8. Dr Carson concluded in his opinion on the Autopsy findings that "***the two wounds on the left forearm appeared to have been caused by the same bullet which had penetrated the trunk, the bullet having entered the front of the lower forearm near its radial border and shattered the lower third of the radius before leaving the back of the forearm.***" **D0285**

19.5.3.9. Dr Shepherd and Mr O'Callaghan conclude that it is equally possible that the arm wounds were caused by the same bullet or by a second bullet.**E2.0045**

19.5.4. **Removal to Hospital**

19.5.4.1. Willie McKinney was carried from where he fell in Glenfada Park P439 into William and Bridget O'Reilly's house at 7 Abbey Park **AO66.3 paragraph 19**; **Day 172/22/2**[3]. There he was tended to by Dr McClean **AM105.6 paragraphs 34 to 38**, and Fr Mulvey **H15.4C** to whom he spoke, before being taken to Altnagelvin hospital in an ambulance driven by Norman McElhinney **ED37.5**, **ED37.6**, attended by Willy Wilson **ED37.7, ED37.8** and accompanied by Knights of Malta Volunteer Sophia Marley **ED37.8**. The ambulance arrived at Altnagelvin Hospital at 1720 hrs **D500.27**.

19.5.5. **Forensic Evidence**

19.5.5.1. No explosive residue was detected during tests on Willie McKinney's clothing in 1972 **D0265**.

19.5.5.2. In 1972 the tests showed lead particle density on Willie McKinney's coat to be within the normal range **D0269**. No lead was detected from the hand swabs tested **D0269**. Dr Martin concluded that Mr McKinney had not been using a firearm **D0270**.

19.5.5.3. Dr Lloyd has noted that the filter papers relating to the test of Willie McKinney's blazer (worn inside his coat) in 1972 are labelled to the effect that two lead particles were present and that the filter papers are marked accordingly **E1.0047 paragraph 8.7.6.a**. Dr Lloyd has suggested two possible reasons for the presence of lead particles here. The first is that transfer of particles may have occurred when Constable McCormick retrieved Willie McKinney's wallet from his body for identification purposes **E1.0047 paragraph 8.7.6.a**. Secondly, Willie McKinney's job as a compositor may have brought him into contact with type metal, a lead based alloy. **E1.0047 paragraph 8.7.6.c**.

[3] See also **P688** and the Michael Rodgers cine film **V19/3.31 to 4.30**

19.6 Joseph Mahon

19.6.1. Personal Details and Background

19.6.1.1. Joseph (Joe) Mahon was 16 when he was shot on Bloody Sunday. At the time he was single and lived in the Creggan area of Derry with his parents. Having left school in January 1972, he was about to begin an apprenticeship as a joiner, which he could not then take up due to the injuries he sustained on Bloody Sunday.

19.6.2. Civilian Evidence

19.6.2.1. The general civilian evidence relating to those who were shot in Glenfada Park has already been seen above. There are however a number of individuals who were in a position to give specific evidence about Joe Mahon's movements on Bloody Sunday as they knew him at the time and recognised him when they saw him at certain stages of the day.

19.6.2.2. The Tribunal does of course have the evidence of Joe Mahon himself and he has said that he was on the march on Bloody Sunday, joining the crowd at Bishop's Field before the march set off. When he got to William Street he heard a rumour that two men had been shot nearby and that they had been taken to Shiels' house in Columbcille Court. Mr Mahon walked over to Shiels' house but did not go in **AM18.1 paragraphs 1 to 6**.

19.6.2.3. When he was outside Shiels' house Mr Mahon heard others shouting "The Paras, the paras, they're coming in!" **AM18.1 paragraph 6**. At that Mr Mahon decided to leave the area. He did so via Columbcille Court, entered Glenfada Park at the northwest corner and saw a crowd of people gathered at the south gable end of the eastern block. **AM18.2 paragraphs 7 to 8**. He stood in that area for a while **AM18.2 paragraph 10** although he was some way from the gable end within the square **Day 167/18/6 to Day 167/18/12**.

19.6.2.4. Mr Mahon said that when he walked through the square initially before any shooting had started there were quite a lot of people there **Day 167/51/22 to Day 167/52/1**. While he indicated that there were "crowds of people" in Glenfada Park at that stage **Day 167/53/11** Mr Mahon was clear that "there were not that many walking about, the most of them were gathered behind the gable" **Day 167/53/17 to Day 167/53/18**.

19.6.2.5. Mr Mahon then describes a group of four or five soldiers entering Glenfada Park North from the north eastern entrance **AM18.2 paragraph 12**. One of the soldiers, who wore a distinctive jacket, fired a number of shots from the hip. This soldier came in first and was followed by at least three or four others **AM18.2 paragraph 12**.

19.6.2.6. Mr Mahon then said that he ran from where he was standing on the eastern side of Glenfada Park towards the gap between Glenfada Park North and Glenfada Park South, banging on the fences of the houses on the southern side of the courtyard as he ran to see if any were open for him to take cover **AM18.2 paragraph 12**. When he saw the soldier described above shooting from the hip he had already started to run **Day 167/20/16**. When asked, Mr Mahon indicated that he was running with a group of about fifteen, twenty people or more **Day 167/20/23 to Day 167/21/3** although while he was running and the paratrooper was firing he does not recall that there were any other people in the body of the square **Day 167/20/19 to Day 167/20/22**. His impression was that the soldiers' shots were just directed into the crowd **Day 167/21/13**.

19.6.2.7. When he had run perhaps twenty or thirty yards Mr Mahon felt something hit him. He fell to the ground and lay sprawled on his stomach on the pavement with his head pointing towards the alleyway between Glenfada Park North and Glenfada Park South and his feet pointing back towards the Rossville Flats **AM18.3 paragraph 13**.

19.6.2.8. Mr Mahon also describes two other bodies lying near to him. One was two or three feet behind him and to his right, lying just to the north of the

pavement. He was also lying on his stomach with his face in Mr Mahon's direction. He wore glasses and a heavy dark coat. The man was still alive and called out "I'm hit – I'm hit!". Mr Mahon now knows this man to be William McKinney. **AM18.3 paragraph 14**. The second body was in front of him and he now knows it to be Jim Wray **AM18.3 paragraph 15**.

19.6.2.9. Mr Mahon indicated that in the photographs **P438** and **P439** he is the person located closest to the fence with James Wray's legs to the right of the photograph and Willie McKinney in the gutter below the pavement **Day 167/22/15 to Day 167/22/25**

19.6.2.10. When Mr Mahon was questioned by Mr Glasgow QC the following exchange took place

"Q. If there were as many as 15 or 20 people running with you, I do not suppose you could pretend to be able to help the Tribunal with what all of them were carrying, if anything; you could not have seen what they all had in their hands?

A. They were not all in a big tight bunch, there was a group running.

Q. Were there a number of people to your right, do you remember, you refer to the fence; were you quite close to the fence?

A. On the footpath.

Q. Right on the footpath and some of the people who were running on your right between you and the soldiers?

A. Very few

Q. Quite a few?

A. Very few.

Q. But you recall some people between you and where the soldiers were coming from and ultimately firing from?

A. There was more people behind me to the right than there was to my right.

LORD SAVILLE: Again it is the Chairman: do you recall as you were running along there anyone between you and the soldiers that you saw?

A. The only person that could have been was the person fell beside me, that is the only person I would have seen.

MR GLASGOW: To be sure about that: the person who was also shot?

Yes..." **Day 167/64/18 to Day 167/65/23**

19.6.2.11. When asked, Mr Mahon said that there had been no confrontation with soldiers going on in the park at the time he was shot, nor did he see anybody with a rifle or a gun or any fizzing object or a bomb. In fact he said he did not even see any stones thrown **Day 167/23/20 to Day 167/24/5**

19.6.2.12. He now says that after he had been shot he could see between five and six soldiers in Glenfada Park **Day 167/35/5 to Day 167/35/10**

19.6.2.13. Mr Mahon also describes how, when he was lying on his side with his face looking towards the north, he saw a soldier walking towards the body of Jim Wray. This was the same paratrooper with the distinctive jacket that he saw shooting from the hip before **Day 167/24/19 to Day 167/25/9**.

19.6.2.14. Mr Mahon then describes how he saw Jim Wray's shoulders move and the soldier pointed his rifle at Jim Wray's back and fired two shots. He saw Jim Wray's coat move twice **Day 167/25/10 to Day 167/25/23**.

19.6.2.15. Mr Mahon readily agreed that he had not described the shooting of Jim Wray in that way when he spoke to the Sunday Times in 1972. He indicated forcefully that this had been because he feared for his life given that reporting it to the police would mean making a statement to the security forces, one of whose members he had seen shoot Jim Wray while he was lying on the ground **Day 167/79/15 to Day 167/80/5**.

19.6.2.16. Mr Mahon then indicates that the soldier walked into the alleyway between Glenfada Park North and Abbey Park and he then heard about three or four more shots coming from both that area and Rossville Street **Day 167/26/3 to Day 167/26/13**. This soldier went into Abbey Park alone and no other soldier followed him **Day 167/26/14 to Day 167/26/18**. After some time he came back through the gap, took his helmet off and wiped the back of his forehead with his hand. Mr Mahon could see that he had blond hair and indicated that he had recognised him in Video 3. An image of the soldier he recognised is now preserved as **AM18.26 Day 167/26/19 to Day 167/27/20**.

19.6.2.17. The soldier shouted out "I've got another one". Mr Mahon then heard someone shouting "We're pulling out Dave" although he does not know if this remark was directed to the soldier with the blond hair or someone else. **Day 167/27/21 to Day 167/29/7**

19.6.2.18. A short time afterwards Mr Mahon saw the same soldier standing in the northeast corner of Glenfada Park North. He thinks the soldier must have seen him move because he aimed his rifle at him. Mr Mahon then turned to look the other way and he heard a woman's voice shout "Don't shoot – first aid" and then he heard a shot. He later discovered the voice was that of Eibhlin Lafferty **Day 167/29/8 to Day 167/30/4**

19.6.2.19. Giving evidence Mr Mahon identified himself as the person being carried out of Glenfada Park in Video 19 **V19/3.52 to 3.59, Day 167/30/15 to Day 167/30/25**.

19.6.2.20. Other witnesses who say that they saw and recognised Joe Mahon on Bloody Sunday include William Arthur Downey who indicates that he saw Mr Mahon, who he knew, at a point south of William Street (grid reference K10 on **Q8**). He says

> "We used to play football together and I think we were in the same class at St Columb's College. I joined the group of lads as they

were discussing the shooting, earlier in the day, of two people in William Street. In particular, they were discussing where the shots came from. My recollection is that the general consensus was that the shots were fired by soldiers on the north side of William Street in the vicinity of the GPO Sorting Office." **AD136.1 paragraph 7**

19.6.2.21. Eibhlin Mahon (nee Lafferty) a Knight of Malta on duty on Bloody Sunday was in Abbey Park after the shootings took place. She says

"As I was there, I could see other bodies to my right, lying in Glenfada Park North. There were I think three bodies lying in the area marked on the photograph attached [along the south side of the car park]. The bodies were lying around the footpath near the wooden fence. As I came out of the alleyway that led into Glenfada Park towards them, I saw a soldier, about halfway across Glenfada Park North, down on one knee at the point marked D on the map attached. There were three or four other soldiers standing at the northeast entrance to Glenfada Park North. The soldiers were agitated and hyped up. I could tell this by the tone of their voices as they were calling to each other. They seemed quite tense and were looking around them as if they were calling. I couldn't say what they wearing, I think it was army uniforms. I didn't look closely at them. There were no other civilians in the car park." **AM17.4 paragraph 24**

19.6.2.22. She describes how she was shot at as she attempted to reach those bodies and later says

"I shouted for someone to get the bodies and people emerged and gathered around them. The bodies were lifted away. I just wanted them to be taken. I was the first person there. Joseph Mahon who is now my husband, was one of the men lying there. I remember being in a house after that and asking him whether he was alright,

but I don't know now which house that was. I also remember him asking for water. I asked him was he alright and he said he was." **AM17.4 paragraph 27**

19.6.2.23. Seamus Doherty has told the Tribunal that he too was in Abbey Park after the shootings took place. He saw Gerry McKinney's body there **AD102.2 paragraph 8**. From his position in Abbey Park Mr Doherty says he

> "...took a look diagonally across Glenfada Park North and saw Joe Mahon lying at point G [grid reference H14 on **Q8**] which was east of where I was standing. When I first saw Joe Mahon he was at point G but I cannot remember whether he had crawled there or not. I do not remember seeing anyone else who was lying on the ground in Glenfada Park North – there may have been but I cannot remember. I knew that it was Joe Mahon because I knew him well. I remember that he had light brown short hair. I do not remember what he was wearing. I cannot remember seeing Joe Mahon being carried to an ambulance and do not remember seeing an ambulance anywhere. People around me thought he had been shot in the leg but I did not see his injury." **AD102.2 paragraph 9**

19.6.2.24. Giving evidence Mr Doherty indicated that while he was not clear about exactly where he had seen Joe Mahon he saw him he was clear that it was Joe Mahon he had seen and that Mr Mahon was in Glenfada Park North **Day 166/122/10 to Day 166/124/5**. He later confirmed that he had seen Joe Mahon being helped out of Glenfada Park and it was only then that he recognised him **Day 166/124/124/6 to Day 166/125/12**.

19.6.2.25. Noel Kelly who has given evidence to the Tribunal also recognised Joe Mahon that day. Mr Kelly's evidence was that when he first saw Mr Mahon he was crawling in the alleyway between Glenfada Park North and Abbey Park.

"I knew the first man by sight – he was my foreman's son, and afterwards people told me he was called Joseph Mahon. He was tall and thin with light brown hair. I cannot remember what he was wearing. He had his hand up, he was crawling towards me and I could see that he had been shot. I heard after that he'd been shot in the hip...." **AK17.12 paragraph 14**

19.6.2.26. However Mr Kelly admitted that he was confused about some aspects of his evidence, he had for example also indicated that he was sure he saw Willie McKinney lying parallel to Gerry McKinney on steps in Abbey Park. Having been shown the photograph **P440** however, and recognising himself there as one of the group carrying Willie McKinney from Glenfada Park North, he admitted that he must be wrong in this recollection **Day 62/54/13 to Day 62/55/6**.

19.6.2.27. Thomas McGlinchey has also given evidence that he saw Joe Mahon after he had been shot. He says

"I then walked south along the west side of the west block of Glenfada Park North and Glenfada Park South along the route indicated which led me to Fahan Street West. As I was walking that route I saw Joe Mahon lying on the ground with a Knight of Malta tending to him. Joe Mahon was a friend of mine. Somebody said that Joe has been shot although I do not remember seeing any blood, but I do recall that he was having serious trouble breathing; I don't think he was conscious. When I visited the site I was unable to mark where I saw Joe but it was somewhere between positions E and F (grid reference E15 on **Q8**) on the plan." **AM250.3 paragraph 13**

19.6.3. Injuries Sustained

19.6.3.1. Joe Mahon sustained one gunshot wound. The bullet entered over the right pelvic bone, lodged in the muscles beyond the pelvic bone and was

extracted during surgery on the evening of 30th January 1972. As a result of his injuries Mr Mahon had to have a massive blood transfusion. **D0824**.

19.6.3.2. During surgery it was discovered that Mr Mahon had "***multiple injuries of the small gut which were sutured and he also had a resection and anastomosis of the bowel. The bullet was taken out from the exit wound (from the subcutaneous tissue) at the level of the lateral anterior superior iliac spine***" **D0819**

19.6.3.3. On 10th February 1972 consultant surgeon at Altnagelvin Hospital Mr H.M. Bennet wrote to Chief Superintendent Lagan about Joe Mahon's injuries in the following terms

> "***The bullet was a high velocity one and such missiles when they penetrate abdominal viscera, carry a notoriously bad prognosis. I am not therefore prepared at this moment to state the possible outlook for this patient and he may well have a very stormy period if indeed he survives at all.***" **D0824**

19.6.3.4. Mr Mahon's recovery was hampered by a pelvic abcess, which was drained on 16th February 1972 **D0819**. He remained in hospital for almost one month, being discharged on 29th February 1972.

19.6.3.5. The bullet removed from Mr Mahon was a badly damaged 7.62 calibre rifle bullet that was "fired from a weapon rifled with six grooves right hand twist. This is consistent with a British Army type self-loading rifle." **D0827**. After comparing the bullet with test bullets from the rifles made available by the soldiers for testing Dr Martin could not confirm that the bullet either had or not been fired from one of these weapons **D0827**.

19.6.3.6. Dr Shepherd and Mr O'Callaghan examined the shirt worn by Joe Mahon on Bloody Sunday and found damage consistent with the passage of a bullet through clothing that had been folded and tucked into trousers **E10.009**; **F7.1, F7.2, F7.3, F7.4, F7.5, F7.6**

19.6.3.7. However, they concluded, *"The damage to the bullet is unlikely to have been caused during its passage through the clothing or the body. It is most likely that this bullet has struck an intermediate object prior to hitting Joseph Mahon"* **E10.010**

19.6.3.8. It may be that the bullet that struck Joe Mahon first passed through Willie McKinney.

19.6.4. Removal to Hospital

19.6.4.1. Joe Mahon was carried from where he fell in the car park **P439** through the alleyway at the south west corner of Glenfada Park North and into McCourt's house at [redacted] **AM 141.2 paragraphs 6 to 8**[4] where he was treated by a nurse, Jackie Cassidy **AM18.15**, **Day 167/38/24**. He was taken from the area in the ambulance driven by Ronald Moore **ED36.8, ED36.9** attended by John Rutherford **ED36.10, ED36.11**, along with the bodies of Gerry McKinney and Michael Kelly, arriving at Altnagelvin Hospital at 1700 hrs **D500.27**.

[4] See also **P759** and the Michael Rodgers cine film **V19/3.52 to 3.59**

19.7 Joseph Friel

19.7.1 Personal Details and Background

19.7.1.1. Joseph (Joe) Friel was 20 when he was shot on Bloody Sunday. He was single and lived with his parents in the Rossville Flats. He worked as a tax inspector for the Inland Revenue and as such had security clearance to enter the Embassy building. Joe Friel had no criminal record or political affiliations.

19.7.2. Injuries Sustained

19.7.2.1. Joe Friel sustained two gunshot wounds. A bullet entered the front of his chest at the right of the sternum a little below the clavicle and a larger, more ragged exit wound showed that it had exited the front of his chest at almost the same position to the left of the sternum. The bullet therefore travelled from right to left across Joe Friel's chest. **D0780**.

19.7.2.2. Mr Friel underwent surgery on the evening of 30th January 1972. He was described by the consultant surgeon at Altnagelvin Hospital, Mr H.M. Bennett, as "an extremely lucky young man" **D0778**. Joe Friel was discharged from hospital on 10th February 1972 **D0778**.

19.7.3. Civilian Evidence

19.7.3.1. The Tribunal has received both written and oral evidence from Joe Friel himself.

19.7.3.2. Mr Friel is another of the wounded who was shot in Glenfada Park North. At the time of Bloody Sunday he lived in 9 Donagh Place in Block 1 of the Rossville Flats with his family. Mr Friel went on the march on Bloody Sunday joining it in the area of the Bogside Inn. As he was walking down Rossville Street and came to the last "threepenny bit" between Rossville Street and Joseph Place he heard shooting. It was sharp cracks, all single shots and there did not appear to be a pattern. He could not tell where the shots were coming from **AF34.2 paragraph 8**

19.7.3.3. Upon hearing the shooting Mr Friel ran back towards the Rossville Flats in an attempt to reach home. He aimed for the telephone box at the south gable end of Block 1 and when he reached it moved around the corner to the entrance at the southwestern corner of Block 1. Due to the volume of people in the entrance he could not get in and so he crossed the street to Glenfada Park **AF34.2 paragraphs 10 to 12**.

19.7.3.4. There is some confusion as between Mr Friel's various accounts about what route he then took before arriving in Glenfada Park North. His current recollection however is clear that he did make it to the southern gable end of Block 1 and tried, unsuccessfully, to get back to his parents' flat through the entrance to Block 1 on Rossville Street **Day 155/42/7 to Day 155/46/10**.

19.7.3.5. Mr Friel now remembers cowering down behind the cars that can be seen parked in the southeastern corner of Glenfada Park North in **P428 Day 155/53/20 to Day 155/55/13**. At that stage he indicated that he could not really see what was going on in the body of the car park, the only thing he was aware of was people milling about on the footpath along the back fence - "nothing untoward" **Day 155/55/16 to Day 155/55/20**.

19.7.3.6. At one stage Mr Friel, along with a number of others in that area, ran towards the exit in the southwest corner of Glenfada Park. When he was about eight to ten feet away from the alleyway he heard a shout from someone he now knows to have been Gregory Wilde and he turned and looked over his right shoulder **AF34.2 paragraphs 14 to 15**. He saw soldiers about five or six feet into Glenfada Park coming from the northeastern corner. Mr Friel describes one soldier at the front with two or three others right behind him. The soldier in front was moving forward with his gun in front of him at just above waist height and was moving it from side to side. He was firing randomly **AF34.3 paragraph 16**. Mr Friel was then shot.

19.7.3.7. He describes hearing three shots

> "bang, bang, bang. I felt a slight blow to my body no harder than a tap by a couple of fingers. My first thought was that I had been hit by a rubber bullet: I could not take it in that I had been shot. I looked down and could see blood. Within a second or two a large gush of blood came out of my mouth. I shouted "I'm shot, I'm shot!". I staggered but I do not think I hit the ground. Three fellows grabbed me and took me, as marked by an arrow on the map, between Glenfada Park and Abbey Park, to the Murray's house, [redacted] The three men who helped me were Leo Young (John Young's brother), Eugene McGillan and Jackie Chambers." **AF34.3 paragraph 17**

19.7.3.8. Giving evidence Mr Friel indicated that when he was running across Glenfada Park South and was fairly close to the alleyway there were perhaps six or seven people in front of him **Day 155/113/10 to Day 155/113/18**. He confirmed that when he saw the soldiers there was no one else between him and the soldiers "...There was a direct line. I could see directly over towards the soldier..." **Day 155/76/9 to Day 155/76/10**.

19.7.3.9. He further indicated that the soldier who fired had his gun halfway between his waist and his arm **Day 155/59/13 to Day 155/59/21** and that the memory of that soldier "firing from the hip" is one of the few memories that is "totally crystal clear because, as I said, I came that close to being killed, that could have been my last vision on this entire earth" **Day 155/116/1 to Day 155/116/3**.

19.7.3.10. Mr Friel now thinks that he must have fallen in Glenfada Park "because I got the impression of getting nearly trampled to death with people running over me" **Day 155/63/10 to Day 155/63/12**.

19.7.3.11. Mr Friel then describes how three people helped him to the Murray house in Lisfannon Park. In his statement he said that the three people who

helped him were Leo Young, Eugene McGillan and Jackie Chambers but giving evidence he indicated that

> "those names were supplied to me later on by Leo Young. I met Leo Young either in the meeting at the Ardoyne Hotel or it may have been the day I was up at the Widgery because Leo Young was up the same day as me. I later found out that Jackie Chambers did not in fact carry me. I have only recently found that out, by the way.
>
> Q. Were these people three people whom you knew before Bloody Sunday?
>
> A. I knew none of them.
>
> Q. Leo Young, but not the others?
>
> A. None of them, I did not even know Leo Young.
>
> Q. You did not know any of them?
>
> A. No." **Day 155/60/5 to Day 155/60/18**

19.7.3.12. Mr Friel has been consistent in his accounts that he was not carrying anything in his hands when he was shot **Day 155/76/21 to Day 156/77/1**. A transcript of a television interview with Mr Friel when he was in hospital can be found at **X.1.4.5**. In that interview he was asked "Were you carrying a gun?" and his response was "You are joking, the only gun I ever had was when I was a wee'un". Giving evidence Mr Friel confirmed that this meant a toy gun and that he would not have known "one end of a gun from another" **Day 155/80/11 to Day 155/80/19**.

19.7.3.13. Gregory Wild who was fourteen years old at the time of Bloody Sunday has made a statement to this Tribunal. He describes how when he went into Glenfada Park North he thought he was in a safe, enclosed area away from the riot and trouble. He says that at that stage there was a "crowd of us in the car park just milling around." **AW15.6 paragraph 9**. He has identified himself as the young boy on the extreme right hand side of photograph **EP27/10**.

19.7.3.14. As the crowd was milling around he saw a soldier standing in the north west corner of Glenfada Park and another standing in the north east corner **AW15.6 paragraph 10**. He says the soldier at the northeast corner of the car park

> "had the standard issue SLR. He was holding it with both hands with the butt of the gun at his hip and the barrel of the gun leaning against the wall of the wheelchair ramp which was in front of him. I don't know if anyone else saw this guy at the same time as me, but the minute I saw him I shouted "there's a limey!" or something to that effect. I shouted as a natural reaction and at the same second as I shouted I started running to the south west corner at the exit to Abbey Park. It seemed like everyone else started running as well." **AW 15.6 paragraph 11**

19.7.3.15. Mr Wild says "everyone was running for their lives in sheer panic." He then states "Running next to me was a man who I didn't know at the time but found out later was Mr Joseph Friel." He says that it seemed as though in the same second that he shouted "there's a limey", the soldier started firing with his gun resting casually on the wall. He was standing still and firing and Mr Wild thinks he fired two or three shots in all. "Mr Joseph Friel, as I now know him to be, got shot. It was as if he didn't know he'd been hit because he ran on a few paces before he fell. I know Mr Friel had nothing in his hands. He was running like the devil, just like me and everyone else because we were all shit scared." **AW15.6 paragraph 12**.

19.7.3.16. Mr Wild says that as he exited the south west corner of Glenfada Park North "the sound of gunfire from the army really started to increase. It seemed that things really kicked off then." Mr Wild then says that he "ran straight past Mr Friel and on through the gap between Glenfada Park North and Glenfada Park South into Abbey Park." **AW15.7 paragraph 13**.

19.7.3.17. Mr Wild had "never met Joseph Friel before Bloody Sunday but I went to see him in hospital the day after. He said I had saved his life that day because I shouted "there's a limey" as he started to run, but I knew he had it the wrong way around; he saved my life because he was older than me and had longer legs and could run faster so he got ahead of me and got shot. He took a bullet in the chest but I was a kid and if I had taken that bullet I would have taken it in the head." **AW15.10 paragraph 28**. Mr Wild therefore has particular reason to remember Joseph Friel.

19.7.3.18. Mr Wild spoke to Peter Pringle about what he saw on Bloody Sunday and Mr Pringle's note of that conversation appears at **AW15.12 to AW15.13** and is dated April 6. Mr Wild appears to agree with most of the content of that note **AW15.9 paragraphs 25 to 27** which records him as saying that on the other side of the alleyway "friel became hysterical and shouted i'm shot, i'm shot" **AW15.12**.

19.7.3.19. Another witness, Patsy Bradley, was in Glenfada Park and began to run towards the southwestern alleyway. He says he

> "was approximately in the position marked E on the plan [in the area of the alleyway at the south western corner of Glenfada Park North at grid reference G14 on **Q8**]when a man running in front of me fell forward. He was slightly in front of me about a yard or so with his back to me and to my right. The man did not look over his shoulder before he fell. At this time I could hear bangs which I thought were rubber bullets. I cannot recall if he cried out, but he possibly did. At first I thought he had been hit by a rubber bullet. Everything happened very quickly and he seemed to fall after I had turned into Glenfada Park North. **AB68.3 paragraph 22**

> "Another man whom I did not know and I helped him to his feet. I would have fallen over him had I not stopped to pick him up. At the time we would not leave wounded people to be

arrested by the army. I recognised the injured man as Joe Friel, I knew him from school even though he was a few years younger than me. I did not look around when I was in Glenfada Park North and there were certainly no soldiers in front of us (I was still facing the western exit). I can only assume Joe Friel was shot from behind. There was blood coming from Joe Friel's mouth and from his neck and the top of his chest. I realised he had been hit by a live round. I cannot remember what he was wearing. He fell onto the black tarmac of the car park and not the pavement. As I lifted Joe Friel we heard a different sharper noise than the bangs I had before. I can only assume this was live rounds and these were coming from somewhere behind (to the north of us)" **AB68.3 paragraph 23**.

19.7.3.20. Mr Bradley confirmed this account when he gave oral evidence before the Tribunal. He also said that he did not look around to see where the firing had come from and therefore did not see soldiers in Glenfada Park. He also said that he assumed that the army had come on down Rossville Street and that the "different sharper noise" he heard was live rounds coming from somewhere behind him although he could not tell whether they were coming from inside Glenfada Park or not **Day 153/131/19 to Day 153/133/23**.

19.7.3.21. Mr Bradley then says

The other man and I carried him in stretcher fashion through the western exit of Glenfada Park North. We had no problem getting him through the exit, people were running on either side of us and the crowd was thinning out. I went first carrying his legs and the other man had Joe under the arm pits, supporting Joe's head and shoulders. We could have been doing more harm than good by running with him and possibly should have left him. There were definitely no soldiers in Abbey Park **AB68.3 paragraph 24**

19.7.3.22. He then describes how Mr Friel was brought to a house in Lisfannon Park, the location of which is marked on **AB68.12**. Giving evidence Mr Bradley indicated that he does not remember Mr Friel talking at all while he was with him

> A. I do not remember him talking. There was a lot of blood coming out of his mouth.
> Q. He was obviously in considerable pain?
> A. Yes.
> Q. You do not remember him talking for example, in any coherent way; nothing that has lingered in your memory from that?
> A. Afterwards I realised he must have been choking on his blood because the back of my coat was sparked with blood."
> **Day 153/153/17 to Day 153/154/1**

19.7.3.23. Mr Bradley has marked the spot where Joe Friel fell in Glenfada Park with a blue arrow on **AB68.13**. He says

> "I can state categorically that Joe Friel was not carrying any form of weapon when he was shot. I did not see any civilian gunmen or bombers. There weren't any people in Glenfada Park who were throwing stones." **AB68.5 paragraph 37**.

19.7.3.24. Leo Young had come through Columbcille Court and Glenfada Park to the Old Bog Road. In his statement to this Tribunal he says that he

> "looked towards the south western alleyway leading from Glenfada Park South to the Old Bog Road (Fahan Street West). That alleyway was about 40 or 50 yards away from me. I saw a man come through the alleyway – he appeared to be one of the last out. He was not making as much headway as everyone else. There was a small wall of a garden (about 2-3 feet high) immediately to his

right as he came out of the alleyway and he stumbled against it and appeared to collapse. He was obviously struggling. I could still hear the bangs of what I thought were rubber bullets, lots of squealing and people shouting "they're shooting". I thought at that time that the man had been hit by a rubber bullet. I had not heard any shots and the shouts that the army were shooting had not really registered with me. I could see that the man needed help but it never crossed my mind that he might have been shot. I ran over to him, across the Old Bog Road. A couple of other people also reached him. He was down on his side and he was conscious. Four of us picked him up. I carried him by one leg, someone had his other leg and the others were holding his arms. We carried him back across the Old Bog Road and into a house in Lisfannon Park."
AY1.2 paragraph 9

19.7.3.25. Mr Young confirmed this location as where he had first seen this man when he gave oral evidence **Day 388/26/15 to Day 388/26/17**. However, attached to his statement is a note with a map relating to Mr Young, which appears to have been compiled by Peter Pringle **AY1.26 to AY1.27**. On the map that appears at AY1.27 can be seen a location marked with a cross and a note that says "saw Joe Friel here". The point marked is just on the Abbey Park side of the alleyway that runs between Abbey Park and the southwest corner of Glenfada Park. That Mr Friel was at this location is clear from his own evidence and that of Gregory Wild and Patsy Bradley above. It follows therefore that either

i) Mr Young is mistaken about where he first saw Mr Friel or;
ii) that at the time when Mr Young first saw Mr Friel he was already being assisted by others and had come along the walkway that runs between the west side of the western block of Glenfada Park South and the Abbey Park houses.

19.7.3.26. When he gave evidence Mr Young was asked about this as follows

"Q. When you saw Mr Friel was there anyone already assisting him or was he on his own, or what?
Well, when I looked round and the - there was a lot of people coming from that area, some of them were coming out where C is (i.e. on Fahan Street West at the south west corner of Glenfada Park South) and some of them were coming out below that again where there is another entrance, but when I seen Mr Friel, he seemed to be the last was coming out, whether the crowd brought him with them and then sort of scattered, but he, he seemed to be under pressure at that time.
Q. Did you see anybody else looking after him or helping at that point or –
A. No, well the time I got to him then, there were three other people that had given me a hand to carry him across" **Day 388/25/24 to Day 388/26/14**

19.7.3.27. Mr Young remained clear however that the point he had marked on the map accurately reflected where he first saw Mr Friel **Day 388/26/15 to Day 388/26/14**.

19.7.4. Removal to Hospital

19.7.4.1. Joe Friel was shot in Glenfada Park and taken to the Murray house at [redacted] where he was treated by Eibhlin Lafferty of the Knights of Malta **AF34.3 paragraphs 17 to 18**. He was then placed in a car and driven towards Altnagelvin Hospital by CIV 1, accompanied by Manus Morrison and Eugene O'Donnell. **AF34.3 paragraph 21**.

19.7.4.2. The car, and that carrying Gerard Donaghey which was just behind, was stopped at the check point on Barrack Street **AF34.3 paragraph 22** at which point CIV 1 and Mr O'Donnell were arrested and Mr Morrison ran away.

19.7.4.3. Soldier 104 got into the car and drove it onwards a short distance with Mr Friel still inside. He was then joined by a police officer, Constable

Malone and they drove to the bridge location **JM5.9**, **Day 219/119/9 to Day 219/120/6**. Joe Friel was attended to at this location by Soldier 138 and then conveyed to hospital in an army vehicle with Mr Patrick Campbell **AF34.4 paragraph 25**.

19.7.4.4. The specific allegation made by Soldier 104 against Joe Friel is examined in detail in **section 19.19.1**.

19.8 Patsy O'Donnell

19.8.1 Personal Details and Background

19.8.1.1. Patsy O'Donnell was 41 on Bloody Sunday. At the time of Bloody Sunday he was employed with roofing contractors, North West Ashphalt. Patsy married his wife Kathleen in 1955. In 1972 they had 6 children Donna aged 15, Caroline aged 14, Tricia aged 13, Marcelline aged 9, Philip aged 5 and Linda aged 4.

19.8.1.2. Patsy went on the March on Bloody Sunday with a group of friends, while his wife Kathleen went with her sisters. He was not a regular marcher, although he had been on Civil Rights Marches previously.

19.8.1.3. Patsy O'Donnell was one of those shot and wounded in Glenfada Park. After being shot he was unable to return to work for 6 – 8 months as a result of his injuries. He did eventually return to his profession as a roofer and in 1978 started up a roofing contractors business for himself, a business which he continues to run to this day.

19.8.2. Civilian Evidence re Shooting and Assault

19.8.3. Relevant Photographs

19.8.3.1. P772.2 and EP22/2 show Patsy O'Donnell on the march. These are the only photographs in which Patsy O'Donnell is seen on Bloody Sunday.

19.8.3.2. P316 and P317 are photographs which show the rear of the houses on the eastern side of Glenfada Park North and show the wooden fence just around the corner from the gable wall where Patsy O'Donnell took shelter from the soldiers firing in Glenfada Park North.

19.8.3.3. Although there are a series of photographs showing those arrested along with Patsy O'Donnell at the gable end wall, including Father Bradley, and Winifred O'Brien. Patsy O'Donnell has not been identified in these photographs. **EP2/9**, **EP2/10**, **EP2/11**, **EP2/12**, **EP19/3**, **EP20/3**, **EP20/4**

19.8.3.4. **EP5/19** shows City Cabs, **EP5/20** shows arrestees spread-eagled on the wall beside City Cabs. **EP5/21** and **EP5/22** show one of the arrestees, Charles Canning spread-eagled against the wall, soldiers from 1 Para and people at City Cabs including, Alex Bradley.

19.8.3.5. Finally, Patsy O'Donnell can be seen on **Video 3 at 8.40 – 10.40**

19.8.4. Bloody Sunday

19.8.4.1. Patsy O'Donnell was one of those wounded in Glenfada Park North. His injury unlike that of the others shot in Glenfada Park North is an injury which came from the left because he was cowering near the Glenfada Park North gable wall, presenting his left side to the soldier who shot him.

19.8.4.2. Having been shot Patsy O'Donnell was arrested and was eventually released at City Cabs having been assaulted by a soldier who hit him over the head with a baton. This section deals not merely with the shooting of Patsy O'Donnell, but also his arrest and the assault sustained by him at City Cabs.

19.8.4.3. Patsy O'Donnell made a number of statements in 1972. It appears that he was interviewed by Detective Inspector Gillanders on more than one occasion and that Detective Inspector Gillanders took notes of what Patsy O'Donnell said on the 4th February 1972 which can be found at **ED61.4**. He made a statement for the Northern Ireland Civil Rights Association, dated the 7th February 1972 which can be found at **AO35.7 to AO35.8**. Patsy O'Donnell made a statement to Detective Inspector Gillanders of the RUC dated the 13th February 1972 which can be found at **AO35.9**. He was also interviewed for the Sunday Times and the notes of the interview

which also include notes of an interview with Winifred O'Brien, can be found at **AO35.20 to AO35.25**. Patsy O'Donnell also gave evidence to the Widgery Tribunal, his statement to the Treasury Solicitor can be found at **AO35.18 to AO35.19** and the transcript of his evidence can be found at **WT6.41** onwards.

19.8.5. Shooting

19.8.5.1. By and large the accounts given by Patsy O'Donnell are the same. There are some discrepancies in relation to whether Patsy O'Donnell saw the bodies on the Rubble Barricade prior to being shot and whether the soldier who shot him aimed in his direction prior to shooting him. This will be dealt with below.

19.8.5.2. Patsy O'Donnell attended the Civil Rights March on Bloody Sunday. At about the time that rioting was taking place at Barrier 14 Patsy O'Donnell stood around the junction of William Street and Rossville Street. He saw rubber bullets being fired by the army and smelt the CS gas before moving to the wasteground at Eden Place. **AO35.1 paragraph 5**

19.8.5.3. While at Eden Place Patsy O'Donnell heard that people had been shot on William Street and that they had been taken to a house in Columbcille Court. Out of curiosity he went to the area of Columbcille Court before deciding to make his way to Free Derry Corner to hear the speeches. **AO35.1 paragraph 6 to 7**

19.8.5.4. On his way from Columbcille Court to Free Derry Corner he arrived in Glenfada Park North. He believes that shortly after entering Glenfada Park North people at the gable end wall of the eastern block of Glenfada Park North began shouting. "They seemed to be huddled down and were taking shelter behind the gable end wall and everyone appeared frightened. The shouts were "Get down – they're firing!"" **AO35.1 paragraph 8**

19.8.5.5. At that stage it appears that the shooting he described was taking place on Rossville Street and that the soldiers from Anti-Tank Platoon had not yet moved into Glenfada Park North. **AO35.2 paragraph 9**

19.8.5.6. Patsy O'Donnell took shelter just around the corner from the gable end wall. He decided to make his way to Abbey Park, but he saw 3 or 4 people running in that direction and saw one of them fall. He then decided to return to the location behind the fence just around the corner from the gable end wall. **Day 156/115/1 to Day156/115/5**, **Day 156/116/13 to Day 156/117/4** A photograph of the location where he took shelter can be found at **AO35.6**

19.8.5.7. Mr. O'Donnell became aware of soldiers in Glenfada Park North the position of the soldiers seen by him are marked 'A' and 'B' on the map attached to his statement at **AO35.26**.

19.8.5.8. There were two other people taking shelter at this location, a woman Winifred O'Brien and another man. It would appear both from the account given by Winifred O'Brien and the account given by Patsy O'Donnell that while trying to take shelter, he threw himself on top of Winifred O'Brien. **AO35.5 paragraph 33**, **AO35.7**, **AO4.3**, **Day 156/122/25 to Day 156/123/7**

19.8.5.9. In the evidence he gave to this Tribunal Mr. O'Donnell did not see the soldier who fired at him but he describes the shooting as follows:
"I then heard a loud crack. The first sensation that I can recall was a burning feeling in my right shoulder. I did not feel a thump. I was wearing a heavy overcoat and I thought that my coat was on fire. I put my left hand up to my shoulder and there was blood on it. I was not really in pain at the time but I realised that I had been shot. Some smoke came from my shoulder. A chip came out of the wall behind me." **AO35.2 paragraph 14**

19.8.5.10. He was unable to state which had come first the burning sensation in his shoulder or his awareness that the bullet had hit the wall behind him. He accepted the possibility that the bullet which hit him might have ricocheted off the wall and that portions of the shrapnel hit his shoulder. **Day 156/118/12 to Day 156/118/18**

19.8.5.11. Mr. O'Donnell then moved around the corner to the gable end wall. Winifred O'Brien gave him a hanky to put in his shoulder. **AO4.3** Fr. Bradley also became aware of Patrick O'Donnell wounded beside him at the Glenfada Park North gable end at that time. **H1.10 paragraph 25**

19.8.5.12. In 1972 in the accounts he gave about the shooting Patsy O'Donnell described having seen bodies behind the Rubble Barricade and it appears that this is what triggered his decision to make a break for Abbey Park. **AO35.18 paragraph 3**, **ED61.4**, **AO35.20**, **WT6.41 E-F** He does not refer to seeing the two bodies in his statement to NICRA, although he does seem to suggest that he got as far as the edge of the Rubble Barricade. **AO35.7**

19.8.5.13. Mr. O'Donnell does not now recollect seeing bodies behind the Rubble Barricade. **Day 156/121/2 to Day 156/121/10** **AO35.4 paragraph 30** Nonetheless from the evidence of Fr. Bradley it is inevitable that Patsy O'Donnell was at the gable end of Glenfada Park North after John Young, Michael McDaid and William Nash had been shot and killed at the Rubble Barricade and before those bodies were removed by soldiers. **H1.10 paragraph 25**

19.8.5.14. Also from the notes taken by Detective Inspector Gillanders it appears that Patsy O'Donnell saw a soldier aiming in his direction and it was that, rather than the young man stumbling as he made his way towards Abbey Park which caused him to take shelter behind the fence. **Day 156/122/20 to Day 156/123/19** Patsy O'Donnell accepted that it was possible that this was the sequence of events.

19.8.5.15. A number of newspaper accounts about the incident were put to Patsy O'Donnell by Mr. Glasgow QC who then suggested that "you did not see a soldier taking aim before you were shot?" to which Patsy O'Donnell replied "No, not really, no." **Day 157/12/20 to Day 157/12/22**

19.8.5.16. However, Mr. O'Donnell was then questioned further by Mr. Clarke QC on behalf of the tribunal about the statement made to the RUC which stated as follows:

> "As I ran along I could still hear shooting. I stopped for a second and across Glenfada Park in the direction of Columbcille Court and about 30 or 40 yards from me, I saw a soldier with a rifle in his hands. He appeared to be aiming in the direction of where I stood. There was a woman just in front of me and we both dived down behind a wooden fence and I kept the woman pushed down as far as possible. I heard a crack and felt pieces of cement of the wall behind me hit me around the shoulders." **ED61.4**

19.8.5.17. As it was pointed out to Mr. O'Donnell that account is consistent with the suggestion that prior to being shot he saw a soldier aiming in his direction, he was then asked further about his recollection of that sequence

> "Well, seeing – I seen the two soldiers.
> What happened immediately after you saw them?
> Well, we did dive down behind the wooden fence . .
> When you saw the two soldiers, what were they doing?
> Well, they – the two that I seen they had their guns at the ready.
> When you say "at the ready" - -
> Well, they were pointing, I would not say they were shoulder-high, they were –
> They were in what position?
> Well, they seemed to be heading into Glenfada Park." **Day 157/26/8 to Day 157/27/6**

19.8.5.18. Certainly it appears that even now Patsy O'Donnell has some recollection of the soldier who shot him, prior to his being shot and it would seem from the first account given by him in 1972 that he saw that soldier aiming his weapon in his direction just before he was shot.

19.8.5.19. The only other discrepancy is that it appears from the interview conducted by the Sunday Times journalists that Patsy O'Donnell was aware of two shots rather than one. Patsy O'Donnell's current recollection, consistent with all of the statements he made and his evidence to Lord Widgery is that he was only conscious of 1 bullet. **Day 156/125/12 to Day 156/125/15**

19.8.6. Arrest

19.8.6.1. Almost immediately after Patsy O'Donnell was shot, while sitting on the ground behind the gable wall, soldiers came around the gable wall told everyone to get up and marched them out through the north-eastern exit of Glenfada Park North. **AO35.3 paragraphs 16 to 17**

19.8.6.2. Patsy O'Donnell gave evidence that he had difficulty in keeping his hands above his head because of his injury, and that the soldiers shouted abuse at him and constantly poked him, although they had been made aware by Fr. Bradley that he had been shot and injured. **AO35.3 paragraph 18** **H1.42** In the statement made by him to the RUC on the 4th February 1972 Patsy O'Donnell describes both physical and verbal abuse. He stated that

"I was unable to put my right hand up due to the injury and the soldiers kept hitting me on the back and telling me not to turn round. I eventually managed to get both hands up against the wall. A soldier behind me pulled my head back by the hair and said to me "You are a Fenian bastard and I hate Fenian bastards". He also said "You have a bullet in you and when we get you down to the barracks you'll have another one in you. You mark my words". He said to other soldiers, "Chaps there will be blood flowing tonight"." **ED61.5**

19.8.6.3. In his NICRA statement Patsy O'Donnell stated that he was butted with a rifle in the wrist in order to keep his hands above his head, he has no current recollection of that incident although he thinks it may well have happened. **AO35.4 paragraph 30**

19.8.6.4. Patsy O'Donnell along with the other arrestees from the Glenfada Park North gable end was marched under a set of stairs at the north end of Kells Walk. He can be seen on Video 3 at **[REFERENCE]** marching under the stairs. They were then marched to City Cabs on William Street and told to stand against the wall there. **AO35.3 paragraph 19**

19.8.7. Assault by Soldier

19.8.7.1. Patsy O'Donnell then describes an incident where he was assaulted by a soldier hitting him over the head with a baton. A number of persons witnessed this assault. Inasmuch as there are discrepancies between the various accounts given below it is our submission that the account given by Patsy O'Donnell is to be preferred.

19.8.7.2. Patsy O'Donnell's evidence about the incident was as follows:

> "we were marched up to a taxi stand . . . People were told to stand up against the wall there. There were a few taxi drivers outside and one of them seemed to know that I had been shot or at least that I was hurt. He told me to go into the taxi office and I went in and sat down. . . . Very shortly afterwards, soldiers burst in by either pushing or kicking the door and ordered me to get out. I think I jumped up as they came in. As I went out of the door I was hit very hard on the head although I could not see by whom. The soldier behind me was pushing me and I certainly didn't expect to get that whack that I got. I may well have been hit with a baton, and the wound required eight stitches. I still bear the scar. Because I was hit so hard, my recollection of what followed is hazy." **AO35.3 paragraph 19**

19.8.7.3. Fr. Bradley gave an account of this incident to Lord Widgery in 1972:

"When I went round the corner I saw about five people against the wall outside City Cabs in William Street, and I recognised the person who had said to me he had been shot in the shoulder. What happened to him? A. He had his arms up against the wall with his legs out, and there was a soldier standing behind him. He half turned away from the wall, took his arms down and half turned away and as he turned towards the soldier the soldier hit him on the head with a baton.

Q. What did you do? A. I went over to him. I pulled back his coat and pointed out to the soldier that he had been hit by a bullet in the shoulder.

Q. What happened? A. There was an officer standing at the corner of William Street and Rossville Street, I knew he was an officer because he had a red beret on. I went over to him and said to him "Can I speak to you?" He said come back when this is all over, I don't have time now. And then I said to him "This man has been hurt or has been shot". And he asked the soldier if he had been shot, and the soldier looked at him and nodded his head, and he said "Let him go" . . . and I put him into a car that was parked on William Street." **WT4.39D to 4.40A**

19.8.7.4. Fr. Bradley gave a virtually identical account to the Sunday Times in 1972, which was put to him in the course of his evidence to this Tribunal and which he accepted as correct. **Day 140/151/23 to Day 140/153/29**

19.8.7.5. An account of the incident is also given by another of the arrestees James Doherty, who stated:

"I was aware of a man on my right walking west along William Street. I only caught a glimpse of him out of the corner of my eye since I was afraid to turn my head. I heard one of the soldiers shout "stop him" and was aware that he was stopped by soldiers and questioned. He must have then been allowed to carry on wherever he was going because I heard the same voice shout out again "I told you to stop that fucking man". He must have been grabbed by the soldiers and I am

under the impression he was dragged into a building on the south side of William Street . . . I could hear someone squealing and shouting from that area and I also recall a priest shouting "he has been shot in the arm". I could not see the priest and I am unable to say what he looked like but I knew he was a priest because I heard him say so" **AD69.4 paragraph 27**

19.8.7.6. There are also accounts given by three persons who worked in City Cabs, Alex Bradley, who ran City Cabs and Denis McLaughlin who and Frankie Boyle both of whom worked for City Cabs.

19.8.7.7. Denis McLaughlin gave an account in which an older man in his late 30's went into the back room along with 3 soldiers. He was unable to recollect whether the soldiers had dragged him in or followed him in. More soldiers came in and the man was dragged out of the back room. One of the soldiers struck the man with a baton. **AM327.1 paragraphs 5 to 7** The man was subsequently taken away in a taxi.

19.8.7.8. According to Alex Bradley, an incident occurred in which a youth, described by him as about 18 years old ran into the office of City Cabs, having apparently been shot in the shoulder. He was followed shortly afterwards by some soldiers. Frankie Boyle went at one of the soldiers with a brush shaft and was struck on the top of his head with a baton, causing blood to run down his forehead. A large number of people then got into a taxi, including the youth who had been injured, who was able to make his way out with everyone else unnoticed by the soldiers. **AB55.3 paragraphs 16 to 19**

19.8.7.9. When shown a photograph of Patsy O'Donnell in the course of his oral evidence, Alex Bradley stated that a number of people had run into City cabs and Patsy O'Donnell was only one of those people. **Day 98/163/17 to Day 98/164/3** He accepted that he could have been confused about the person's age. **Day 98/167/5 to Day 98/167/20**

19.8.7.10. By any reckoning this was a pretty confused account, particularly given his description of Frankie Boyle having sustained the assault and injury described, **Day 98/171/12 to Day 98/171/15** an assault and injury which Frankie Boyle maintains he did not sustain. **Day 122/80/21 to Day 122/81/1** It is noteworthy that his description of the assault on Frankie Boyle and the fact that arising from it "blood started to run down Frankie Boyle's forehead", **AB55.4 paragraph 18** is identical to the manner in which Patsy O'Donnell sustained his injury and its consequences. As Patsy O'Donnell stated in the statement made by him on the 4th February 1972 "blood streamed down my face." **ED61.5**

19.8.7.11. Alex Bradley's first statement about the events of Bloody Sunday was made in May 1999. It is in our submission clear that Alex Bradley while he may well have witnessed the incident involving Patsy O'Donnell has confused this with other incidents. In this respect it appears that on any account the scenes at the taxi-rank were somewhat chaotic after the shooting with "people were running from Rossville Street into William Street and into our office. They wanted to hire taxis and get away. People were shouting and crying and were very distressed." **AB55.2 paragraph 12** He also refers to taking 14 people away in his car after the incident. **AB55.4 paragraph 19** While he acknowledges now that 14 was an exaggeration he still gives evidence that about 9 people got into the car all frightened and trying to get away from William Street. **Day 98/158/14 to Day 98/158/21**

19.8.7.12. Frankie Boyle gave an account in which someone was dragged into the back office, followed shortly thereafter by a soldier. There was an altercation between the soldier and Frankie Boyle, in which Frankie Boyle pointed a sweeping brush at the soldier. The soldier then left the office having been called out by other soldiers. **AB48.1 paragraph 21 to AB48.4 paragraph 22** Frankie Boyle then took the boy from the back office up to the Creggan. He maintains that "Patrick O'Donnell came to find me after Bloody Sunday to thank me. He said that I had saved his life." **AB48.4 paragraph 23**

19.8.7.13. Frankie Boyle's account makes no reference to seeing Patsy O'Donnell or anyone else being assaulted by a soldier. It will be our submission that the evidence establishes conclusively that he was assaulted in the manner he describes.

19.8.7.14. Frankie Boyle's credibility has already been significantly undermined by having given an entirely implausible account of Michael McDaid having been arrested, placed in the rear of a Saracen, a soldier having fired a gas canister into the Saracen, Michael McDaid having escaped and then having been shot in the back as he ran away. **AB48.2 paragraph 14 to AB48.3 paragraph 16**

19.8.7.15. Frankie Boyle apparently witnessed this incident from Kells Walk and the Saracen he describes was at the south side of the Rubble Barricade. **Day 122/61/20 to Day 122/63/16** Aside from the fact that Michael McDaid was not shot in the back, according to Frankie Boyle Michael McDaid was in his continuous sight from the point at which he was arrested to the point at which he was shot. **Day 122/65/8 to Day 122/65/17** This evidence is totally undermined by the photographic evidence. Moreover the other two persons who apparently escaped from the rear of the Saracen have never come forward.

19.8.7.16. Frankie Boyle of course gave evidence about this matter for the first time in 1999 and it is submitted that at best his evidence is confused. In any event it is our submission that while he was undoubtedly at the taxi-rank and would appear to have had some altercation with soldiers, given his evidence about Michael McDaid, little weight can be attached to his evidence unless corroborated by other witnesses.

19.8.7.17. It is our submission that accounts given by Patsy O'Donnell and Fr. Bradley, accounts consistent with each other and the accounts they gave in 1972 are to be preferred. They are also of course broadly consistent with the account given by James Doherty.

19.8.7.18. Moreover, the account given by Patsy O'Donnell, Fr. Bradley and James Doherty is consistent with the evidence of INQ25 who described an assault on an injured man in similar terms. In his statement to this Tribunal INQ 25 stated that:

> "I can recall seeing a chap who appeared in a dark overcoat. He was short, he looked a bit grey and was in his forties. He was trying to get into the taxi rank. I remember there being something of an incident because one of my colleagues was trying to stop him. I think he thought that the man had been arrested but had then left the holding area. The soldier hit the man on the head with his baton, but not too hard.
>
> A baldish priest intervened and I remember him saying, "For God's sake, he's been shot!" At that stage, the man opened up his overcoat and I could see that he was wounded. I remember seeing blood in one of his armpits, but I cannot remember whether it was his right arm or his left arm, but it was around the armpit/shoulder area." **C25.3 paragraphs 26 to 27**

19.8.7.19. In oral evidence INQ25's account was really on all fours with that of Patsy O'Donnell. He was of the view that Patsy O'Donnell had managed to get into the taxi office and was being brought out by one of INQ25's colleagues who then hit him on the head. **Day 300/89/16 to Day 300/89/22**

19.8.7.20. He gave evidence that Patsy O'Donnell was struggling violently in order to get away, albeit he acknowledge that Patsy O'Donnell was "obviously in a lot of pain and distress". **Day 300/90/12**

19.8.7.21. While he continued to maintain that the man had not been hit very hard he acknowledged that Patsy O'Donnell's head was split open as a result of the blow. **Day 300/90/18 to Day 300/90/25**

19.8.7.22. While seeking to argue that the force used was minimum INQ 25 accepted that:

i) Although at that stage he had not seen Patsy O'Donnell's injury, he could see he was in considerable pain and distress. **Day 300/91/10 to Day 300/91/15**

ii) All of the arrestees were under control. **Day 300/91/16 to Day 300/91/18**

iii) There were 6 soldiers in a position to restrain the man if necessary. **Day 300/91/19 to Day 300/91/25**

19.8.7.23. It is our submission that Patsy O'Donnell was a credible witness, who has given a consistent account of his shooting and assault in 1972 and to this tribunal and that his evidence about how he sustained his assault, as corroborated by Fr, Bradley, James Doherty and INQ25 is to be believed.

19.8.7.24. On the evidence before the Widgery Tribunal and this Tribunal Patsy O'Donnell was shot while unarmed. He was shot by a soldier positioned further north in Glenfada Park, in all probability as he stated in 1972, a soldier who aimed in his direction from a position 30 to 40 yards from him in the direction of Columbcille Court. As a result of the shooting he sustained a shoulder wound. Having sustained an injury and while in some pain and distress he was arrested by soldiers who had no justification for arresting him. He was subject to vile abuse by soldiers and sustained assaults because of his inability to raise his arms above his head. Despite the fact that soldiers were aware that he had been injured no steps were taken to obtain medical treatment for his injuries. Instead he was subjected to a further unprovoked assault by a soldier who hit him on the head with a baton, splitting his head open. Even the soldier from Composite Platoon of 1 Para who witnessed the assault was able to discern that at the time he was assaulted he was visibly in considerable pain and distress.

19.8.8. Injuries Sustained

19.8.8.1. Patsy O'Donnell sustained two injuries. As a result of the shooting he sustained a wound to his right shoulder. Mr. Bennett the Consultant surgeon who supervised his care in Altnagelvin Hospital noted that "X-ray showed multiple small foreign bodies in this area. Both wounds in his shoulder were excised and sutured that evening but only one tiny piece of metal was extracted from the shoulder wound." **ED61.7**

19.8.8.2. It should be noted that this correspondence from Mr. Bennett to the RUC follows earlier correspondence in relation to Mr. O'Donnell's scalp wound. The reference to 'both' wounds is obviously a mistake and is in fact a reference to the fact that both the shoulder wound sustained as a result of the shooting and the scalp wound sustained as a result of the assault were excised and sutured. It can be seen from Mr. O'Donnell's discharge letter that there was only one wound to the shoulder, described as "through and through". **D0899**

19.8.8.3. As well as the injury resulting from the shooting a 1½ inch wound to the left side of the scalp is referred to in the operative report, in which it is noted (? from fall). **D0898** The scalp wound is the result of a further report from Mr. Bennett arising from enquiries made by the RUC. In that report he notes that:

> "He had a small scalp wound just at the junction of the forehead and hair-line on the left side of the forehead. At the time it was assumed that he had got this on falling but I understand there is now an allegation that it was in fact a baton injury.
>
> I am quite unable to be definite about this but can only note that the wound looked more like an injury from a fall than from a baton injury although the latter cannot be completely excluded on medical grounds alone." **D0902**

19.8.8.4. As Dr Shepherd and Mr O'Callaghan have noted "In the absence of a more detailed wound description it is not possible to determine how he came to this conclusion." **E10.010**

19.8.8.5. In the first account given by Mr. O'Donnell to the RUC on the 4th February 1972 Mr. O'Donnell alleged that after he had been shot and arrested

> "later in William Street another soldier hit him over the head with a baton. . . . Doctor [Fallon] conveyed O'Donnell to Altnagelvin Hospital and on the way there allegedly advised O'Donnell to say that the head wound was the result of a fall.

19.8.8.6. O'Donnell told D/Sgt. Cudmore and myself that he told the Hospital Staff that he received the head wound while falling, although to date I have not been able to establish to whom this was related." **ED61.2**

19.8.8.7. To similar effect in his statement for the Treasury Solicitor Patsy O'Donnell stated that "There were a lot of soldiers and police at the hospital. I was scared. Dr Fallon told me to say just that I was shot and if they asked about the head wound to say I had fallen down. This is what I did." **AO35.19 paragraph 5**

19.8.8.8. Mr. O'Donnell in his evidence to this Tribunal has stated in relation to Dr. Fallon that "I remember him giving me that advice but I do not know why he gave it; I think it was probably to avoid me getting into trouble with the police, although I had done nothing wrong." **AO35.5 paragraph 31**

19.8.8.9. In any event Dr. Bennett was unable to dismiss the possibility "on medical grounds" that Patsy O'Donnell was hit over the head with a baton and it seems likely that the assumption that Patsy O'Donnell had fallen came from Patsy O'Donnell himself acting on the advice of his Doctor.

19.8.8.10. Mr. O'Donnell was detained in Hospital until the 11th February as a result of his injuries.

19.8.9. **Removal to Hospital**

19.8.9.1. The consistent evidence of all witnesses is that he was removed from City Cabs in a taxi. **AO35.3 paragraph 22**, **H1.15 paragraph 37**, **AM327.2 paragraph 8**

19.8.9.2. According to Mr. O'Donnell's own account to the RUC on the 4th February 1972 he was taken from the taxi-rank to a First Aid Centre in Creggan. He was then examined by Dr. Fallon at another house in the Creggan and was brought to Hospital by Dr. Fallon. **ED61.5** According to his NICRA statement the second house was in Swilly Gardens, which is in the Creggan, and it was there that he was examined by Dr Fallon. **AO35.8**

19.8.9.3. A more detailed account is contained in the Sunday Times report, which reflects in part an interview with Mr. O'Donnell, but also apparently interviews with Winifred O'Brien, as well as members of the Knights of Malta. According to this report:

> "O'Donnell was taken to the Fanad Drive Community Centre where he was treated by Supt. Attracta Simms and Lance Corporal Hugh Deehan of the K.o.M. Their report states: "We treated a young man with gunshot wounds in the left shoulder and forehead (pp: the baton wound). He was taken to house in the Creggan estate where he was treated (O'Donnell says by Dr Fallon . .) but he refused to go to hospital at first. It was only after some persuasion from the doctor that he was taken by him to Altnagelvin." **AO35.25**

19.8.9.4. In his evidence to this Tribunal Patsy O'Donnell's recollection was that he was taken to a house in Swilly Gardens and that there was someone from the Knights of Malta there. **Day 156/129/14 to Day 156/129/16** When his NICRA statement was shown to him he accepted that it was possible that he been taken to a first aid centre first, then the house in Swilly

Gardens, where the woman rang Dr Fallon who then took him to Hospital, but that he could not remember. **Day 156/129/20 to Day 156/130/9**

19.8.9.5. Aside from Patsy O'Donnell's own account a William MacDermott made a statement to Eversheds in which he stated that he attended the house in which Patsy O'Donnell was treated and that Patsy O'Donnell had expressed a wish to go to Letterkenny because he was scared to go to Altnagelvin Hospital. **AM189.6 paragraph 25**

19.8.9.6. William MacDermott describes Patsy O'Donnell as having sustained a chest wound but also gives evidence about the cut on his head Patsy O'Donnell had sustained because of a baton round. According to Patsy O'Donnell "There was no discussion of taking me to Letterkenny. I was to go to Altnagelvin." **AO35.3 paragraph 22**

19.8.9.7. William MacDermott never gave oral evidence because he died. It is submitted that Patsy 'Donnell's evidence is to be preferred on the question of whether he expressed a desire to go to Letterkenny Hospital, although there is no doubt, on his own account that he was scared going to Altnagelvin because of the army and police presence in light of his experiences that day. **AO35.19 paragraph 5**

19.8.9.8. William MacDermott assisted in keeping Patsy O'Donnell propped up in Dr Fallon's car and an indirect route was taken in order to avoid check points. **AM189.6 paragraphs 27 to 28** It would appear from William MacDermott's statement that Patsy O'Donnell arrived at Altnagelvin before 6pm. **AM189.6 paragraph 30**

19.8.10. Forensic Evidence

19.8.10.1. As has been seen from the medical evidence referred to above, although a number of metallic fragments were noted in Mr. O'Donnell's shoulder wound on X-ray, only one appears to have been extracted. **D0902.1**

19.8.10.2. The metal extract was submitted to the Forensic science lab. Dr. Martin identified the fragment as "a small fragment of lead which could be part of a bullet. It is not possible to indicate calibre or type." **D0906**

19.8.10.3. Dr Shepherd and Mr O'Callaghan have stated that "No comment can be made concerning the nature of the projectile." **E10.010**

19.8.10.4. Given Patsy O'Donnell's oral evidence about the circumstances in which he was shot it is undoubtedly the case that he was shot by a soldier.

19.8.10.5. At the Widgery Tribunal Patsy O'Donnell was asked whether he had retained the clothes he was wearing on the day and whether he was willing to have them investigated by forensic tests. He answered in the affirmative in relation to both questions. **WT6.45A** In fact although he had retained the clothes they were never examined. **AO35.4 paragraph 26**

19.9 Military Evidence

19.9.1 Introduction and summary of submissions

19.9.1.1 As has been seen in section eighteen the Anti-Tank Platoon entered the Bogside in the two APCs that brought up the rear of the Support Company convoy. They debussed at a point close to the junction of William Street and Rossville Street and moved south down the west side of Rossville Street to the low wall at Kells Walk.

19.9.1.2 Their actions at that wall and on Rossville Street both before and after they entered Glenfada Park North are dealt with in section eighteen and must be read in conjunction with the analysis of their evidence in relation to sector 4 that appears in this section.

19.9.1.3 After Michael Kelly, Michael McDaid, William Nash, John Young and Hugh Gilmore had been shot at the rubble barricade, members of the Anti-Tank platoon moved from the low wall at Kells Walk into Glenfada Park.

19.9.1.4 Lord Carver has told this Tribunal that he does not know:

"why the paratroopers were in Glenfada Park. The role of Support Company was to protect the rear of those carrying out arrests. Vehicles went into the area even though the order stated that the arrest operations should take place on foot." **KC8.10 paragraph 20**

19.9.1.5 On their own accounts Soldiers E, F, G, H, J, 119, 027 and David Longstaff were in Glenfada Park North when shooting was taking place. However, there are varying accounts of who made up the "brick" that led the foray into Glenfada Park. That F and G were part of it is clear. However a brick usually comprises four people

and Soldiers E, H, J and David Longstaff all claim to have been part of the brick that included Soldiers F and G.

19.9.1.6 In addition to these eight soldiers it appears that it is possible that at least another three members of the platoon may have been in Glenfada Park at some stage before they withdrew back to Rossville Street. Those soldiers are INQ 635, INQ 1237 and the platoon sergeant INQ 1694. In addition, at least one member of composite platoon, Soldier 229, indicates that he escorted prisoners from Glenfada Park.

19.9.1.7 Only soldiers E, F, G and H admit to firing in sector 4. They admit to firing a total of 29 shots in Glenfada Park North and also claim to have hit six or seven people. Nineteen of those shots have been claimed by Soldier H in respect of the sniper he claims to have seen behind a frosted glass window at the south end of Glenfada Park[5]. The hits claimed include this person. Soldier F claims that he hit one person twice. The total number of hits not including Soldier H's "sniper" is therefore five or six with ten shots, one of those being hit twice.

19.9.1.8 In fact, 2 people were shot dead and five people injured by army gunfire in Glenfada Park North. One of the deceased, Jim Wray, was shot twice and there is some evidence that the other, Willie McKinney, may also have been hit by two bullets.

19.9.1.9 The accounts given by soldiers as to what happened in Glenfada Park differ in important respects. There are many discrepancies between the various accounts made by each solider. In addition the accounts made by the different soldiers do not corroborate each other.

19.9.1.10 The 1972 evidence of the soldiers can be summarised as follows:

[5] This issue has been dealt with in section eighteen above.

(i) Lieutenant 119 says that when he entered Glenfada Park he saw F fire two shots. He did not see what F was firing at and did not see any other soldier fire in Glenfada Park.

(ii) Soldier E initially says the soldiers were met with petrol bombs, nail bombs and other missiles when they entered Glenfada Park North. He later says there was a crowd of forty to fifty people there. He says he fired two shots at a man who threw a petrol bomb and a nail bomb at them.

(iii) Soldier F's evidence is that while on Rossville Street he saw people moving from the barricade into Glenfada Park. While he initially says this was a large crowd of rioters he later says they were three people and one of them was carrying a rifle. Once in Glenfada Park F says that he fired on a man who was about to throw a nail bomb and G fired on the man with the rifle.

(iv) Soldier G did not see any rioting in Glenfada Park and he is clear that he did not see any petrol bombs or nail bombs exploding. He heard one bang that day but did not know where it came from nor what it was. He says that he saw two gunmen in the southwest corner of Glenfada Park North. He fired three shots at one of them but both fell. A crowd of about fifteen people who were standing along the south end of the car park ran past the bodies and the weapons were removed.

(v) Soldier H claims that he fired and hit at two men in Glenfada Park, one of whom fell, the other ran away. He also claims to have fired nineteen shots at a sniper he says was located behind a frosted glass window at the south end of Glenfada Park.

(vi) Soldier J's evidence to Lord Widgery was that he entered Glenfada Park after soldiers F and G. As he entered the car park they fired at two men at the far corner of the park who may have been carrying nail bombs.

19.9.1.11 Soldiers E and G are dead. However, Soldiers F, H, J, 119 and David Longstaff all gave evidence to this Tribunal. Their evidence was striking as much for what they did not say as for what they did. Soldier 027 also gave written and oral evidence. As has previously been submitted, the members of Anti-Tank Platoon who gave evidence before this Tribunal appear to be suffering from some kind of "collective amnesia" in relation to the events of Bloody Sunday. Such is the severity of this apparent condition that it seems that the surviving members of the platoon that arguably has the most to answer for in terms of deaths and injuries on Bloody Sunday ask the Tribunal to accept that they have the least memory of what actually happened. Giving evidence to this Tribunal Soldier F agreed that this state of affairs was a "very curious paradox." **Day 376/21/2 to Day 376/21/16**

19.9.1.12 In our submission the collective failure of memory of the surviving members of the Anti-Tank platoon is merely a shield, a device, and the only possible way in which they could avoid facing the uncomfortable questions that must be answered as a result of their murderous actions on 30th January 1972. Their evidence in 1972, to the Royal Military Police and to Lord Widgery and their evidence to this Tribunal in 2003 is replete with lies and they have made no serious attempt to assist this Tribunal in its task of finding the truth of what happened on Bloody Sunday. Instead they prefer to continue their attempts to defend the indefensible and ask the Tribunal to believe that despite the evidence they gave in 1972 and the evidence they gave before this Tribunal they acted properly on Bloody Sunday.

19.9.1.13 Table 1 at Appendix 1 shows the soldiers who fired and their claims as to where they fired from, what and where they fired at, the number of shots they fired, by whom they were seen to fire, whether they struck their targets and the most likely victims.

19.9.1.14 Table 2 Appendix 2 shows the accounts of the soldiers as to when they first heard shots.

19.9.1.15 Table 3 Appendix 3 suggests a possible order in which shots were fired by soldiers. Relying, as it does, on admittedly unreliable soldiers' evidence, the contents of this table are highly speculative.

19.9.1.16 Table 4 Appendix 4 represents an attempt to provide a quick-reference tool which allows ready comparison of the accounts given by all the soldiers in Anti-Tank Platoon about certain material matters, such as whether they saw any civilians with weapons or heard any nail bombs.

19.9.1.17 Table 5 Appendix 5 outlines the number and dates of statements given by the members of Anti-Tank Platoon to the Royal Military Police.

19.9.1. Individual Soldiers in Anti-Tank Platoon

19.9.1.1. Lieutenant 119

19.9.1.1.1. As has been outlined in section eighteen the conduct of Lieutenant 119 on 30th January 1972 is of particular significance given that he was the commander of the Anti-Tank Platoon on that day. As such, and given the actions of certain members of the Anti-Tank Platoon on Bloody Sunday, and their conduct since that date in accounting for those actions, a serious issue arises for this Tribunal as to whether Lieutenant 119 exercised any or adequate control over the men in his platoon.

19.9.1.1.2. Lt 119 has said "I believe that in my own conduct and in the conduct of the NCOs who commanded the little groups, it was as it should be." **Day 364/11/5 to Day 364/11/7**. In our submission this is demonstrably wrong and in fact what emerges from the evidence before the Tribunal is that Lt 119 was not in effective command and control of the Anti-Tank Platoon on that day. This issue is of particular significance when the nature and experience of the Anti-Tank Platoon and its members is remembered.

Did Lt 119 give an order to go in to Glenfada Park?

19.9.1.1.3. In his first RMP statement Lt 119 said:

> "Under the command of 'E' and 'F' *a number of my platoon entered* a square, Columbcille Court. " **B1752.041**

19.9.1.1.4. In his second RMP statement this changes to:

> "I noticed that it was possible to get into Glenfada Park from an entrance directly to my right. *I sent* 'E' and 'F' together with a party of men around the right of Glenfada Park, and sending for my vehicles at the same time for cover. When I had satisfied myself that the men in the open were now in cover I myself moved into Glenfada Park. " **B1752.037**

19.9.1.1.5. In the statement he made for the purposes of the Widgery Tribunal Lt 119 said:

> "To cover us against the fire from Block 1 I sent a runner to order up our vehicles to give us cover on the road. *I then ordered* some men forward into the courtyard of Glenfadda Park, hoping to cut off the gunman by the barricade. As soon as my vehicles were in a position to give us satisfactory cover from the fire from Block 1 I moved myself into Glenfadda Park courtyard." **B1752.044 paragraph 7**

19.9.1.1.6. Giving evidence to the Widgery Tribunal the following exchange took place:

> "MR GIBBENS: How is it that you did not fire yourself if you saw the man firing with the pistol? A. I had two things on my mind: the first was to get my vehicles up to give us cover from the men who were firing from Rossville Flats, and the other thing was to try and cut off the man who was firing at us. Therefore, *I despatched the men* into Glenfada Park." **B1752.050 D**

19.9.1.1.7. When cross-examined on this point by counsel for the families Lt 119 said:

> "Q. Just to recapitulate briefly, you sent E and F into Glenfada Park, is that correct? A. That is correct." **B1752.056 A**

19.9.1.1.8. It can be seen therefore that, after his first statement to the RMP, Lt 119's description of his role in the foray into Glenfada Park becomes that of a commander in that he talks about sending, despatching or ordering men into Glenfada Park where previously he simply said that they had gone in under the command of E and F. It should be noted that Lt 119's second

statement to the Royal Military Police was signed on 4th February 1972. The Tribunal will be aware that it is our submission that the statement taking process on 4th February was nothing more than a "clear up" exercise by which certain evidence was "straightened out" and corroboration gathered for the actions of some soldiers[6].

19.9.1.1.9. In his Eversheds statement Lt 119 said:

> "I have been asked whether I ordered the men to move into Glenfada Park. *I do not now remember whether I ordered it or whether they did it because it was appropriate in order to secure our flanks*. Securing our flanks was a standard practice. I have been asked why it was necessary to secure our flanks and in that connection I have been referred to my RMP statements where I describe a pistol being fired from the corner of Glenfada Park. I do not remember that event. However, I believe that whatever I said to the RMP and the Widgery Tribunal was accurate." **B1752.016 paragraph 31**.

19.9.1.1.10. By the time he came to give evidence to this Tribunal the following exchange took place:

> "Q. It looks from that [his second RMP statement], does it not, as if your recollection is that you sent two non-commissioned officers, together with others, into Glenfada Park?
> A. That is right sir
> Q. As opposed to their going of their own initiative?
> A. That is right sir." **Day 363/147/7 to Day 363/147/12**

19.9.1.1.11. In his evidence to this Tribunal Lt 119, while he says that he does not remember that he ordered the move into Glenfada Park has now, for

[6] For further discussion of this issue see section five

the first time, presented an alternative justification for his men entering Glenfada Park, even on their own initiative.

19.9.1.1.12. Lt 119's evidence alone is not conclusive on this point. The clear evidence given by other members of the Platoon who admit to entering Glenfada Park North is broadly consistent that they were not ordered or sent in by Lt 119.

19.9.1.1.13. Soldier E, the section commander, says they moved into Glenfada Park to try to "head off" rioters who moved into the courtyard from the barricade **B87**. Giving evidence at the Widgery Tribunal he was quite insistent when asked if he got instructions from anybody at that stage. He said that he "acted on my own initiative, sir, and moved around to cut them off, sir." **B102F**

19.9.1.1.14. When E was cross-examined by counsel for the families Mr Hill the following exchange took place:

"Q. You moved into the area of Glenfada Park on your own initiative, is that right? A. Yes

Q. You had no instructions or orders to do that? A. No, sir

.....

Q. Do you know whether you had any instructions to proceed so far down Rossville Street or not? A. I took it on my own bat to do so.

Q. You accept full responsibility for that, do you – for having made the decision to go into Glenfada Park? A. Yes sir.

Q. And to proceed as far down the Rossville Street area as you did? A. Yes

Q. Why do you accept that responsibility? A. Because I am an NCO, sir.

Q. Is it true that you did it on your own initiative? A. Yes sir.

Q. Were you closely questioned by the SIB about that? A. Yes".

B109D- G

19.9.1.1.15. Later in this exchange E also acknowledged that Major Loden was probably unaware that the men had gone into Glenfada Park **B110B**.

19.9.1.1.16. Soldier F was clear in his evidence to Lord Widgery on this point. When asked by Mr McSparran whether he went in to Glenfada Park as a result of receiving any order from the Lieutenant F replied "No, sir" **B152G**. Giving evidence to this Tribunal the following exchange took place:

"When you went towards Glenfada Park by whatever route you took, was that as a result, do you recall, of any order that you had been given?

A. No

Q. You are sure about that; are you?

A. Possibly

Q. The reason that I ask – I do not want there to be a trick in these questions – if we have a look at B153, in your oral evidence to Lord Widgery, the top of the page, please, the first half, you were asked, see the second question:

"Question: You went in completely on your own initiative?

"Answer: No, sir.

"Question: Who told you to go in there if you did not go in on your own initiative?

"Answer: E, sir.

"Question: What rank is E?

"Lord Widgery: We have seen him. He is the corporal"

Q. Is that likely to be correct?

A. If that is what it says in the statement then that is correct, yes."

Day 375/95/21 to Day 375/96/18

19.9.1.1.17. Soldier G initially says that he went into Glenfada Park first with F, followed by two others **B169**[7] Under cross-examination at the Widgery Tribunal he said the following:

"Q. When you first went into the alleyway, did you decide to go, or did F decide to go first? A. I think somebody else decided to go.
"Q. Can you recall who that was? A. No sir. I follow F, sir.
"Q. So you did not hear if F got an order to go into the alleyway?
"A. No sir." **B200 E-F**

19.9.1.1.18. Soldier H indicated in his first statement that his entry into Glenfada Park was as a result of the pursuit of rioters. **B219** Giving evidence to Lord Widgery he says that while he was taking cover behind the two walls on Rossville Street he did not "receive any orders at that time." **B250C-D** To this Tribunal his evidence was:

"LORD GIFFORD: Soldier H I come to the time when you went into Glenfada Park. You told Mr Clarke yesterday that your recollection is that you went in to make arrests.
A. Yes, sir.
Q. In effect on the day is it right that you would have seen F and G go in that direction?
A. I would have thought – yes.
Q. If they went in that direction, it was your duty to follow them?
A. We would have moved in the brick, yes, sir.
Q. Was there any order from any of them or from any senior officer that you recall or did you just go there?
A. We just went I think, sir, I think.
Q. And you followed, it was your responsibility to follow the two leaders?
A. Yes, sir.

[7] He says in his statement to the Treasury Solicitor that he actually arrived in Glenfada Park first, with F closely behind him **B186 paragraph 5**. He makes no mention of having received an order to go in to that area but does mention that they were recalled by their Platoon Commander **B187 paragraph 8**.

Q. In the brick.

A. Yes, sir." **Day 378/80/15 to Day 378/81/7**

19.9.1.1.19. David Longstaff (INQ 023) makes no mention of an order or otherwise: "I remember following Lance Corporals F and J and Private G and others to the right. They were ahead of me. Other members of our platoon could have been behind me or to my right but I am not sure." **C23.5 paragraph 30**

19.9.1.1.20. Corporal J first mentioned the possibility of an order having been given to go in to Glenfada Park when he gave evidence to Lord Widgery. He said "I think there was a Platoon Commander standing behind us who shouted 'Move into Glenfada Park as there are a lot of people there and arrest them'" **B280G**. He confirmed this evidence when questioned by Mr Hill for the bereaved and wounded in the following exchange:

"Q. Were you authorised to go in? A. As I said, I heard the Platoon Commander's voice behind me telling us to go into the Glenfada Park as a lot of rioters had moved up there.

Q. Is that Corporal F? A. No this was the Platoon Commander.

Q. What was his rank? A. Lieutenant.

Q. A Lieutenant ordered you to go in? A. He was behind us at that stage.

Q. May I suggest to you that that was the Corporal's idea to go in?

A. I would not know about that.

Q. And that your presence in Glenfada Park was not in fact authorised?

A. It was authorised by the Platoon Commander, which is good enough for me." **B288 B-D**

19.9.1.1.21. In his statement to this Tribunal Soldier J said:

"I have no recollection of receiving orders to go into Glenfada Park. Generally, in situations such as these, we did not have time to await orders. It was a matter of acting on our own initiative. No one is able to see everything that is happening and, if someone can see something that is endangering life, they have to await orders and must act appropriately." **B289.007 paragraph 44**

19.9.1.1.22. Giving evidence to this Tribunal he said he now has no recollection of receiving orders to go to Glenfada Park or of who gave them. **Day 370/53/23 to Day 370/54/2**

19.9.1.1.23. Soldier J is therefore the only soldier who admits to having been in Glenfada Park who also indicates that the members of the Anti-Tank Platoon were given an order to enter that area. Even at that, the first time he gave such evidence was when he appeared before Lord Widgery.

19.9.1.1.24. Soldier J has no current memory of receiving such orders and in fact thinks it unlikely. The other members of the platoon either make no mention of receiving orders from Lt 119 or positively assert that there was no order and that they acted on their own initiative.

19.9.1.1.25. In his RMP statement Soldier 027 makes no mention of an order to go into Glenfada Park being received but rather says that he "followed Soldiers E, F, G and H round to corner of the building into Glenfada Park." **B1547** The same formulation appears in his statement to the Treasury Solicitor. **B1552 paragraph 5** In fact, in none of his accounts does Soldier 027 mention such an order being received. He now does not recall Lt 119 ordering anybody to go into Glenfada Park. **Day 246/83/10 to Day 246/83/13**

19.9.1.1.26. In our submission the evidence clearly points to no order having been given by Lt 119. This is significant for the following reasons:

(i)The anti-tank platoon was without effective command on the day;

(ii)The soldiers of the platoon were therefore not subject to any restraint in terms of where they went and what they did;

(iii)There was no co-ordination of the movements of the platoon as part of the overall operation by Support Company as they moved south along Rossville Street.

The events in Glenfada Park

19.9.1.1.27. In his statement of 31st January 1972 Lt 119 says:

i) "Under the command of E and F a number of my platoon entered a square, Columbcille Court. On rounding the corner they informed me that they had fired a number of aimed shots at male persons in the process of preparing nail bombs." **B1752.041**

ii) "They were killed. 3 youths and the bodies were located at GR 43181685. They were under fire from the youths locations. As we advanced, *a large crowd appeared from the flats and began to run around the bodies*. On arrival at the scene, no sign of any subversive activity was found. The bodies of the three youths were still there. They were not touched by my men." **B1752.041**

iii) "At that stage, ambulance men wearing pale grey suits appeared. They were from the Knights of Malta Ambulance. They did not say anything. They removed the bodies. They informed me that they were removing the bodies to the hospital. They did not mention any particular name." **B1752.042**

iv) "The lighting conditions were dull. *No examination of the bodies was possible* and we were ordered to withdraw." **B1752.042**

v) In his second statement to the RMP dated 4th February 1972 Lt 119 says:

a) "When I had satisfied myself that the men in the open were now in cover I myself moved into Glenfada Park. As I did so I saw 'F' fire 2 x 7.62 rounds at a target which I could not see from MR 43231687." **B1752.040**

b) "I then moved into Glenfada Park where I saw three bodies, all apparently dead, lying on the ground. I have previously been shown photographs of these bodies, but I am unable to identify them as the bodies recovered from this location..." **B1752.040**

c) "A crowd had gathered around the three bodies prior to my arrival and the bodies were obscured from our view for some time. Shortly afterwards we were ordered to withdraw by which time I had allowed the Knights of Malta ambulance service to deal with the apparently dead bodies." **B1752.040**

vi) In his statement to the Treasury solicitor Lt 119 says:

a) "As I came through the archway on the northern side of Glenfadda Park *I saw F, who was standing on the eastern side of the courtyard; fire two shots.* I looked quickly but could not identify his target. The courtyard then contained only my own men and on the far corner three bodies about which *one or two civilians* had started to assemble." **B1752.044 paragraph 9**

b) "I set off towards the bodies with the intention of seeing what could be done but just at that moment a man standing by my radio operator shouted that we had orders to withdraw. I saw Knights of Malta first aid staff approaching the bodies and therefore left them to take care of them." **B1752.044 paragraph 9**

19.9.1.1.28. When Lt 119 gave evidence to Lord Widgery the following exchange took place:

"Q. What did you see happening when you got into the courtyard?
A. As I came in I saw soldier F fire two rounds. I did not see who he fired at because of my position. Once I got in there I saw three civilians lying here.
Q. That is the south west corner? A. Yes.
Q. Was he firing in their direction or which direction? A. No I think he fired down in this direction here. It would be difficult to say from where I was standing, but that is the direction it appeared to me.

Q. More or less straight down the east side? A. Yes.

Q. You did not see what he was firing at? A. No

Q. Did you ask him? A. Not at that time because he had stopped firing, and I was more concerned with the bodies that were lying on the road

Q. Did you see E or G fire? A. No I did not sir." **B1752.051 C-E**

19.9.1.1.29. He later was asked:

"Q. You were concerned with the bodies. What did you do? A. I wanted to move up and check the bodies to see what they might have on them and to see what help was provided for them. There were a number of civilians who had already gathered around the bodies at this stage, and my intention was to move forward. However, at that stage of the game we were told to withdraw.

Q. You were about to go and see to the bodies? A. Yes.

Q. But you got an order to withdraw? A. Yes

Q. So did you and your men leave the courtyard? A. Yes. In fact, just then a crowd of 20 – 30 people emerged from here on the corner. They must have been standing behind a building. They came out into the courtyard; and also some Knights of Malta ambulance people came from that side and started to attend to the bodies.

Q. Are you clear that at that time those three bodies were within the car park area and not through the alleyway? A. At that time there were three bodies lying there, sir.

Q. Did you then return with your men to the command vehicle? A. Yes." **B1752.052 A-C**

19.9.1.1.30. In his statement to this Inquiry Lt 119 now says:

i) "I accept that at least four men went into Glenfada Park. I followed them but I do not remember the interval in time, it was probably shortly afterwards." **B1752.017 paragraph 32**

ii) "I remember the general geography of Glenfada Park and I have a snapshot image of it in my memory. However, I do not remember shots being fired by any of my men. I note that in my RMP statement I say that two shots were fired by soldier F in my presence, but I do not now remember that." **B1752.017 paragraph 33**

iii) "I remember being aware that something had happened but otherwise cannot now say where people were or what they were doing. I have only a hazy recollection of there being civilians there and do not now independently remember the numbers." **B1752.017 paragraph 34**

iv) "I remember that we received an order to withdraw but beyond that I have precious little memory of what happened next. I do not remember arresting any people in Glenfada Park..." **B1752.017 paragraph 35**

19.9.1.1.31. Giving evidence he:

i) Accepted that what he said in his second RMP statement suggested that the shots he had seen fired by soldier F were the last two shots fired in Glenfada Park. **Day 363/151/13 to Day 363/151/17**

ii) Said that he never asked F or any other firers what they were firing at. "At the end of that afternoon, all the firers actually went back to company headquarters for the investigation of who had fired and so at that stage it was taken out of my hands." **Day 363/154/2 to Day 363/154/4**

iii) Could not explain the fact that his first RMP statement suggests that he did not see any firing at all in Glenfada Park but rather was only told of it later. **Day 363/154/7 to Day 363/155/10**

iv) Confirmed that he has no recollection of hearing sub-machine gun fire or nail bombs exploding on Bloody Sunday. **Day 363/156/3 to Day 363/156/9**

v) Confirmed that his evidence to Lord Widgery suggests that when he entered Glenfada Park Soldiers F and J were on the east side of the

park and E and G were on the west side. **Day 363/156/10 to Day 363/158/1**

vi) Confirmed that he does not recall seeing the Knight of Malta Eibhlin Lafferty enter Glenfada Park or a soldier shooting at her. **Day 363/161/13 to Day 363/161/21**

vii) Confirmed that he does not recall Father Bradley being prevented from reaching the dead or dying in Glenfada Park. **Day 363/163/21 to Day 363/164/2**

viii) Confirms that he now has no recollection of the reason for arresting the people in Glenfada Park. **Day 363/162/22 to Day 363/163/20**

ix) Confirmed that if he was not in charge of the arrest operation in Glenfada Park he would at least have witnessed it. **Day 363/164/3 to Day 363/164/8**

x) Indicated that he did not believe the soldiers were hyped up. **Day 363/164/18 to Day 363/164/21**

xi) Confirmed that he never asked or discovered how the three men shot in Glenfada Park had come to be shot. **Day 363/169/12 to Day 363/169/18**

xii) Indicated that his first RMP statement should read not "in the process of preparing nail bombs" but rather "in the process of preparing **to throw** nail bombs." **Day 363/169/19 to Day 363/170/18**

xiii) Confirmed that he never spoke to Soldier H about his 19 rounds. **Day 363/174/6 to Day 363/174/7**

xiv) As radio operator 027 would have been near him or fairly near to him. It appears from his evidence to Lord Widgery that Soldier 027 arrived in Glenfada Park shortly after Lt 119. **Day 364/2/22 to Day 364/4/15**

xv) Indicated that the return visit to Derry was not his idea. He would have been sent by more senior officers. **Day 364/7/4 to Day 364/7/14**

xvi) After the Widgery Inquiry he did not re-evaluate the effectiveness of his command and control of his men. **Day 364/13/2 to Day 364/13/4**. He "got on with my career." **Day 364/13/12**

xvii) Confirms that not all of his men went into Glenfada Park initially. **Day 364/36/21 to Day 364/36/24**

xviii) Confirms that no comment was ever made to him about what went on in Glenfada Park. Life just carried on. **Day 364/82/19 to Day 364/83/3**

xix) Thinks that he did not examine the bodies so much as look at them. He "did not go close enough to them to physically examine them." **Day 364/90/22 to Day 364/91/4**

xx) Is clear that it was not his duty to examine the bodies to see if they needed medical assistance. **Day 364/91/11 to Day 364/92/6**

xxi) Is clear that it would **not** have been within the scope of the operation for a soldier to pursue people deeper into the Bogside into a place like Abbey Park. **Day 364/93/16 to Day 364/93/19**

xxii) Thought it was within the scope of the order for soldiers to go in to Glenfada Park. **Day 364/93/20 to Day 364/93/23**

xxiii) Thinks that it is likely that the effect of his orders was to go as far as was necessary to deal with rioters. **Day 364/96/14 to Day 364/96/18**

xxiv) Thinks now that even if he had not seen a pistol man at the edge of Glenfada Park North it made tactical sense to send men into Glenfada Park to cover their flanks. It was "pretty standard operating procedure". He had been given no geographical boundary beyond which he should not go. **Day 364/106/14 to Day 364/107/11**

xxv) Agreed that at least 11 of his men entered Glenfada Park that day at one stage or another. **Day 364/109/8 to Day 364/109/11**

Issues and Discrepancies Arising from Lt 119's accounts

19.9.1.1.32. In none of his statements does Lt 119 claim to have seen any weapons or threatening or aggressive activity by civilians in Glenfada Park.

19.9.1.1.33. As noted above and accepted by him in evidence, Lt 119's first statement to the RMP makes no mention of him having seen any of the soldiers in Glenfada Park firing when he entered the park. In fact this statement appears to be clear that Lt 119 did not see anyone shoot at all. The first three sentences of the paragraph that begins: "They were killed..." appears to be an account of what he was told. It is possible

that that whole paragraph is Lt 119 recounting what he was told rather than what he saw.

19.9.1.1.34. Lt 119's second statement to the RMP is dated 4th February 1972.

19.9.1.1.35. The second statement gives a quite different account, which suggests that Lt 119 entered Glenfada Park at a stage while soldier F was still shooting, although he could not see F's target from his position. Given that Lt 119 does not claim to have seen any shooting from soldiers after this it follows, and he accepted, that what he claimed to have seen were the last shots fired in Glenfada Park. There are a number of difficulties with this:

i) F says he fired as soon as he entered Glenfada Park from the northeast corner towards an area between the centre and west of the southern end of the park. He then does not claim to have fired any other shots until he reached the southeast corner of the park. These are clearly not the shots Lt 119 claims to have seen.

ii) Lt 119 claimed that F fired shots towards the southeast corner of Glenfada Park. F never claims to have done this, although soldier E does, but Lt 119's evidence to Lord Widgery is clear that when he entered Glenfada Park Soldier E was already on the west side of the park.

iii) F fired at almost the same time as G. If the shots Lt 119 saw are F's shots from the northeast corner of Glenfada Park then he should have seen G fire at the same time.

iv) If Lt 119 saw F's shots from the northeast corner he should also have seen H fire all of his 22 shots.

19.9.1.1.36. The effect of this evidence is either that Lt 119 did not see what he said he saw and has given a lying account **OR** Soldier F has lied

about the number of shots he fired and where he fired them **OR** they have both lied. Given Lt 119's previous statement which suggests he may not have seen what went on in Glenfada Park but only come across the aftermath, it is likely that he has not been truthful in his accounts. We will also be submitting that Soldier F has given a lying account about his actions in Sector 4.

19.9.1.1.37. Lt 119's evidence to Lord Widgery was that when he entered Glenfada Park he saw four soldiers there, namely E, F, G and J. The first thing to note is that he does not remember seeing Soldier H or David Longstaff. Secondly, he describes seeing F and J on the eastern side of the park and G and J on the western side. This being the case, he must have then seen the soldier who fired into Abbey Park and also F's shots across the back of Block 2 of the Rossville Flats. In addition, both F and G claim that before those shots Soldier F shouted out words to the effect of "there's a gunman". Lt 119 does not seem to have heard that.

19.9.1.1.38. Giving evidence to Lord Widgery and under cross-examination by Mr McSparran Lt 119 appeared to claim for the first time that when he sent the men into Glenfada Park he could hear mixed firing coming from that area **B1752.056 A-B**. When pressed by Mr McSparran however, he backtracked somewhat, saying he could not be sure that it was all coming from Glenfada Park, that it was rather difficult to pinpoint **B1752.056 B-D**. When he was further pressed the following exchange took place:

"Q. Are you now attempting to suggest that there was other fire from Glenfada Park before you went in? A. I cannot tell you that directly, no, because I did not in fact hear it, but I know that there was.

Q. But you did not hear it but you know now as a result of something told you by some of your soldiers, is that right? A. That is right.

Q. But it was firing you did not hear? A. Yes." **B1752.056 D-E**

19.9.1.1.39. This exchange is interesting in that it shows that Lt 119 once pressed is unable to substantiate the claim he made in answer to Mr McSparran. It is also interesting because the position that Lt 119 eventually reaches – i.e. that he knows that there was fire other than army fire in Glenfada Park because his soldiers told him so – does not correspond with the evidence of any of the soldiers who were there, none of whom claim to have actually been fired on in Glenfada Park.

19.9.1.1.40. As to what Lt 119 says he was told about what had happened in Glenfada Park, in his first statement he says "...they [his men] informed me that they had fired a number of aimed shots at male persons ***in the process of preparing*** nail bombs." **B1752.041**. His second statement contains no reference to any reports he was given, nor does his statement to the Treasury Solicitor. When he was cross examined by Mr McSparran before Lord Widgery Lt 119 was asked if the sight of the bodies in Glenfada Park had caused him any concern:

"A. I wanted to know why it had happened.

Q. That is the point I want to make. Did you find out there and then why it had happened? A. Yes.

Q. From whom? A. From the soldiers concerned.

Q. Did you get a report from them? A. Yes.

Q. Before leaving Glenfada Park? A. I got a quick report before leaving Glenfada Park and a full report afterwards.

Q. What did the soldiers tell you at that time? A. *They explained how people had been in the act of throwing nail bombs and they explained also that they saw someone with a weapon in his hand* in the position where these three bodies were.

Q. And that explanation was given to you in Glenfada Park? A. Initially and then it was gone into more fully afterwards.

Q. And that explanation was given to you before you made any attempt or thought of going up to look at these bodies? A. That is right." **B1752.058 F to B1752.059 B**

19.9.1.1.41. It should be noted that this evidence before Lord Widgery is the first time that Lt 119 mentions a person with a weapon in their hand.

19.9.1.1.42. Giving evidence to this Tribunal Lt 119 indicated that his first RMP statement should read not "in the process of preparing nail bombs" but rather "in the process of preparing **to throw** nail bombs" **Day 363/169/19 to Day 363/170/18**. This is a significant adjustment and one he did not make at the time or in the thirty years since he signed that statement. Given his claimed lack of memory Lt 119's proposed amendment to his first statement should not be relied upon, as it would appear to be an ex post facto attempt to "tidy up" portions of his account.

19.9.1.1.43. The few things that Lt 119 does say he was told by the soldiers in his platoon do not appear to accord with their own first accounts of what happened in Glenfada Park (this is in addition to how his account of what happened on Rossville Street differs from theirs, as to which see section eighteen). For example, soldier E claims as follows

i) There was a man with a petrol bomb in Glenfada Park. **B22**

ii) The soldiers were bombarded with missiles including petrol and nail bombs. **B22**

iii) There was one man with a petrol bomb and a nail bomb **B22** (E claims to have shot and hit this man).

iv) That there was a "full scale riot" in Glenfada Park. **B91**

19.9.1.1.44. Lt 119 does not claim to have been made aware of any of this.

19.9.1.1.45. Lt 119's position in relation to any crowd that may have appeared around the bodies changes between in his statements. In his first statement he says, "As we advanced a large crowd appeared from the flats and began to run around the bodies. On arrival at the scene, no sign of any subversive activity was found" **B1752.041**. In his second statement: "A crowd had gathered around the three bodies prior to my arrival and the bodies were obscured from our view for some time." **B1752.040** In his statement to the Treasury Solicitor. "The courtyard then contained only my men and on the far corner three bodies about which one or two civilians has started to assemble." **B1752.044 paragraph 9** Giving evidence to Lord Widgery he said "There were a number of civilians who had already gathered around the bodies at this stage, and my intention was to move forward..." **B1752.052 A** Quite apart from the fact that Lt 119's description of the number of civilians that gathered around the bodies is not consistent he does not suggest that these civilians were hostile or aggressive – indeed he indicated to the Treasury Solicitor that he was about to approach the bodies and the crowd to see what could be done when he was recalled. **B1752.044 paragraph 9** He does not suggest that he saw the crowd removing weapons or even that he was told this had taken place.

19.9.1.1.46. Another issue of concern is the attitude taken to the men who were lying dead or injured at the south end of Glenfada Park. It appears that no attempts were made by the soldiers and by Lt 119 in particular to ascertain whether they were dead or alive nor did they take action to ensure that they received prompt medical attention. Joseph Mahon was still alive at this time and the Tribunal knows from other evidence that Willie McKinney was also alive when he was brought into the O'Reilly house at 7 Abbey Park. In his various statements Lt 119 said:

i) "They [the bodies] were not touched by my men. At that stage, ambulance men wearing pale grey suits appeared. They were from the Knights of Malta Ambulance. They did not say anything. They removed the bodies. They informed me that they were removing the bodies to the hospital. They did not mention any particular name. The lighting conditions were dull. No examination of the bodies was possible." (1st RMP) **B1752.041 to B1752.042**

ii) "I set off towards the bodies with the intention of seeing what could be done but just at that moment a man standing by my radio operator shouted that we had orders to withdraw. I saw Knights of Malta first aid staff approaching the bodies and therefore left them to take care of them." (Treasury Solicitor) **B1752.044 paragraph 9**

iii) "I wanted to move up and check the bodies to see what they might have on them and to see what help was provided for them...However, at that stage of the game we were told to withdraw." (Evidence to Lord Widgery) **B1752.052 A**

iv) "...some Knights of Malta ambulance people came from that side and started to attend to the bodies." **B1752.052 B**

19.9.1.1.47. Lt 119's evidence to this Tribunal, in contrast to his evidence to Lord Widgery was that he did not examine the bodies so much as look at them. He "did not go close enough to them to physically examine them." **Day 364/90/22 to Day 364/91/4** Incredibly, he was also clear that it was not his duty to examine the bodies to see if they needed medical assistance. **Day 364/91/11 to Day 364/92/6**

19.9.1.1.48. Given his evidence about the Knights of Malta arriving in Glenfada Park, above, Lt 119 **must** have seen the incident where shots were fired at Eibhlin Lafferty. He claims that he does not recall seeing this. **Day 363/161/13 to Day 363/161/21**

19.9.1.1.49. As to the arrests that were made in Glenfada Park, Lt 119 makes no mention of them in his first or second statements. In his third statement he says: "At that moment about 20 people emerged from the gable end of the east building. They were clearly in a hazardous position. I therefore picked them up and did so as a routine arrest operation because I thought the gunman who had fired at us might still be amongst them." **B1752.044 paragraph 9** Lt 119 confirms that he now has no recollection of the reason for arresting the people in Glenfada Park. **Day 363/162/22 to Day 363/163/20** He also confirmed that if he was not in charge of the arrest operation in Glenfada Park he would at least have witnessed it. **Day 363/164/3 to Day 363/164/8** The reasons that he gave for arresting the people who were gathered at the southern gable wall of the east block of Glenfada Park in his statement to the Treasury Solicitor need little comment save to say that they are impermissible and do not stand up to scrutiny.

Lt 119's attempts to find out what his soldiers had done

19.9.1.1.50. Although he was the officer in charge of the men who entered Glenfada Park Lt 119 now claims that he did not:

i) ask his soldiers what happened in Glenfada Park whether for information purposes or to make an assessment of his and their actions;

ii) take any further action in relation to what took place there.

19.9.1.1.51. Incredibly he claims that he never asked or discovered how the three men he saw lying in Glenfada Park had come to be shot. **Day 363/169/12 to Day 363/169/18**

19.9.1.1.52. He is further clear that he was never debriefed about the events of the day nor was any comment made to him about them, even after Lord

Widgery's conclusions were published. Giving evidence to this Tribunal Lt 119 was clear that after the Widgery Inquiry he did not re-evaluate the effectiveness of his command and control of his men. **Day 364/13/2 to Day 364/13/4** He "got on with my career" **Day 364/13/12**. Life just carried on. **Day 364/82/19 to Day 364/83/3** This is in marked contrast with what was put on Lt 119's behalf to Soldier INQ 1253 on Day 304 by Mr Glasgow QC:

"Q. He was, even at that time, a very serious-minded young man?
A.Correct.
Q.Who took his responsibilities extremely seriously?
A.Indeed,sir.
Q. ***He was a man who was very concerned – you knew him as a friend – about the implications of the findings of the Widgery Report?***
A. I would agree with that, yes, sir. I do not know whether he would be concerned about the findings. I cannot remember whether it was before -- I feel it was before Widgery, otherwise I think we would have taken a different track in the conversation. But I cannot be certain of that." **Day 304/11/10 to Day 304/11/23** (emphasis added)

19.9.1.1.53. The fact that no action was taken or procedures put in place, if only to ensure that such a situation could never be repeated, defies belief. His evidence shows that the shootings on Bloody Sunday were treated in an entirely cavalier manner by those above him in the Parachute Regiment in particular and the British Army in general.

19.9.1.1.54. Under cross-examination by Mr McSparran at the Widgery Tribunal Lt 119 was asked if the sight of three bodies in Glenfada Park caused him concern:

"I wanted to know why it had happened.

Q. That is the point I want to make. Did you find out there and then why it had happened? A. Yes.

Q. From whom? A. From the soldiers concerned.

Q. Did you get a report from them? A. Yes.

Q. Before leaving Glenfada Park? A. I got a quick report before leaving Glenfada Park and a full report afterwards.

Q. What did the soldiers tell you at that time? A. They explained how people had been in the act of throwing nail bombs and they explained also that they saw someone with a weapon in his hand in the position where these three bodies were.

Q. And that explanation was given to you in Glenfada Park? A. Initially and then it was gone into more fully afterwards.

Q. And that explanation was given to you before you made any attempt or thought of going up to look at these bodies? A. That is right." **B1752.058F to B1752.059B**

19.9.1.1.55. Giving evidence to this Tribunal, Lt 119 made it clear that he had not made any attempts to ascertain what his soldiers had done or take any action as a consequence thereof. He said that he never asked F or any other firers what they were firing at. "At the end of that afternoon, all the firers actually went back to company headquarters for the investigation of who had fired and so at that stage it was taken out of my hands." **Day 363/154/2 to Day 363/154/4** This is in marked contrast to what he said initially and to what he told Lord Widgery when cross-examined by Mr McSparran.

19.9.1.1.56. In our submission the only possible explanation for this attitude to what happened on Bloody Sunday is that either Lt 119 was fully aware of what had happened and supported his men or he was not

acting effectively as a platoon commander, or both. His actions after the event are in marked contrast to those of Captain 200, for example, the platoon commander of the composite platoon, as to which see his statement at **B1981 to B1983**.

Soldier H

19.9.1.1.57. Lt 119's statements about his lack of action after the events of Bloody Sunday also does not sit easily with the evidence he gives to this Tribunal in relation to Soldier H:

> "I remember that my reaction to hearing about H's firing was one of surprise and disbelief that he could have fired so many rounds of ammunition without me knowing about it. Sometime after Bloody Sunday but before the Widgery Tribunal I went back to Londonderry with a number of others in civilian clothes and accompanied by a number of RMP soldiers. My concern was to investigate the situation regarding H. The window at which he said he had fired 19 rounds was inspected and there were no signs of any damage around it, which, if H was correct, there should have been, and which could not have been repaired in the time. The only other explanation was that every round had gone through the window and only the glass needed replacing." **B1752.018 paragraph 37**

19.9.1.1.58. There are a number of issues arising out of these paragraphs. First, Lt 119 is saying he heard about the 22 shots much later than would be expected if he had asked and received a full report from his soldiers while they were in Glenfada Park and again shortly afterwards.

19.9.1.1.59. Secondly, Lt 119 describes an incident where he went back to Derry to investigate what Soldier H said about the shots he fired. This in itself appears very strange as, although Lt 119 gives clear evidence that this

visit was not carried out on his own initiative but that he would have been sent by more senior officers **Day 364/7/4 to Day 364/7/14** it is not clear what his role would have been in making such a visit. This is particularly so when it is remembered that Lt 119 has clearly said that he had no investigative role in the aftermath of Bloody Sunday and that he did not see H fire. What then would be the value in Lt 119 revisiting the scene, especially given that the visit must, from the Army's point of view, have involved some considerable planning and risk? This visit to Derry was something that Lt 119 had never mentioned before.

19.9.1.1.60. In addition Lt 119 now presents this Tribunal with a theory about soldier H and what actually happened. In his statement to this Inquiry he has said:

> "It did not occur to me until sometime later, but I have a theory that on the day H may have lost a magazine full of ammunition and decided that the easier option to admitting that was to say that he had fired off the ammunition. This could have been a panic reaction by a soldier who was not, in truth, very bright. Afterwards the platoon sergeant would have inspected the ammunition in order to check that it was the same as that issued. He might not have checked an empty magazine and in any event a spare empty magazine was relatively easily obtainable. It seems to me that the only explanation for me not hearing that number of shots is my theory." **B1752.018 paragraph 38**

19.9.1.1.61. Lt 119 has absolutely no basis for the theory and Soldier H vehemently denies it. From Lt 119's point of view, however, if he were right about this it would resolve some awkward questions that remain for him as a result of Bloody Sunday. The first issue that would be easily explained by this theory is why he did not see H fire. The second is how a member of his platoon was able to fire 22 shots in circumstances that

even Lord Widgery did not believe and those shots remain unaccounted for.

Lt 119's lack of memory of the incident

19.9.1.1.62. Because of the very nature of the events outlined above it is at least questionable that Lt 119 has little or no memory of the incident. Given his relative inexperience it is incredible that he appears to have no independent memory of what happened in Glenfada Park. It is almost certain that he would not, before Bloody Sunday, have been involved in an incident such as this where men under his control killed and injured such a large number of people.

19.9.1.1.63. His memory loss in the light of this is inconceivable and in our submission merely a method of avoiding questioning which may otherwise cause him difficulties.

19.9.1.2. Corporal E

19.9.1.2.1. It appears that Soldier E made three statements to the Royal Military Police. He made a statement to the Treasury Solicitor and gave evidence before Lord Widgery. He is now deceased and therefore this Inquiry did not receive either written or oral evidence from him. He admits to firing two shots in Glenfada Park and claims to have hit one person. His trajectory photograph can be found at **P6**.

19.9.1.2.2. Corporal E was the NCO in charge of the brick who entered Glenfada Park North. As has been noted above he was insistent when questioned that he acted entirely on his own initiative and led the members of his brick into Glenfada Park.[8] The gist of his evidence about what took place in sector 4 is that when the soldiers entered Glenfada Park they were met by a crowd of people some of whom were throwing missiles.

[8]When questioned at the Widgery Tribunal he accepted full responsibility for having gone into Glenfada Park. He claims that he was unaware that Lt 119 also accepted responsibility for having given the order to go in. **B102**

E claimed that he fired at a person with a nail bomb and a petrol bomb in the area of the southeast corner of the car park.

1972 accounts

19.9.1.2.3. In his first account of events Soldier E says that he moved from Rossville Street into Glenfada Park in an attempt to cut off rioters who had moved in that direction from the barricade **B87**. He indicated that he moved about 10 metres to his right from Rossville Street "into an archway at Glenfada Park" **B87**. In this account, given to the Royal Military Police at 0140 on 31st January 1972, he claims that when he and his colleagues entered Glenfada Park:

i) They saw about six men coming towards them.

ii) A petrol bomb exploded in the square in front of them.

iii) A nail bomb exploded nearby.

iv) Other missiles were thrown at them.

v) They were then bombarded with missiles including nail and petrol bombs. At this point E says he heard shots from around him and saw two of the rioters fall to the ground. **B87**

19.9.1.2.4. Soldier E then says that he saw a man, about 30 metres from his position, who had:

"what appeared to be a petrol bomb and nail bomb in his hands. I saw him light one of these objects and threw it in our direction and then a petrol bomb exploded near us. I saw him light the other. I shouted at him to drop it. I don't know if he heard me or not but he threw it in my direction. I fired two aimed shots at this man. The first shot missed the target but I saw the second strike him in the chest and he was knocked backwards and he fell to the ground. Immediately after I fired a nail bomb exploded near my position. " **B87 to B88**

19.9.1.2.5. E further claimed, "numerous people came out of the flats and went over to the bodies." **B88**

19.9.1.2.6. Soldier E made a second statement to the Royal Military Police at 1400 on 31st January 1972. In it he states that he picked out a photograph of Michael Kelly from a number of photographs shown to him. He further stated that he was "reasonably sure I shot this man in an incident at the Glenfada Flats, Londonderry during a ***full scale riot*** on 30 Jan 72 for throwing bombs." **B91**. Michael Kelly was shot by Soldier F on Rossville Street.

19.9.1.2.7. Another statement, timed at 1410 on 31st January 1972, also appears among the papers relating to Soldier E. This statement bears the title "Soldier F" however and there has been some confusion about its exact provenance. In it, the relevant soldier has picked out a photograph of Gerard Donaghey from photographs shown to him and has stated that he is "reasonably sure I shot this man in a full scale riot in the Glenfada Flats on 30 Jan 72 for being in possession of nail bombs." **B93.001**

19.9.1.2.8. Immediately it can be seen that if this statement is one that was made by Soldier E he has, with these two additional statements, and contrary to the statement he gave to the RMP just a few hours before, admitted to shooting two people in Glenfada Park.

19.9.1.2.9. It should also be noted that it appears that, just as soldiers showed themselves willing to sign "pro forma" statements in order to provide (false) evidence to ground arrests they were similarly willing to sign "pro forma" statements in relation to the identification of individuals they claim to have shot and the circumstances in which they shot them. The statement that appears at **B91** is just one example of this. Soldiers F and G made similar statements purporting to identify individuals from photographs as having been shot in the course of a ***full scale riot*** in the Glenfada Flats.

19.9.1.2.10. The thrust of Soldier E's statements is therefore very clear that he encountered riotous behaviour in Glenfada Park and that soldiers were met there with a bombardment of missiles, including petrol and nail bombs.

19.9.1.2.11. In Soldier E's statement to the Treasury Solicitor he indicates that:

i) The soldiers moved into Glenfada Park after seeing "part of the crowd trying to infiltrate to their left through Glenfada Park." **B94**

ii) when the soldiers entered Glenfada Park there were about forty or fifty people there, some of whom started to throw missiles. He does not say that these missiles included petrol bombs and nail bombs. **B95**

iii) Of the man he fired at, he says that on the extreme left of the crowd a man threw a petrol bomb in his direction and it landed about 10 yards from him. He says that the same man then lit a nail bomb. As he was doing so, E shouted at him to drop it. The man had already lit the bomb so E fired at him. He fired two aimed shots, firing the second because he missed with the first. The second shot hit the man and he fell. The nail bomb exploded but E did not see anyone hurt by it. **B95**

iv) The petrol bomb and nail bomb thrown by this man are the only ones Soldier E mentions in this statement. **B95**

v) In addition, Soldier E indicates that he is not sure where the first round he fired went to but that he could see "that no-one else was in my line of fire." **B95**

vi) Soldier E also indicates that he saw two more bodies fall in Glenfada Park although he did not notice if they had anything in their hands. At this stage he says, "The crowd were still aggressive and some of them surrounded the body of the man I had shot." **B95**

19.9.1.2.12. At **B95** Soldier E refers to the statement he made where he picked out photographs of Michael Kelly as being a person he had shot in Glenfada Park. When making his statement to the Treasury Solicitor

he was no longer sure that this was the person he shot. At **B96** however he refers to the other statement in the following terms:

"I also made a statement in which I said that I was reasonably sure I had shot a person whose photograph was shown to me called Donaghey. I stated that I shot this person in Glenfada Park. Having seen further photographs of Donaghey I am still reasonably satisfied that he is the person I shot because he bears a close resemblance"

19.9.1.2.13. This would therefore appear to be a clear acknowledgement by Soldier E that the statement identifying Gerard Donaghey from photographs had been made by him on 31st January 1972. Soldier F's statement to the Treasury Solicitor contains a similar statement. **B138.001 paragraph 14** It may be that both soldiers made such a statement. That being the case, there are two possibilities. Either Soldier E has picked out the two individuals as possible candidates for the person he fired at or, forgetting that he had previously said he had shot only one person, he has picked out more than one because the reality is that he fired at and/or hit more than one person.

19.9.1.2.14. It is submitted that the latter is the more likely possibility for the following reasons:

i) There is no indication in the statements to the RMP that the individuals were identified as alternative possibilities for the one person E claimed to have shot in his statement;

ii) The identification process was clearly carried out as one process, the two statements being signed within ten minutes of each other.

19.9.1.2.15. Soldier E also gave evidence before Lord Widgery. On that occasion he indicated that when he got into Glenfada Park:

i) there was a crowd of about forty there throwing missiles including rocks and nail bombs. **B103A - C**

ii) One person threw a petrol bomb which landed about ten metres in front of the soldiers. **B103C-D**

iii) This man was about 30 metres from E and he also had a nail bomb in his right hand. **B103D**

iv) In this account E says that he did not see the man light the nail bomb as he was distracted by the petrol bomb exploding. He then described how he fired two shots at the man in rapid succession and he fell to the ground. The nail bomb then exploded. **B103E – B104B**

v) In answer to Lord Widgery Soldier E indicated that the man he fired at was in the southeast corner of Glenfada Park. **B104C-D**

19.9.1.2.16. In this account E also indicated that he could hear other shooting going on and that he saw two other people fall. **B104B-C**

19.9.1.2.17. Soldiers G, F, H & J all entered Glenfada Park at around the same time as E, however only H says that he saw E fire there. **B225** The evidence before the Tribunal indicates that only one person was shot in the area identified by Soldier E, the southeast corner of Glenfada Park, namely Patrick O'Donnell.

Issues and Discrepancies Arising From Soldier E's accounts

19.9.1.2.18. The main issues that arise from Soldier E's account are as follows:

i) Although his accounts vary as to the size of the crowd and the missiles they threw, Soldier E's evidence is that the soldiers were met with a significant numbers of rioters when they entered Glenfada Park. This is in marked contrast to the evidence given by other soldiers. In his first RMP statement he described six men coming towards them, claimed he had seen a nail bomb and petrol bomb explode close to them and indicated that the soldiers were bombarded with missiles including more nail and petrol bombs. **B87** In subsequent accounts to the RMP Soldier E claimed a "full scale riot" was taking place in Glenfada Park. **B91**, **B93.001** In his

statement to the Treasury solicitor he indicated that when the soldiers entered Glenfada Park there were about forty to fifty people there, some of whom threw missiles. He does not say that these missiles included petrol bombs and nail bombs. **B95** However he indicated to Lord Widgery that the crowd was throwing "Rocks and stones and nail bombs." **B103B-C**

ii) As to the man E fired at, he initially said that he had both a nail bomb and a petrol bomb in his hands. He then lit one and threw it and a petrol bomb exploded near to the soldiers. **B87 to B88** E's description of this man's actions are that, with both of these objects in his hands, he lit one and threw it, before lighting the other and throwing it. It is difficult to see how it would be physically possible for one person, holding a nail and a petrol bomb in his hands, to hold both and at the same time light one! Significantly, in his later statement to the Treasury Solicitor E said that when he first saw the man he was throwing the petrol bomb and he then lit the nail bomb. **B95** When he came to give evidence to Lord Widgery E said that he had not actually seen the man light the nail bomb as he was distracted by the petrol bomb exploding. **B103E**

iii) In his first RMP statement E said that he shouted at the man to drop the nail bomb but when he didn't E fired two aimed shots at him. The first missed but the second struck him in the chest and he was knocked backwards and fell to the ground. Immediately a nail bomb exploded near the soldiers' position. **B87 to B88** In his statement to the Treasury Solicitor and in his evidence to Lord Widgery he confirmed this account.

iv) In each of his accounts E has said that he saw two other people fall in Glenfada Park. Initially he calls them "rioters" **B87** but in his statement to the Treasury Solicitor he claimed that he saw two more *bodies* fall in Glenfada Park although he did not notice if they had anything in their hands. **B95** In his evidence to Lord Widgery he confirmed this and indicated that the two other bodies were in the centre of the park at the southern end. **B112C-D**

v) In his initial statement E says that "numerous people came out of the flats and went over to the bodies" **B88**. In his statement to the Treasury Solicitor he says, "the crowd were still aggressive and some of them surrounded the body of the man I had shot." **B95** Giving evidence to Lord

Widgery E indicated that after the man had been shot some of the crowd remained and some ran. **B104D-E**

vi) In answer to Lord Widgery E claimed that the people who were arrested were those "around the man who had the nail bomb and had been shot." **B105B-C**

vii) Significantly, E confirmed in his statement to the Treasury Solicitor that he could see that no one else was in his line of fire. **B95** On his own account therefore, Soldier E's second shot hit the person it was intended to hit. It appears clear from his account that neither of his shots could have or did hit another, unintended target.

viii) E's claim that the soldiers were confronted by rioters in Glenfada Park should be contrasted with the accounts given by his Anti-Tank Platoon colleagues. It can also be seen from **P439** that there is no evidence of any riotous behaviour, by way of debris on the ground, in Glenfada Park.

Arrests

19.9.1.2.19. Corporal E was involved in the arrest of "approximately 30 persons" from the gable end of Glenfada Park. We know that he claims to have arrested Seamus (James) Liddy **ARR 27.1 to ARR27.3**[9], John Liddy **ARR28.1 to ARR28.3** [10], Fergus McAteer **ARR31.1 to ARR31.3** [11] and Joseph McColgan **ARR35.1 to ARR35.3** all of whom he claimed were throwing stones in Rossville Street.

19.9.1.2.20. Fergus McAteer has given written and oral evidence to this Tribunal. His statement indicates that:

i) he was arrested from the south gable end of the eastern block of Glenfada Park North **AM42.10 paragraphs 34 to 35**;

ii) he was not engaged in any stone throwing or other such behaviour which might be described as "riotous" **AM42.11 paragraph 44**.

[9] Liddy was a 49 year old NAAFI worker in Fort George who he handed over to Sergeant Graham.
[10] Liddy was the barman in Fort George.
[11] McAteer is the son of Nationalist Party MP Eddie McAteer. By 1972 he was a qualified accountant.

iii) he does not remember seeing Corporal E in Glenfada Park at the time of his arrest **AM42.12 paragraph 44**;

19.9.1.2.21. Giving oral evidence Mr McAteer confirmed that he "had not actually set my foot on Rossville Street per se at any stage during that day, to my recollection. I certainly was not rioting, throwing stones." **Day 168/77/5 to Day 168/77/8**

19.9.1.2.22. Joseph McColgan has also given evidence to this Tribunal. He is clear that:

i) On Bloody Sunday he finished work at Dupont at 4pm **AM123.8 paragraphs 1 to 4**;

ii) He met Charlie Glenn as he walked across the Diamond **AM123.8 paragraph 5**;

iii) They made their way to William Street where they were confronted by paratroopers who marched them off at gunpoint **AM123.9 paragraphs 12 to 13**;

iv) His watch, ring and wallet were taken by one of the soldiers **AM123.10 paragraph 14**;

v) He and Mr Glenn were taken to the waste ground on the south side of William Street where they were eventually ordered into a lorry with others **AM123.10 paragraphs 15 to 17**;

vi) At Fort George paratroopers selected people at random whom they claimed had been rioting. Mr McColgan was selected by two paratroopers one of whom told police that he had been throwing stones in the Rossville Flats car park **AM123.12 paragraphs 30 to 32**;

vii) A few days later his watch and wallet were returned to him by police. All cash had been taken from the wallet and his watch had been broken. He did not get his ring back. **AM123.12 paragraph 29**

19.9.1.2.23. Giving evidence Mr McColgan confirmed that he had not been throwing stones on Bloody Sunday. **Day 104/20/18 to Day 104/20/23**

19.9.1.2.24. The Tribunal has 1972 accounts from Seamus (James) Liddy who claims that he was detained by the army in William Street at 3.50pm on Bloody Sunday. He was on his way to work. **AL12.2** Mr Liddy also made clear that "while I was in the compound at the maintenance base a Corporal E came in and singled me out and said I threw stoned. Corporal E was not the person who arrested me. I contradicted him but he laughed in my face." **AL12.3**

19.9.1.3. Lance Corporal F

19.9.1.3.1. In 1972 Lance Corporal F made four statements to the Royal Military Police, a statement to Lt Col Overbury, a statement to the Treasury Solicitor and gave evidence at the Widgery Tribunal. He has also made a statement and given oral evidence to this Tribunal.

19.9.1.3.2. Soldier F was arguably one of the most important soldier witnesses to give evidence to this Tribunal in the sense that he, on his own and together with his partner and friend G, was undoubtedly responsible for a large number of the deaths and injuries on Bloody Sunday.

19.9.1.3.3. Soldier F's evidence was characterised by the loss of memory that those who had followed the evidence to the Inquiry came to expect from the members of Support Company who face allegations of murder. As with others, he sought refuge in the statements he made at the time, often repeating the mantra that if it appeared in his statement it must be true or at least what he believed when he made the statement. It defies belief that Soldier F does not remember the events of that day and his evidence in this regard cannot be accepted for the following reasons:

i) He had never killed anyone before Bloody Sunday **Day 375/59/8 to Day 375/59/9**.

ii) He did not kill anyone in Northern Ireland after Bloody Sunday **Day 375/59/10 to Day 375/59/11**.

iii) He agreed it was a "pretty dramatic day" **Day 375/59/12 to Day 375/59/14**.

iv) When questioned he was able to recall a previous incident in Northern Ireland where he had fired at a target but was not sure whether or not he had hit it. He indicated that he remembered that incident very well. **Day 376/164/10 to Day 376/165/1**

v) Since Bloody Sunday the families of those who were killed and the injured have protested their innocence. The soldiers who fired on that day would therefore always have been aware that they were accused of killing and/or injuring innocent people.

vi) He gave evidence to a public inquiry in 1972 about what happened that day.

vii) The report from that public inquiry criticised the firing that took place in Glenfada Park, firing in which he took part

viii) The events of Bloody Sunday have been a matter of acute public controversy for thirty years.

19.9.1.3.4. It is also worthy of note that Soldier F did remember certain things when they were put to him. For example, he was in a position to give the following evidence:

> "The circumstances which I was involved in in that day was, I felt a threat to my life and the life of my fellow soldiers were under threat and I acted in accordance with the Yellow Card...and I thought my life was in danger." **Day 376/87/19 to Day 376/87/24**

19.9.1.3.5. He also appeared to have no difficulty denying allegations of wrong doing by himself or other members of his platoon. For example:

i) When asked about the incident described by O27 where two Catholic youths were abducted and seriously assaulted in Belfast in the week after Bloody Sunday F was certain that he was not involved. **Day 375/174/17 to Day 375/176/19**

ii) When asked if he had been elated and/or jubilant in the aftermath of Bloody Sunday he was certain that he had not been. **Day 376/15/19 to Day 376/15/22**

iii) He gave evidence that he did not witness or participate in any ill-treatment on Bloody Sunday. **Day 376/25/19 to Day 376/26/2**

iv) When asked if his lack of explanation for the discrepancies in his statements was due to the fact that he had been telling lies to conceal the truth and got into trouble with the detail F was clear that was "not correct." **Day 375/144/23 to Day 375/145/2**

19.9.1.3.6. By the time he came to give oral evidence to this Tribunal it must have been clear to Soldier F that by relying on his statements he would, at the very least, be exposing himself to allegations that he fired without justification and perjured himself before Lord Widgery. It can therefore be assumed that the consequences for him of telling the truth would be even more serious.

19.9.1.3.7. Quite apart from whether or not Soldier F was telling the truth when he came to give evidence to this Tribunal, the contents of his 1972 statements and his evidence to Lord Widgery are, in our submission, enough to condemn him as a liar. It was quite clearly demonstrated, by counsel to this inquiry and others, that Soldier F had told lies in 1972. This has been rehearsed at section eighteen. In common with many of his colleagues, this was best illustrated by his evidence about the people he claimed to have arrested and in particular the arrest statements he signed in relation to Michael McCallion **ARR32.3** and Father O'Keefe. **ARR50.3**

19.9.1.3.8. In the former statement, F claimed to have arrested Mr McCallion at William Street at 1915 on 30th January 1972 – a time when 1 Para was not in that area. **Day 376/39/23 to Day 376/40/9** He further claimed to have arrested Fr O'Keefe for throwing stones at the patrol on William Street. **Day 376/40/10 to Day 376/41/13** This allegation was not maintained on F's behalf or put to Professor O'Keefe (as he now

is) when he gave oral evidence to the Tribunal on Day 127. In his oral evidence however, Soldier F maintained that he "would not lie." **Day 376/41/11**

19.9.1.3.9. Soldier F has consistently indicated that he fired two shots at one target in Glenfada Park. However his evidence as to the circumstances of this shooting has varied. Soldier F's evidence in relation to his target in Glenfada Park cannot be examined in isolation from the evidence he gives about his actions on Rossville Street and his firing along the southern end of Block 2 of the Rossville Flats. This evidence is dealt with in section twenty. That evidence, in our submission, provides ample support (if such support is needed) for our conclusions in relation to F's evidence about his actions and target in Glenfada Park.

19.9.1.3.10. Soldier F admits to firing two shots in Glenfada Park and killing one person there. The trajectory photograph that includes F's shots in Glenfada Park appears at. **P7** It can be seen that the trajectory line in that photograph ends at the southern end of Glenfada Park North at a point which corresponds very closely to the point at which the bodies of Willie McKinney and Joseph Mahon lie in photograph. **P439**

19.9.1.3.11. Giving evidence to his Tribunal Soldier F denied that he had shot and killed Willie McKinney. **Day 376/88/23 to Day 376/89/15** When counsel to the Tribunal put the allegation that he may have murdered Willie McKinney to him he answered that it was not correct "Because as I refer to my statements, the people I shot were either ***petrol bombers*** or a person who had a weapon." **Day 376/176/5 to Day 376/176/12**[12] (emphasis added). He had no comment to make when counsel to the inquiry put it to him that he may have wounded Joseph Mahon. **Day 376/176/13 to day 376/176/21** The only other soldier who admits to firing at targets in that area is Soldier H.

[12] In fact Soldier F's evidence has always been that he fired at a **NAIL** bomber in Glenfada Park

Soldier F's 1972 accounts of what happened in Glenfada Park

19.9.1.3.12. In his first statement to the RMP at 0204 hrs on 31st January 1972 Soldier F indicated that around 30-40 rioters left the barricade on Rossville Street and moved to the right behind a block of flats out of his sight **B122**. F indicated that he then moved into Glenfada Park and gives the following account of what happened there:

i) On entering Glenfada Park Soldier F saw "one of the men" light something. He saw it "fizzle and spark" and he realised it was some kind of bomb. **B122**

ii) F then claimed the man raised his arm as if to throw the bomb. **B122**

iii) F fired two aimed shots at him; the first struck him in the shoulder and the second in the stomach. The bomb did not explode. **B122**

iv) Together with other members of his unit F advanced towards "the rioters" who dispersed. **B122**

v) F then checked around the corner of a building where he saw about 20 people, nineteen men and one woman. F and his team arrested these people. **B122**

19.9.1.3.13. In a second RMP statement dated 31st January 1972 at 1410hrs Soldier F picked a photo of Gerard Donaghey out of a collection shown to him as being the man he shot in a "full scale riot" in the Glenfada Flats for being in possession of nail bombs. **B126**

19.9.1.3.14. This statement has also been attributed to Soldier E as to which see above.

19.9.1.3.15. In his third (undated) RMP statement F claimed that:

i) He had seen three men move from the barricade on Rossville Street into the area of Glenfada Park flats. One of the men was carrying what looked like a rifle. **B129**

ii) On entering Glenfada Park North with G he "saw the three men on the other side of the square about thirty metres away near to 24 Glenfada Park, south west of our position." **B129**

iii) He then "shot and hit one man as he attempted to throw an object which looked like a nailbomb. I saw G fire and hit another of the men who was carrying what appeared to be a rifle." **B129**

iv) "The third man ran off but I believe he was engaged by another soldier. I did not see this." **B129**

19.9.1.3.16. In his fourth RMP statement Soldier F gives a detailed account of his actions in relation to the arrests he carried out in Glenfada Park. **B132 to B133**

19.9.1.3.17. Soldier F's fifth statement was given to Lt Col Overbury on 19th February 1972. In it he indicated that he had "mistaken the sequence of events" **B135** and proceeded, for the first time, to indicate that he had fired shots:

i) Over the barricade in Rossville Street before entering Glenfada Park.

ii) From the south east of Glenfada Park North at a gunman positioned at a wall at the far (eastern) end of Block 1 of the Rossville Flats.

19.9.1.3.18. In that statement he confirmed that he had fired two rounds in Glenfada Park at a man who was about to throw a bomb. He indicated that he was certain the object was a bomb "because it was fizzing." **B135**

19.9.1.3.19. In his (undated) statement to the Treasury Solicitor F again stated that three men, one of whom was carrying a rifle, left the barricade and moved in the direction of Glenfada Park. **B137 paragraph 4** He then said

"Myself and G moved round the side of the wall to the right and into Glenfada Park in order to cut their retreat off. As we entered

Glenfada Park the three men were directly in front of us on the far side. One of them turned and was about to throw what appeared to be a bomb (because it was fizzing) in our direction. Myself and G dropped down on one knee. I took an aimed shot. The first shot seemed to hit the man with the bomb in the shoulder, the second in the chest. The man fell to the ground." **B137 paragraph 5**

19.9.1.3.20. Soldier F then describes hearing pistol shots in the direction of Rossville Flats and approached the southeast corner of Glenfada Park. He did not mention seeing the person he claimed was in possession of a rifle in Glenfada Park, nor did he say what G fired at.

19.9.1.3.21. In this statement F said:

"I also made a statement in which I said that I was reasonably sure I had shot a person whose photograph was shown to me called Donaghey. I stated that I shot this person in Glenfada Park. Having seen further photographs of Donaghy I am still reasonably satisfied that he is the person I shot because he bears a close resemblance." **B138.001 paragraph 14**

19.9.1.3.22. Soldier F's evidence to Lord Widgery about what happened in Glenfada Park can be summarised as follows

i) He indicated that the man he fired at in Glenfada Park was on the left of a group of three men and was attempting to throw what appeared to be a nail bomb. **B141 F-G**

ii) The bomb was in his hand and it was fizzing. **B141 G**

iii) The men were directly in front of the soldiers as they entered the courtyard, in the south west corner. **B142 A-B**

iv) F got down on one knee and fired two shots at the man. The first hit him in the arm and the second hit him in the chest. **B142 D**

v) He was hit in the right arm. **B162 E**

vi) At that time G was firing at the other persons, one of whom was carrying a firearm. The firearm was a long rifle. **B142 D-F**

vii) G hit that person but F could not remember what happened to the third person. **B142 F-G**

viii) At that stage there were no other soldiers in the courtyard but others came in soon afterwards. **B142 C-D**

ix) Four soldiers went into Glenfada Park altogether. E, F, G and H. **B162 A-B**

x) F could not see any other civilians in the courtyard at that time. There was no crowd of people. **B162 B-C**

xi) Apart from the people he arrested F saw only some ambulance people come forward shortly after the bodies fell. **B162 C-D**

xii) F first says he did not see E in Glenfada Park at all. **B143 A-B**

xiii) He then says he remembers E being there when the order to withdraw came. **B144 C**

xiv) F also said that of the three men the man with the rifle was "the middle man." **B158 C**

xv) G fired at the man with the rifle and he fell. The rifle fell to the ground. **B158 C-D**

xvi) The soldiers made no attempt to recover the rifle or the unexploded nail bomb. **B158 D to B159 B**

Soldier F's evidence to this Tribunal

19.9.1.3.23. Soldier F has given both written and oral evidence to this Tribunal. His statement was signed on 2nd March 2000 and he gave oral evidence on Days 375 and 376.

19.9.1.3.24. In his statement he said, "I remember very little about the day." **B167.001 paragraph 8**. He also says "I recall a lot of people and noise in Glenfada Park, but nothing more. I do not recall firing my weapon there. I presume that Private G was with me, we covered each other, but do not know what he was doing. I have been shown

photographs of Glenfada Park....It does not look familiar to me." **B167.004 paragraph 31**

19.9.1.3.25. When shown the statements he made in 1972 Soldier F:

i) Does recall "people moving to our right from the barricade, but I do not now recall how many did so." **B167.006 paragraph 42 (i)**

ii) Does not specifically recall seeing three men move from the barricade north west. **B167.006 paragraph 44 (c)**

iii) Does recall "that we 'moved position to our right'. We must have moved for a reason, but I do not now know why." **B167.006 paragraph 42 (j)**

iv) Does not recall seeing a man carrying "what looked like a rifle" but says "If I saw a man then this is a possible explanation for my movement right, but I cannot now recall this." **B167.006 paragraph 44 (d)**

v) Does not recall taking up position in Glenfada Park or seeing three men there. **B167.006 paragraph 44 (e)**

vi) Does not recall a nail bomber in Glenfada Park or firing at such a man. **B167.006 paragraph 42 (k) to (l)**

vii) Knows that Private G was with him but did not see what he did. He does not recall seeing him "fire and hit another of the men who was carrying what appeared to be a rifle." **B167.006 paragraph 44(g)**

viii) Does not remember "the third man or anything about him." **B167.006 paragraph 44 (h)**

ix) Does not remember identifying a photograph of Gerard Donaghey. **B167.006 paragraph 43**

19.9.1.3.26. Soldier F's oral evidence to the Tribunal adds little or nothing by way of detail to the evidence given previously by him.

Discrepancies and Issues arising from Soldier F's accounts

19.9.1.3.27. Although at first sight F's evidence as to what happened in Glenfada Park may appear to be broadly consistent, in that in each account he claims to have fired two shots at a man holding a nail bomb, it is clear

that on closer examination the various accounts do not stand up to scrutiny. The following issues arise:

i) In his first statement to the RMP F indicates that he moved into Glenfada Park after seeing 30-40 rioters leave the barricade and moving in that direction. **B122** By the time he signed his third statement he no longer described such a large crowd of rioters moving from the barricade but rather *three* men, one of whom was carrying *what looked like* a rifle. **B129** He confirms this account in his statement to the Treasury Solicitor although in this statement he *positively identifies* the item being carried by the man as a rifle, rather than indicating that it looked like a rifle. **B137 paragraph 4** When he gives evidence to Lord Widgery he again refers to the man "carrying what appeared to be a rifle" **B141 E-F** when questioned by Mr Gibbens, but says that the man "was with a rifle" when cross examined by Mr McSparran. **B157 B** Giving evidence to this Tribunal, Soldier F was not able to explain these discrepancies. **Day 376/67/23 to Day 376/71/6**

ii) On entering Glenfada Park, F says in his first statement that he saw "one of the men", by this he presumably means one of the men he had seen move from the barricade, light something which he then saw "fizzle and spark" and he realised it was some kind of bomb. **B122** In subsequent statements F's first glimpse of the man is as he is about to throw the bomb, he does not again refer to seeing the bomb being lit. **B129**, **B135**, **B137 paragraph 5**, **B141 F-G**

iii) In his second statement F says he saw the three men "on the other side of the square about thirty metres away near to 24 Glenfada Park, south west of our position." **B129** Giving evidence to Lord Widgery he said that the three men were directly in front of the soldiers as they entered the courtyard, in the southwest corner **B142 A-B** and that the man with the nail bomb was on the left of a group of three men. **B141 F-G**

iv) In his first statement F then described the man raising his arm as if to throw the bomb. He fired two aimed shots at him, the first struck him in the *shoulder* and the second in the *stomach.* The bomb did not explode. **B122** In his third statement F said he "shot and hit one man as he

attempted to throw an object *which looked like a nail bomb.*" **B129** In the statement he gave to Lt Col Overbury F confirmed that the rounds he fired in Glenfada Park had been at a man who was about to throw a bomb and added that he knew it was a bomb "because it was fizzing." **B135** In his statement to the Treasury Solicitor F said that the man *turned* and was about to throw what appeared to be a bomb (because it was fizzing) in the soldiers' direction. He then went on to say that the first shot seemed to hit the man with the bomb in the *shoulder*, the second in the *chest* and he fell to the ground. **B137 paragraph 5** By the time he gave evidence to Lord Widgery F was saying that the man was attempting to throw what appeared to be a nail bomb. **B141 F-G** and that the bomb was in his hand and it was fizzing. **B141G**. F indicated that he got down on one knee and fired two shots at the man. The first hit him in the *arm* and the second in the *chest.* **B142 D** When asked, F indicated that the man had been hit in the right arm. **B162 E**

v) In his first statement F indicated that, after shooting the man he claimed had a nail bomb, he, together with other members of his unit, advanced towards "the rioters" in Glenfada Park and they dispersed. **B122** This is in keeping with his initial description of 30-40 rioters leaving the barricade. In his second statement to the RMP in which he purports to identify Gerard Donaghey as the man he shot in Glenfada Park he claimed that he shot the man during the course of a "full scale riot" in the Glenfada Flats for being in possession of nail bombs. **B126** Previously he had only ever mentioned seeing one nail bomb. These are the only times that Soldier F mentions rioting or rioters in Glenfada Park, indeed when he gave evidence to Lord Widgery he indicated that he did not see any other civilians in the courtyard apart from the three men he described, the people he arrested and some ambulance people who came forward to the bodies. **B162 B-D** When questioned about the "full scale riot" before this Tribunal however Soldier F maintained said "Okay, I have no recollection, as I have said before now of the events, but if I put that in my statement, that is what happened." **Day 376/77/16 to Day 376/77/18** When the evidence he gave to Lord Widgery was put to him he again had no explanation for the discrepancies. **Day 376/77/19 to Day 376/79/8**

vi) Soldier F does not mention that other members of his platoon fired until he made his third RMP statement. Then he says he saw G fire and hit another of the (three) men who was carrying what appeared to be a rifle. **B129** In his statement to the Treasury Solicitor he simply indicated that on entering Glenfada Park himself and G dropped down on one knee. **B137 paragraph 5** He did not say what G fired at. Giving evidence to Lord Widgery F indicated that while he was firing at the man with the nail bomb G was firing at the other persons, one of whom was carrying a long rifle. **B142 D-F** The man with the rifle fell and the rifle fell to the ground. **B158 C-D**

vii) The soldiers made no attempt to recover the rifle, or indeed the unexploded nail bomb they claimed these men had. **B158D to B159B**

19.9.1.3.28. In our submission the progression of F's evidence can be fairly simply explained. His initial statement was given at a time when the events of the day where not quite so clear as they later became. He gave a thoroughly mendacious account at that time and the detail of that account changed with each additional statement he gave in order to fit in with the emerging facts. This can be illustrated by his willingness to indicate, contrary to what he said in his earliest statement, that he had seen only three men, one of whom had a rifle, move from the barricade into Glenfada Park. This account was clearly designed to fit in with the account given by Soldier G of his target in Glenfada Park.

19.9.1.3.29. In addition, F never gives the same account twice of where he says his shots struck the man he fired at. In his first account he refers to the shoulder and the stomach, the second is the shoulder and the chest and giving oral evidence to Lord Widgery he describes the shots hitting the target in the arm and the chest. When questioned more closely he was able to say the man was hit in the right arm. This was despite the fact that he had never mentioned a shot hitting his target in the arm before. It can be noted at this stage that in relation to one of those who was shot dead in Glenfada Park, Willie McKinney, it is possible that he was struck by two bullets. In addition to the bullet wounds to his torso,

Willie McKinney had bullet entry and exit wounds in his arm, albeit his left arm. This is a point that Lord Saville was alive to when F gave oral evidence. **Day 376/89/16 to Day 376/92/12**

19.9.1.3.30. Soldier F has never given evidence to the effect that the weapons carried by the men he saw shot in Glenfada Park were recovered by civilians and taken away from the scene. He simply said that the soldiers did not attempt to recover the weapons. He was effectively cross-examined by Mr McSparran about the implausibility of this in circumstances where the soldiers say they were under attack when he gave evidence to Lord Widgery. **B158 C to B159 B**

19.9.1.3.31. It should also be noted that F describes the person G fired at as being in the ***middle of the three men*** he saw in Glenfada Park. He was also clear when asked that that man carried a ***long*** rifle. This is in marked contrast to G's evidence which was that:

i) there were ***two*** men in the south west corner of the park;
ii) ***both*** men were carrying firearms;
iii) those firearms were ***small*** rifles;
iv) he did not see anyone with a nail bomb in Glenfada Park;
v) he fired at the man on the ***right*** of the two men
vi) a crowd of civilians recovered the weapons from the bodies after the men fell.

19.9.1.4. Private G

19.9.1.4.1. Private G made four statements to the RMP. He also made a statement to the Treasury Solicitor and gave oral evidence at the Widgery Tribunal. He is now deceased. He admits to firing three shots in Glenfada Park which can be seen marked on his trajectory photograph at. **P11**

19.9.1.4.2. The gist of Private G's evidence is that he entered the car park with Soldiers E and F, moved around to the west of a car parked at the

entrance and immediately saw two gunmen in the south west corner armed with what may have been M1 carbines. He fired three aimed shots at one of them. Both men fell. A crowd gathered around the bodies after they fell and weapons were removed from them. G then moved along the north end of Glenfada Park North and down the west side to the bodies while his partner Soldier F moved down the east side.

19.9.1.4.3. Private G does not claim to have seen any nail or petrol bombs explode in Glenfada Park. It was not until he made his statement to the Treasury solicitor that he said he heard a "bang" on the day but did not specify where he heard it and indicated that he would not be able to say what it was. In common with other members of his platoon he appears to have signed a "pro forma" statement purporting to identify the person he shot in Glenfada Park during the course of a "full scale riot" but the nature of this riot was never elaborated on. In fact it was only when he gave evidence to Lord Widgery that he mentioned *any* missiles being thrown in Glenfada Park, and even then he said while he saw bricks being thrown he did not take any notice.

19.9.1.4.4. A bullet from Private G's weapon was recovered from the body of Gerard Donaghey who was shot in Abbey Park and the evidence in relation to this is dealt with below in section 19.15. However, his failure to account for those deaths and his actions in Abbey Park are of great significance in the assessment of his evidence as a whole. In this section, however, we deal with his evidence in relation to the events that occurred in Glenfada Park North.

Private G's 1972 accounts

19.9.1.4.5. In his first statement to the Royal Military Police Soldier G says that when he entered Glenfada Park North:

i) He saw "two men standing about twenty five metres away, both of them were holding what appeared to be small rifles in their hands. There was a small group of people standing near to them." **B169**

ii) He fired three aimed shots at one of the men and saw him fall to the ground. **B169**

iii) Soldier F fired at the same time and G saw the other gunman fall. **B169**

iv) The group of people standing near to the gunmen picked up the two weapons and ran off down an alleyway in a North Easterly direction. **B169**

v) F and G split up and gave chase. **B169**

vi) G ran down the alleyway past the two bodies lying on the ground but the people with the weapons had already turned off from the alleyway out of sight. **B169**

19.9.1.4.6. In a second (signed) statement to the RMP at 1420 on 31st January 1972 Soldier G claimed to recognise John Young from photographs and said "I am reasonably sure that I shot this man in an incident in the Glenfada Flats, Londonderry during a full scale riot on 30 Jan 72. The youth was throwing nail bombs." **B176**

19.9.1.4.7. In this statement G therefore claims to have shot a ***nail bomber*** rather than a gunman in Glenfada Park and further, for the first time, claims that there was a "full scale riot" taking place there. Not surprisingly, as he did not mention anything about shooting a nail bomber in his 1st RMP statement, this account was amended by manuscript in a third (undated) statement to say that Young had been armed with a rifle. **B177.001** Private G also signed this statement. Of course the Tribunal knows from other evidence that John Young was shot at the rubble barricade.

19.9.1.4.8. Soldier G made a fourth statement to the RMP dated 14th February 1972. In that statement he indicated that he wished to add to his first statement as follows:

"The gunmen I saw in Glenfada Park were accompanied by a third man. Because this man did not have a rifle like the others I did not pay any more attention to him. I shot at one of the gunmen and I heard "F" fire at the same time and because the two gunmen fell to the ground I automatically thought that the second gunman had been engaged by "F". However in view of the fact that I fired 3 shots it is possible that I hit both men and the third man who was with them, I later saw was lying on the ground but not moving. Therefore it is likely he was shot by "F"." **B179**

19.9.1.4.9. This statement appears to be an attempt by Soldier G to account for three bodies in Glenfada Park rather than the initial two described by him. It should immediately be noted that if the third man described by G was shot by F or any other soldier it is clear from G's evidence that G saw no justification for that shooting as he did not take any further notice of the man as he "did not have a rifle like the others." **B179** In any event Soldier F claims that he shot at a nail bomber.

19.9.1.4.10. In his statement to the Treasury Solicitor G describes entering the courtyard and moving to the right side of a parked car when he noticed two men in the opposite corner:

"These men were armed. I cannot identify their weapons exactly but I think they were short rifles like an M1 carbine. They both had some weapon of this sort. I immediately dropped to one knee and fired three aimed shots at one of the men. F was firing beside me and I saw both the men fall." **B186**

19.9.1.4.11. Soldier G describes a "fair number of people on the opposite side of the courtyard". **B187** and a small group gathering around the men when they fell. G then says, contrary to what he said in earlier statements, that he did not actually see these people pick up a weapon.

19.9.1.4.12. In this statement Private G also mentions for the first time additional shots fired by Soldier F. At the point of recall from Glenfada Park North he says:

"I heard F shout "There's a gunman" or something like that. I saw him down on one knee at the south east corner of Glenfada Park aiming in an easterly direction. I saw him fire one or two shots in a direction out of my sight". **B 187**

19.9.1.4.13. This is the first time that Private G appears to recall seeing Lance Corporal F fire in the direction of Joseph Place. G only appears to have recalled this action by F after F's 5th statement in which he admitted for the first time that he fired over the barricade and from Glenfada Park along the back of Block 2 of the Rossville Flats.

19.9.1.4.14. Also in his statement to the Treasury Solicitor Soldier G gives explanations for a number of the statements he made previously:

i) He says he initially assumed that he had shot one of the two men he saw in Glenfada Park and F had shot the other. In this statement he says it is possible he shot both while F shot a third man he was not observing. **B188 paragraph 12**

ii) In relation to the third man he mentioned in his statement of 14th February 1972 G says in this statement that he did not have a third man under close observation near the two targets he mentioned earlier. While he says he could have shot those two men he says he certainly could not have shot the third man, although it is possible that F did. **B188 paragraph 12**

iii) G confirms that he saw weapons after shooting at the men and seeing them fall and that a crowd surrounded the bodies and "when the crowd had gone the weapons had gone too." **B188 paragraph 13**

iv) As to his identification of John Young G says that the person he shot could have been John Young but he is not certain. He also says that the man he shot was not throwing nail bombs and he does not recall saying that to the investigating officer. "I think there was a mix up when this statement was

taken with a number of others. I do not recall hearing it read over to me and I am quite certain I did not say that the man I shot at was throwing nail bombs." **B188 paragraph 13**

v) As to whether or not he had heard any explosions on the day G says "The only thing I heard that day was a bang, but I would not like to say what it was." **B188 paragraph 13**

19.9.1.4.15. At no time does he refer to shots fired in Glenfada Park other than his own and those of Soldier F. He certainly does not mention Corporal E or Private H's shots.

19.9.1.4.16. There are a number of significant points arising from Soldier G's evidence to Lord Widgery

i) He confirmed that he had seen two gunmen standing at the southwest corner of Glenfada Park. They were on the footpath. **B194 C-D**

ii) The men were holding the weapons in both hands. **B206 G**

iii) They were not pointing at the soldier. **B207 A – B**

iv) Soldier G fired without warning. **B207 A-B**

v) He fired three quick shots at the man on the right hand side who was slightly in front of the other man. **B207 B-C**

vi) He confirmed that he could have shot both of those men. **B195 B-C**

vii) He made it clear that he was not aware of a third man or a third body. **B195 C–D**

viii) The crowd of (about fifteen) people were on the footpath and immediately the two men fell they ran past them and when they had run past the weapons had gone as well. **B195 D-E**

ix) He indicated that he fired through the alleyway in the direction of Abbey Park. **B196 A-B**[13]

x) He gave evidence that F fired across towards the Rossville Flats from Glenfada Park. **B196 B-D**

[13] For a discussion of Private G's actions in Abbey Park including this evidence see below section 19.15

xi) He confirmed that he did not hear any nail bombs in Rossville Street. **B199F**

xii) He confirmed that all he heard in Glenfada Park was one bang, he did not see where it came from and he did not know what it was. **B200 A-B**

xiii) He indicated that he did not take notice of whether missiles were being thrown in Glenfada Park or not. The only time he knew there was something being thrown in the way of troops was when he was kneeling down to fire and some bricks came in front of him. **B200 F-G**

xiv) He confirmed that he did not see anyone with a nail bomb in Glenfada Park. **B200 G**

xv) The prisoners were not taken out of Glenfada Park until after F fired across the front of the Rossville Flats. **B202 D**

xvi) He did not see a soldier shoot a man who was lying on the ground twice in the back. **B202 E-F**

xvii) He did not see a first aid girl coming to tend to some of the wounded. **B202 F**

xviii) When he fired at the people there was no one else immediately in front of them or immediately behind them in the line of fire. **B202 F-G**

xix) The crowd that ran towards the bodies ran from his left (i.e. the east). **B202 G**

xx) They moved fairly quickly, like people who felt in danger. **B203 A-B**

xxi) He did not and could not see whether any of the people in that crowd actually stopped at the bodies. **B203 C-E**

xxii) While he heard other shooting in Glenfada Park he did not know who was shooting or what they were firing at. **B208 A-D**

xxiii) His evidence appears clear that when, in his first RMP statement, he referred to people picking up weapons and running down an alleyway in a north easterly direction he was referring to the bodies in the south west corner of Glenfada Park and to the alleyway in that area. **B209 B-E**

xxiv) It was confirmed that his rifle was serial number A.5259. **B209 F-G**

Issues and Discrepancies Arising from Soldier G's accounts

i) Unlike Soldiers E, F and H, Soldier G does not give any reason for the soldiers' move into Glenfada Park. He simply says that he followed Lance Corporal F. **B168 to B169**

ii) In his first statement G indicated that when he entered Glenfada Park North he saw two men standing about 25 metres away both holding what appeared to be small rifles in their hands. He also said that there was a small group of people standing near to them. **B169** In his fourth statement to the Royal Military Police G indicated that the two gunmen he saw in Glenfada Park were accompanied by a third man but he did not have a rifle like the others. **B179** In his statement to the Treasury Solicitor G's evidence reverts to seeing two armed men on entering Glenfada Park. **B186** He later said that he did not have the "third man" under close observation. **B188** In his evidence to Lord Widgery he confirmed his sighting of the two gunmen but was clear that he was not aware of a third man. **B195 C-D**

iii) In his first statement G described firing three aimed shots at one of the gunmen. He saw him fall to the ground. **B169** He also said that F fired at the same time and the other gunman fell. **B169** In his fourth statement to the RMP G indicated that because himself and F fired at the same time and the two gunmen fell to the ground he assumed that the second gunman had been engaged by F. In this statement G indicated that it was possible that he hit both men and the "third man" he first mentions in this statement. **B179** In his statement to the Treasury Solicitor G again describes aiming at one of the two men and himself and F firing at the same time. He also describes seeing both men fall. **B186** He then indicates that he could have shot both of the men he saw, while F could have shot a "third man" that he was not observing. **B188** Giving evidence to Lord Widgery he confirmed that he had seen two gunmen, that he fired three shots at the man on the right hand side of the two, that he could have shot both men and that he was not aware of a third man or third body. **B195 C-D**

iv) It is clear from G's evidence that both himself and F were not justified in opening fire in Glenfada Park. When G first describes the "third man" in Glenfada Park he is clear that he "did not have a rifle like the others." **B179** It is therefore submitted that if the third man described by G was

shot by F or any other soldier it is clear from G's evidence that G saw no justification for that shooting as he did not take any further notice of the man. **B179**

v) As to the man that G fired at he was clear giving evidence to Lord Widgery that he had fired at a time when the gunmen were not pointing their weapons at the soldier. He also indicated that he fired without warning. **B207 A – B** This action was in contravention of the Yellow Card. **ED71.2 paragraphs 6, 7, 8, 13**

vi) In his first statement to the RMP G described the crowd he saw in Glenfada Park picking up the weapons and running off down an alleyway in a North Easterly direction. **B169** In his statement to the Treasury Solicitor G confirms that the crowd gathered around the bodies but indicated that he did not actually see the weapons picked up. **B187** He later clarifies this by saying that "when the crowd had gone the weapons had gone too." **B188** He confirmed this evidence before Lord Widgery. **B195 D-E** It is clear from his evidence at the Tribunal that his reference to the crowd running past bodies and into an alleyway in a northeasterly direction was meant to refer to the bodies in the southwest corner and the alleyway in that area. **B209 F-G**

vii) Like a number of his colleagues G also purports to identify the individual he shot from a photograph. Also in common with his colleagues, in his second and third statements to the RMP he indicated that he shot this person during a "full scale riot" in Glenfada Park. **B176** That these are "pro forma" statements is best illustrated by the two signed by Soldier G. Despite the fact that G had previously claimed to have shot a gunman and had never claimed to have even seen a nail bomb in Glenfada Park the first "identification" statement he signed indicated that the person he had shot had been "throwing nail bombs." **B176** This was later corrected. **B177.001**

viii) In addition, apart from this reference to a "full scale riot" Soldier G makes no other reference to the soldiers being faced with rioters in Glenfada Park. In fact Private G's evidence is clear in that he does not mention seeing or hearing any nail or petrol bombs, or indeed any other missiles, in Glenfada Park. It is only when he gives evidence to Lord Widgery that he mentions

missiles being thrown in Glenfada Park at all, and even then only bricks. **B200 F-G** Despite the terms of his third RMP statement he does not at any time further describe the "full scale riot" he said was taking place there.

ix) It is also significant that G confirms that when he fired at his targets there was no one else immediately in front of them or behind them in the line of fire. **B202 F-G** It therefore appears clear that G could not have hit another, unintended target with his three shots.

x) Soldier G's evidence is clearly designed to support the case that was being made by his friend and partner Soldier F. It must have rapidly become clear that these two soldiers, who were side by side in Glenfada Park, had given significantly different accounts of what took place there. F had indicated that his target was a nail bomber while G indicated that he saw men armed with guns. Despite their best efforts – for example G's invention of a "third man" to allow for F's nail bomber and F changing his evidence to include sightings of men with guns in Glenfada Park - when they gave evidence to Lord Widgery these great friends contradicted each other. In fact, F gave evidence that the gunmen he saw were holding long rifles, when G's evidence had always been that the men he saw carried small weapons. G on the other hand gave clear evidence that at no time did he see a nail bomber in Glenfada Park.

xi) It is apparent from his evidence that G was prepared to lie in order to protect himself and his colleagues, especially Soldier F. That he lied casually is evident from his fourth RMP statement and the introduction of the "third man" in Glenfada Park **B179** and from his statement to the Treasury Solicitor where he provides corroboration for Soldier F's account of the shots he fired across towards Block 2 of the Rossville Flats for the first time. **B187 paragraph 8**

xii) It is possible, given G's evidence as to where he fired his shots, that one of them struck Joseph Friel.

Arrests

19.9.1.4.17. All Private G says in his evidence is that he saw F and some others ferry back a party of about 20 persons from across the courtyard. He

accompanied them back to Columbcille Court where they handed them over to another party from their unit. **B187** However Arrest Forms and photographs can be found in relation to Patrick Joseph Norris **ARR 45.2** and Christopher Doherty **ARR 14.1** who Private G claims to have arrested for "throwing stones and shouting abuse at SF in Glenfada Park" and John Noel Devine **ARR 12.2** who was "throwing stones at his patrol".

19.9.1.4.18. Mr Doherty has made it quite clear that he did not throw stones in Glenfada Park although he admitted that he had thrown a stone earlier in William Street. **AD58.14 paragraph 37** He also said that he "did not recognise who had picked me out. I doubted it was the soldier who had arrested me and had a gun to my head in Glenfada Park but I did not see much of him so I cannot be certain of this." **AD58.14 paragraph 36**

19.9.1.4.19. In his taped interview with Kathleen Keville in 1972 Mr Devine indicated that he had been in Glenfada Park when he was arrested and denied that he had been throwing stones. He said, "They looked at my hands and they said "scruffy, a bit of dirt on them". Well I says it couldn't be anything else with the treatment we got in the van and up against barbed wire..." **AD41.16 to AD41.19**

19.9.1.4.20. This is further clear evidence (if any more were needed) that Soldier G was prepared to lie and clearly did so quite casually.

19.9.1.5. Private H

19.9.1.5.1. Before he came to give oral evidence the Tribunal was in possession of a considerable amount of evidence concerning Soldier H. Not only did Lord Widgery single him out in his report as a witness who could not be believed but other soldiers had given evidence (both written and oral) indicating that they held very strong views about him. H's platoon commander, Lt 119 said:

"....I did not know H very well as he had only very recently come back to the Platoon for this deployment. He had been away for the previous six months as a waiter in the officers' mess. He had been in the Platoon when I first became its commander. It was common for soldiers to be selected to become mess servants and when there were no other mess staff available." **B1752.017 paragraph 36**

19.9.1.5.2. INQ 1574 had the following comment to make about him:

"He was a reject. He was a runner, but was a bit of a plank. He was nonsensical and shared a brain with an amoeba. He was a bit of a pratt and could not tell jokes..." **C1574.6 paragraph 43**

19.9.1.5.3. INQ 2037 said:

The [Widgery] report did mention that one soldier had fired at windows and this was Lance Corporal H. He was a first class idiot, a clown.**C.2037.5 paragraph 27**

19.9.1.5.4. H was quite unique among the "Glenfada Park" soldiers who gave evidence to the Tribunal in that he does claim to have some memories of the day and of what happened in Glenfada Park.

19.9.1.5.5. H admits to firing 22 shots on Bloody Sunday – more than any other soldier and more than the rest of the anti-tank platoon put together! He claims that all of those shots were fired in Glenfada Park. He claims three hits. His trajectory photograph can be found at. **P12** Soldier H made three statements to the Royal Military Police, a statement to the Treasury Solicitor in the presence of Major Loden and gave evidence to the Widgery Tribunal. He has also given written and oral evidence to this Tribunal.

Soldier H's 1972 accounts

19.9.1.5.6. The proximity in time between Soldier H's first statement to the RMP and the second (0210 and 0230 31st January 1972) has already been pointed out and commented on in section eighteen. Also referred to above are some of the outlandish statements made in that account. In addition to those H also says the following in his first statement:

i) I was part of a force the complete Company which had been deployed in *Creggan area. This action had followed intense shooting by the local residents at the Security Forces.* **B218** (emphasis added)

ii) A barricade has been erected across Rossville St at the location of the crowd. *It consisted of old cars and paving stones, mostly plundered from the works ground* **B218 to B219** (emphasis added).

19.9.1.5.7. These claims made by H are quite simply bizarre and they are not the only bizarre elements of Soldier H's first statement.

19.9.1.5.8. Giving evidence, H said that he did not know where the Bogside and Creggan were. **Day 379114/6 to Day 379/114/17** In relation to the "intense shooting by local residents" he suggested that was shooting "over the previous weeks and months." **Day 377/114/6 to Day 377/115/5** He could not explain his description of the barricade. **Day 377/117/10 to Day 377/117/20** When H's first statement is considered it very quickly becomes apparent why a second statement would be prepared within such a short space of time (his first RMP statement is timed at 0210 on 31st January and his second is timed at 0230) and why Major Loden accompanied H when he gave his statement to the Treasury Solicitor.

19.9.1.5.9. When one looks at the content of the second statement (four type written pages) it defies belief that such a statement (which differs considerably from the first) could have been taken and signed within the apparent timescale – at most twenty minutes. This is a point that was made by H himself when he gave oral evidence to this Tribunal.

Day 377/126/18 to Day 377/126/20 No explanation has been given for this.

19.9.1.5.10. H's first statement is very unclear as to the location of the various incidents that took place. He could not explain this lack of clarity when he gave evidence. **Day 377/119/13 to Day 377/120/25** Insofar as is possible and it appears to be relevant to what happened in Glenfada Park the statement can be summarised as follows:

i) The soldiers were being "stoned, nail bombed and acid bombed as well as being shot at on Rossville Street. **B219**

ii) As the patrol neared a north west junction leading to a collection of flats facing William Street H saw a group of youths who threw stones and nail bombs at the advancing patrol. **B219**

iii) The youths then turned and ran north west in the direction of waste land between two blocks of flats about 50-60 metres apart. **B219**

iv) H did not recognise the youths that threw the nail bombs. The soldiers pursued them through the gap between the two flats about 15 metres wide. **B219**

v) At the gap they saw the group of youths hiding behind a broken down car. Around them in all directions were groups of other youths. They began to throw bricks and any other material on the waste land. **B220**

vi) H saw three youths at a distance of about 70 metres hiding behind the wall. They were dressed in light clothing. **B220**

vii) H was with F and G at that stage. **B220**

viii) He saw the youths in possession of nail bombs and cocked his rifle, aimed at the youth in the middle of the group and fired two rounds at the centre of his stomach. The other two soldiers fired at the other persons. All three youths fell to the ground. **B220**

ix) A youth then appeared from the northwest block of flats. He ran from a crowd of people. He was dressed in a jean suit. He picked up an object from one of the youths that had been shot and ran in the direction of the north block of flats across the wasteland. H fired at him and struck him in the shoulder. The youth was 20 metres from him when H fired and he

aimed his shot at his central back. The youth disappeared into a crowd of people converging on the three youths who were lying at the side of the broken car. **B220**

x) H said he saw " G1" (i.e. Lt 119) examine the bodies of the three youths. He later informed them that they were dead. **B220**.

xi) H then says "the patrol continued along Rossville Street towards the barricade, this was broken up by the Company. I then returned along Rossville Street back towards the junction with William Street." **B221**

xii) "There is a block of flats extending east towards Chamberlain Street. On the west side of the flat about 200 metres from my passing location, the patrol came under fire from a concealed sniper, using a high velocity rifle. I located his position to be a toilet window facing me. He was firing from the window, about 1ft square." **B221**

xiii) He then says, "I took a covering position, cocked my rifle and fired 17 x 7.62 aimed shots at the sniper. I then changed my magazine, loaded the rifle with a fresh magazine and fired 2 x 7.62 shots. He did not return fire. No investigation of the premises was carried out. We then continued back to our vehicles...." **B221**

19.9.1.5.11. The second statement is a much clearer and coherent description of events, even though it gives a completely different account to the first. In it H indicated that:

i) A group of about five youths appeared in an alleyway leading to a block of garages in Glenfada Park. **B229**

ii) One of the youths had in his right hand a round shaped object, brown in colour, which looked like a nailbomb. The object struck the floor in front of H but did not explode. The youth ran away. **B230**

iii) Following two other members of his section H ran into Glenfada Park, entering at the north east corner. **B230**

iv) On entering the square H saw F and G in the aim position behind the rear of a parked car. **B230**

v) He saw F fire at a man near an opening in the south west corner of the square. **B230**

vi) H saw a youth aged between eighteen and twenty two standing about five feet north east of the north east wall of 59 Glenfada Park. He was about 50 yards south west of H's position and he had his right arm drawn back in the throwing position. In his hand the youth had a round object the size of a coca cola tin which looked like a nail bomb. H fired two shots at the youth and he fell to the ground. The nail bomb did not explode. **B230**

vii) Another youth about the same age dressed in blue denim jeans and trousers ran from the gap in the south west corner of the square, picked up the nail bomb and turned to face the gap he had run from. H fired one aimed shot at the youth. He staggered and ran north east into the gap where other people had assembled. **B230 to B231**

viii) H then took up position behind a low wall about four feet high next to the north east corner of the block of garages in Glenfada Park. Whilst he was in this position he heard a single shot being fired and saw a puff of smoke come from a toilet window in 57 Glenfada Park. He could see the shape of a man and the muzzle of a rifle pointing out of the window. **B231**

ix) H fired the remainder of his magazine at the window. He then changed his magazine and fired a further two shots at the man behind the window. He saw him fall and believed he hit him. He stopped firing just as a cease fire order was given to him by CSM Lewis. **B231**

x) "G1" carried out a follow up action and discovered that the youth he first fired at was dead. **B231**

xi) H is certain that "none of my rounds struck anyone but those who I aimed at. All these persons had walls behind their position. **B231**

19.9.1.5.12. In his third statement to the Royal Military Police which covers in large part the events that took place in Glenfada Park and appears to be designed to deal with the actions of others H said:

i) He was positioned behind a civilian car in the north east corner of the Glenfada car park with other members of his platoon including F and G. **B224**

ii) To the south west of their position, on a footpath about 70 metres away were a group of civilian youths (between 5 and 7) aged between 18 and 22 years. **B224**

iii) "I am positive that two of these youths were carrying nail bombs, I cannot say if the others carried weapons of (sic) offensive weapons." **B224**

iv) Before he fired at one of the youths carrying a nail bomb he saw him fall to the ground. This was followed by more shots from members of the platoon and four of the youths were shot dead. **B224**

v) He did not see who shot the other two youths as he was watching a youth who appeared from the west of the car park, ran to where the bodies lay, picked up a nail bomb and as he turned, H fired one shot and hit him in the upper right arm or shoulder. The youth continued on and left the area the way he had come. He was wearing a blue denim jacket and trousers. **B225**

vi) He cannot say what happened to the other youths who were not shot. There was between one and three of them. **B225**

vii) He knows that E and G fired but does not know what at. **B225**

viii) Lt 119 arrived "shortly after the shooting" and went to look at the bodies of the youths. He may have been present for some time but H didn't see him because he was behind him. **B225**

ix) H was wearing a gas mask when he fired. **B225**

x) At the end of the statement, he describes firing 19 shots at "a sniper situated in a toilet within a flat on the south side of the car park....my 19th shot appeared to hit him because I saw him fall and then I received the order to cease fire from WOII Lewis." **B225**

19.9.1.5.13. H's statement to the Treasury Solicitor was taken by J. L. Heritage "in the presence of 236 [Major Loden] on 2nd March 1972" **B235**. In that statement:

i) He describes seeing youths on Rossville Street, at the end of an alleyway leading into "Columbcille Court." **B233 paragraph 2**

ii) One had an object in his hands, which H thought was a nail bomb because of its shape and colour. **B233 paragraph 2**

iii) It was smooth and cylindrical about the same size as a Coca-Cola tin. It was dark brown in colour. **B233 paragraph 2**

iv) H said he was positive that it was not a rock or other missile of that kind. The lad threw the bomb in his direction and "although I did not watch it land I heard it hit the ground near us. It did not then explode." **B233 paragraph 2**

v) Soldiers then chased these youths into Glenfada Park. **B233 paragraph 2**

vi) H then describes how F and G arrived in the car park about two seconds in advance of him **B234 paragraph 3**

vii) He saw F fire. **B234 paragraph 3**.

viii) He saw a lad with an object like a coca cola tin in his hand. He was drawn back in a throwing position. H fired two shots at him and he fell to the ground. The bomb just thudded to the ground without rolling or bouncing. It did not explode. **B234 paragraph 3**

ix) There was an alleyway at the opposite corner of the square from which a youth ran. He picked up the bomb and H thought he was about to throw it. He fired one round at him and thinks it hit him in the right shoulder or upper arm. He was able to stagger away. He did not drop the bomb." **B234 paragraph 3**

x) He then heard a shot and saw the muzzle of a rifle sticking out of a window. It was a single window with frosted glass and an upper pane which was open. The rifle was sticking out of this pane. H fired 19 shots at the window, aiming at the centre. With his last shot he believed he saw the gunman fall. He could see the shape of him through the frosted glass window. **B235 paragraph 4**

19.9.1.5.14. Giving evidence to Lord Widgery, H confirmed on oath that he and his colleagues had chased youths into Glenfada Park and that he had fired three shots at two youths there **B240A to B241B**. For the first time he indicated that:

i) His first shot had missed the boy he fired at first and only his second shot hit him. **B240C-D**

ii) His first shot had hit a wall directly behind the boy. **B253 E to B254 B**

iii) He had heard an explosion while he was behind the parked car in Glenfada Park North. **B253 C-E**

19.9.1.5.15. The ridiculous nature of Soldier H's evidence about the 19 shots he claimed to have fired was easily exposed by Mr McSparran's cross-examination. **B255A to B259G**

Soldier H's evidence to this Tribunal

19.9.1.5.16. In Soldier H's statement to this Tribunal he said "Over the years I have tried hard to forget what happened on Bloody Sunday and I have not thought about it for a long time. Although I have some quite vivid memories of specific events which happened on the day, I have forgotten quite a lot of what happened". **B262 paragraph 2**

19.9.1.5.17. However, unlike his former colleagues in the Anti-Tank Platoon Soldier H does remember significant portions of what happened in Glenfada Park. He gave evidence about:

i) His feelings of fear as he entered the courtyard. **B264 paragraph 16**, **Day 377/52/15 to Day 377/52/21**

ii) Taking cover behind either a car or a short wall. **Day 377/56/17 to Day 377/56/19**

iii) A group of civilians at the south side of the courtyard. One of them threw a nail bomb at H. Although he did not see it land he was aware of it landing quite close to him and he heard it land. It did not explode. **B264 paragraph 18**, **Day 377/56/20 to Day 377/57/19**

iv) A youth among the group of civilians holding a smoking object in his hands and being sure that it was a bomb. The youth was positioned as if he was about to throw the bomb **B264.001 paragraph 19**. H told Lord Widgery that he did not notice any fizzing or smoking **B252**. Giving evidence to this Tribunal he accepted that his 1972 account was more likely to be accurate. **Day 377/59/6**

v) Firing two quick shots at this youth and hitting him with one of them, possibly both. He fell to the ground **B264.001 paragraph 20**. Giving

evidence he acknowledged that he should only have fired once, the standard army practice of firing two shots did not apply in Northern Ireland **Day 377/59/21 to Day 377/60/3**. He did not remember telling Lord Widgery that his first shot had missed. **Day 377/60/11 to Day 377/61/13**

vi) Bloody Sunday being the first time he had fired at a live target. **B264.001 paragraph 21**

vii) That it is possible that because of his youth and inexperience he may have seen someone who was about to throw something and shot him in panic, although he did not think this was the case. **Day 377/61/18 to Day 377/61/23**

viii) That it was not possible that he had mistaken a stone or a brick for a nail bomb. **Day 377/61/24 to Day 377/62/13**

ix) He does not know what happened to the youth's body. **Day 377/62/14 to Day 377/62/19**

x) That he did not shoot from the hip that day. **B264.001 paragraph 20**

xi) Another youth running out, picking up the bomb and starting to run, holding the bomb. H fired one shot, hitting him in the shoulder or upper arm. He did not fall to the ground and continued running **B264.001 paragraph 22**. H later says that he must have thought this youth was about to throw the nail bomb. **B264.006 paragraph 43, 1.15**

xii) Firing at sniper behind a window. **B264.002 paragraph 24**

xiii) Changing his magazine. **B264.002 paragraph 25**

xiv) The sniper failing to reappear after the 19th shot.

19.9.1.5.18. H does not now recollect:

i) The group of lads appearing from the alleyway leading into Columbcille Court. **Day 377/46/9 to Day 377/47/11**

ii) His Platoon commander checking the bodies **B264.007 paragraph 43 1.18**; Giving evidence to this Tribunal H said that not only did he have no recollection of Lt 119 doing this "I did not see him do it. I did not see him go forward" **Day 377/125/15**. In answer to Mr Glasgow QC he agreed it may be that Lt 119 later told him the people who had been shot were dead

and from that H assumed that he had examined the bodies. **Day 377/136/5 to Day 377/137/18**

iii) What his second target in Glenfada Park was wearing. **Day 377/63/14 to Day 377/63/17**

iv) Hearing an explosion when he was in Glenfada Park. **Day 377/64/24 to Day 377/65/6**

v) Receiving a cease fire order from CSM Lewis. **Day 377/132/15**

19.9.1.5.19. Giving evidence to this Tribunal Soldier H:

i) accepted that he could have shot William McKinney and Joseph Mahon; **Day 377/89/89/10 to Day 377/89/16**

ii) could not explain why he said that G engaged a nail bomber when G had said he fired at two gunmen; **Day 377/21/25 to Day 377/23/1**

iii) agreed that his second target was "utterly mad" to have placed himself in the direct line of soldiers' fire; **Day 377/24/8/to Day 377/24/22**

iv) accepted that he probably followed G down the west side of Glenfada Park; **Day 378/92/4 to Day 378/92/14**

v) indicated that he saw a crowd of people in Glenfada Park in the area of the south west alleyway. They were trying to get away but some of them were still in the square; **Day 378/99/7 to Day 378/100/8**

vi) confirmed that his second target had his back to him when he shot him and that he must have "assumed" that he was about to throw a nail bomb at him. **Day 378/128/21 to Day 378/130/5**

Issues and Discrepancies Arising from Soldier H's accounts

i) Soldier H's first account indicated that he and his colleagues chased a group of youths through a 15 metre gap between two flats as a result of seeing them throwing stones and nail bomb at their patrol **B219**. In his second statement he describes a group of about five youths appearing in an alleyway "leading to a block of garages in Glenfada Park" **B229**. He described one of the youths as having an object in his hand which looked like a nail bomb, he threw it at soldiers but it did not explode and the youth ran away **B230**. In his statement to the Treasury Solicitor H claimed that

the soldiers had chased youths who appeared at an alleyway leading into Columbcille Court as one of them had thrown a nail bomb at the patrol **B233 paragraph 2**. He confirmed this account on oath before Lord Widgery. **B238F to B239D**

ii) H initially indicated that when he entered Glenfada Park he saw the group of youths hiding behind a broken down car. Around them in all directions were groups of other youths. They began to throw bricks and any other material. **B220** He does not mention these youths again.

iii) In his first statement H claimed to have seen three youths at a distance of about 70 metres hiding behind a wall. He saw that the youths were *in possession of nail bombs* so he cocked his rifle, aimed at the youth in the middle of the group and fired two rounds at the centre of his stomach. He was with F and G at that time and they fired at the other persons. All three fell to the ground **B220**. In his second statement H said that when he entered Glenfada Park F and G were *already in the aim position* behind the rear of a parked car and *he saw F fire at a man near an opening in the southwest corner of the square* **B230**. He did not say what F had fired at. In his third statement H does not specifically mention that F fired, never mind what he fired at. He further says "I know 'E' and 'G' fired but I did not actually see what they were aiming at." **B225** In his statement to the Treasury Solicitor he does say he saw F fire, but again does not say what he fired at. **B234 paragraph 3** When he gave evidence to Lord Widgery he indicated that he entered Glenfada Park and saw a soldier firing although "I don't know which one it was, sir, not by the letters." **B252 B** The following exchange then took place between him and Mr McSparran:

iv) "Q. Could you see what he was firing at? A. I took a look over here, sir, and I saw a youth with a nail bomb and I didn't worry any more about what he was shooting at.

v) Is the answer to that that you did not see what he was firing at?

vi) No sir I didn't" **B252 C-D**

vii) Giving evidence H said he did not know how he could have truthfully said in his initial statements that he had seen what F had fired at and then say to Lord Widgery that he could not see what F was firing at. **Day 378/25/15 to Day 378/28/18**

viii) In his first statement H claimed to have seen three youths at a distance of about 70 metres hiding behind a wall. He that the youths were *in possession of nail bombs* so he cocked his rifle, aimed at the youth in the middle of the group and fired two rounds at the centre of his stomach. The other two soldiers fired at the other persons and all three fell to the ground. **B220** In his second statement H then saw a youth aged between eighteen and twenty two standing about five feet north east of the north east wall of 59 Glenfada Park. He was about 50 yards south west of H's position and *he had his right arm drawn back in the throwing position.* The youth had what *looked like* a nail bomb in his hand. H fired two shots at him and he fell to the ground. The nail bomb did not explode. **B230** In his statement to the Treasury Solicitor H confirmed that he fired at a lad with an object *like a coca cola tin* in his hand. He was *drawn back in a throwing position.* H fired two shots at him and he fell to the ground. The bomb just thudded to the ground and did not explode. **B234 paragraph 3** Giving evidence to Lord Widgery H indicated that his first shot missed the boy and the second hit him. **B240 C-D** In his statement to this Tribunal H as indicated that when he entered Glenfada Park he saw *a group of civilians at the south side of the courtyard one of whom threw a nail bomb at him.* Although he did not see it land H was aware of it landing quite close to him. It did not explode. **B264 paragraph 18**

ix) As to his second target, H's statement to the Treasury Solicitor was the first time that H claimed he believed the boy was going to throw an object at him. **B234 paragraph 3** H initially indicated that after he shot the first boy another youth then appeared from the northwest block of flats. This boy was dressed in a jean suit. He picked up an object from one of the youths that had been shot and ran in the direction of the north block of flats across the wasteland. **B220** When he made his second statement H described this boy as running from the south west corner of the square and after picking up the nail bomb, *turning* to face the gap he had come from. H claimed that after he fired at him this boy staggered and ran northeast into the gap where other people had assembled. **B230 to B231** In his third statement H described this boy as appearing from the west side of the car park and running to where the bodies lay. H said that he picked up a nail

bomb and *as he turned* H fired one shot and hit him in the upper right arm or shoulder. The youth continued on and left the area the way he had come. Again he describes him as wearing a blue denim jacket and trousers. **B225** H's statement to the Treasury Solicitor gives much the same account but he does not say that the boy had his back to him when he was shot. **B234 paragraph 3**

x) H accepted when he gave evidence that anyone who put themselves in the mortal danger that this youth did by running directly into the line of the soldiers' fire and picking up a lethal weapon would be "utterly mad". **Day 378/128/21 to Day 378/130/5**

xi) Again with reference to his second target it is clear that H shot him in the back as he was running away from him. H initially said that the youth was *twenty metres from him* when H fired and he *aimed the shot at his central back.* **B220** In his second statement H described this boy as *turning* to face the gap he had come from. **B230 to B231** Neither H's statement to the Treasury Solicitor nor his evidence to Lord Widgery mention this boy turning or having his back to H when he was shot. Giving evidence to this Tribunal H confirmed that he had aimed at the boy's "central back" as he was running away from him. **Day 378/29/9 to Day 378/32/13**

xii) H lied before Lord Widgery when he claimed, in answer to Mr McSparran that his first statement indicated that he believed his second target was going to throw the nail bomb at him. **B254 G, Day 378/33/12 to Day 378/35/21** As noted above, his statement to the Treasury Solicitor is the first time that H mentions a belief that the boy was about to throw the nail bomb at him. **B234 paragraph 3**

xiii) Another issue that arises in relation to H's second target is his description of a person who when shot and clearly injured staggered out of Glenfada Park via the southwest alleyway. The Tribunal is aware of the evidence that exists in relation to the shooting of Joseph Friel. Mr Friel was shot close to the southwest alleyway in Glenfada Park. He did not stop or fall there but rather staggered on into Abbey Park. Giving evidence to this Tribunal H indicated that he had only seen one shot person stagger out of Glenfada Park. He did not accept he had shot Joseph Friel however when

he realised that he had been shot in the chest. **Day 378/40/11 to Day 378/41/8**

xiv) Giving evidence to this Tribunal Soldier H indicated that he did not think it was possible that he missed his targets and hit another one. **Day 378/138/15 to Day 378/139/2**

H's nineteen shots

19.9.1.5.20. The issue of the nineteen shots fired by soldier H has been comprehensively dealt with in section eighteen. Because so many of his shots are unaccounted for H must be seen as a candidate for the shooting of all of those killed and injured in Glenfada Park.

Conclusion

19.9.1.5.21. Soldier H was, even among his colleagues in the anti-tank platoon, in a league of his own, both as a soldier on the ground on Bloody Sunday, and as a witness. He has clearly told lies about what took place on the ground on that day, the most striking relating to the nineteen shots he claimed to have fired at one target in Glenfada Park.

19.9.1.5.22. The material before the Tribunal relating to the actions of Soldier H on Bloody Sunday cried out for an explanation. Soldier H has consistently refused to provide that explanation opting instead to treat this Tribunal with contempt by forcing all involved to listen to a version of events that was not even believed by other soldiers including his platoon commander in 1972 and, we submit, cannot be believed now.

19.9.1.6. Soldier J

19.9.1.6.1. Soldier J does not admit to having fired at all in Glenfada Park on Bloody Sunday.

19.9.1.6.2. He says that on Bloody Sunday he was "with another soldier and we were covering each other." **B272** He now says "We worked in pairs; I

must have been with another person that day, but I do not remember who it was." **B289.004**

19.9.1.6.3. It appears that soldier J may have been paired with David Longstaff (INQ 023) on the day. We know that soldiers F and G worked together. Longstaff says:

"I was always close enough to be able to communicate with Private G, Lance Corporal F and Lance Corporal J. They knew I was behind them and I knew they would never leave me. We were always in touch. I was with them throughout that day except when I was with the prisoners and I am not sure when that was." **C23.8 paragraph 51**

Soldier J's 1972 accounts

19.9.1.6.4. A curious feature of Soldier J's first statement to the RMP (1st February 1972) is that his evidence about the events in Glenfada Park amounts to the following:

"I then received orders to go to Glenfada Park and assist in escort duties for a number of civilians that had been arrested for rioting. They were escorted by us to our vehicle location where they were taken in armoured vehicles, I do not know where." **B266**

19.9.1.6.5. In his second RMP statement (4th February 1972) Soldier J says:

"At approximately 1605 hrs I proceeded along Rossville Street and took up a further position on the left hand corner of Glenfada Park observing in the direction of the compound, which was directly in front of me. As I took up this position (I SAW TWO MALE PERSONS AGED ABOUT 26 YEARS

POSITIONED)[14] at the far left hand corner of the block of flats just beyond the compound. These persons were wearing suits one with an all dark suit the other a Brownish coloured suit. The two persons were in possession of nail bombs which failed to go off. The nail bombs were in their left hands.

"Two members of my Coy namely F and G fired at these two nail bombers and I saw them fall to the ground. At this same time rioters were running away from the main crowds up into the alleyway alongside the flats. I could not recognise these nail bombers again as at this time the orders had been given to withdraw and at no time did I search any wounded or dead personnel." **B269 to B270**

19.9.1.6.6. In his statement prepared for the purposes of the Widgery Tribunal Soldier J says:

"We then went through the alleyway to the entrance of Glenfada Park and while we were doing so I heard an explosion and the report sounded like a nail bomb. When I reached the entrance to Glenfada Park I saw soldiers F and G firing at two men on the opposite side of Glenfada Park and they fell. They had objects in their hands which *looked to me like nail bombs* but I could not be sure. These objects did not explode. At that time there were a crowd of people in the area of Glenfada Park where the men had been shot and they surrounded the bodies." **B273**

19.9.1.6.7. When questioned by Mr Underhill at the Widgery Tribunal Soldier J said:

"Q. Where did you go then? A. We then moved up into Glenfada Park. I think there was a Platoon Commander standing behind us

[14] The portion underlined and capitalised above has been omitted from the type written version of the statement but can be seen in the hand written version at **B270.002**

who shouted, 'Move into Glenfada Park as there are a lot of people there and arrest them.'

Q. Did you go? Did you carry out that instruction? A. Yes, sir. Just as we were moving into it I heard a loud bang which sounded to me like a nail bomb.

Q. Where was that loud bang Corporal? A. It seemed to be coming from Glenfada Park sir.

Q. There is an archway. I think we have heard you have to go under the archway? A. Yes, sir.

Q. When you got into Glenfada Park did you see any paratroop soldiers in there? A. Yes, sir.

Q. Do you know the letters that they are called by? A. Yes, sir.

Q. Who were they? A. F and G

Q. Where were F and G when you came into Glenfada Park? A. They were just--- I will point it out. I think they were about here. Just as I came around the corner I saw them.

Q. Were they doing anything? A. As I came to the corner they fired at two male persons across the other far side, the far corner of Glenfada Park.

Q. Those two male persons at the other side of Glenfada Park, did you see what they were doing? A. They were carrying objects in their hands, metallic objects. I thought that they could have been nail bombs but I wasn't sure.

Q. Those shots that F and G fired as far as you could tell did they find their targets? A. Yes, sir

Q. What happened to the men you thought F and G were firing at? They were shot.

A. Did they remain on their feet? A. No, they fell down sir.

Q. Apart from those two men were there other civilians in Glenfada Park? A. Yes, sir. There were a lot of civilians coming through the park and they surrounded the two bodies and it must have been the people behind them they must have picked up the objects that fell from these two people's hands." **B280G to B281F**

19.9.1.6.8. Under cross-examination by Mr Hill the following exchange took place:

"Q. Then in Glenfada Park you saw two objects which you took to be nail bombs, is that so? A. I think they could have been nail bombs, I am not sure." **B283C-D**

19.9.1.6.9. The main flaw in Soldier J's account of what took place in Glenfada Park was put to him when he was cross-examined by Mr Hill:

"Q. In Glenfada Park you saw F and G shoot two people with explosives, is that so? A. I don't know if they were explosives. I saw two objects in their hands which had a metallic glint to them.
Q. You saw F and G shoot two persons? A. Yes, sir.
Q. And each of those two persons had a metallic object each?
Yes, sir
Q. The metallic object was of what size? A. I couldn't say.
Q. Was it inches long or feet long? A. I would say inches long.
Q. *May I put it to you that F's version is that he and G fired upon two men, one of whom was a bomber and the other one a rifleman and G's version of that incident is that they shot at two men, each of whom were riflemen. Now we have your version, the third version, that F and G shot at two men, each of whom were bombers. You say they were bombers?* A. I wouldn't say they were bombers. I said they could have been bombers.
Q. By reason of the fact that they could have been bombers, is it not clear that they could not both have been riflemen? A. I do not know what the other soldiers said. This is what I saw and as far as I know it is true.
Q. Have you discussed your evidence with F and G? A. Not really sir.
Q. Did you know that F's version was that one was a bomber and one was a rifleman? A. No sir.

Q. Did you know that G's version was that both were riflemen? A. No.

.....

Q. May I suggest to you that your evidence must be absolutely wrong, that you are either telling something which you did not see, or you have misinterpreted what you saw? Is that possible? A. No sir." **B285B -G**

19.9.1.6.10. This account is largely the same as the account given in J's statement to the Treasury Solicitor.

Soldier J is "Soldier X"

19.9.1.6.11. Shortly before giving evidence to the Tribunal Soldier J admitted that he was the "Soldier X" referred to in the article by Toby Harnden published in the Daily Telegraph which appears at **L282.1-.2**. This aspect of his evidence is comprehensively dealt with at section eighteen.

Soldier J's evidence to this Tribunal

19.9.1.6.12. Even among those from the anti-tank platoon who appeared before this Tribunal Soldier J's evidence was remarkable for his failure to give substantive answers to questions about the detail of what happened on Bloody Sunday:

i) Soldier J does not now remember being in Glenfada Park. **B289.004 paragraph 27**

ii) Despite this he indicated that the reference to the position he took up in Glenfada Park in his second statement was probably a reference to taking up position at the north-east side of Glenfada Park itself. **Day 370/56/18 to Day 370/56/24**

iii) He also indicated that the people he then referred to seeing in his second statement could have been at the south east corner of the park. **Day 370/56/25 to Day 370/57/9**

iv) He had a memory of H's 19 shots being discussed afterwards in the context of him having fired the most shots. J said he had no reason to doubt H's account of how he had fired those shots. **Day 370/65/14 to Day 370/65/16**

19.9.1.6.13. Soldier J now has no memory of:

i) hearing an explosion like a nail bomb as he went into Glenfada Park; **Day 370/57/13 to Day 370/57/17**

ii) F and G firing at two men who had what looked like nail bombs in their hands or of anybody falling in Glenfada Park; **Day 370/57/18 to Day 370/58/3**

iii) Any soldier firing in Glenfada Park; **Day 370/59/8 to Day 370/59/10**

iv) seeing any petrol bombs explode in Glenfada Park **Day 370/59/11 to Day 370/59/16**

v) anyone carrying a rifle there; **Day 370/59/17 to Day 370/59/18**

vi) seeing three bodies in Glenfada Park; **Day 370/61/19 to Day 370/61/21**

vii) what way the people who were shot by F and G were facing when the soldiers opened fire; **Day 370/62/21 to Day 370/62/23**

viii) seeing any Knight of Malta in Glenfada Park; **Day 370/76/2 to Day 370/76/4**

ix) seeing a soldier firing at a Knight of Malta in Glenfada Park; **Day 370/75/11 to Day 370/76/1**

19.9.1.6.14. Despite this lack of memory the following exchange took place between Soldier J and counsel to the Inquiry, Christopher Clarke QC:

> "May it be that the reason why that evidence does not fit is because there was in fact indiscriminate and unjustified firing in and from Glenfada Park North which then had to be covered up by explanations that purported to justify it?
> A.Certainly not, sir" **Day 370/69/11 to Day 370/69/16**

Issues and Discrepancies arising from Soldier J's accounts.

i) It can therefore be seen that Soldier J's evidence progresses from saying nothing about what happened in Glenfada Park (1st RMP) to giving a description of the targets engaged by F and G (2nd RMP, TSOL and Widgery Evidence). From reading his first statement it appears that Soldier J did not see any shooting in Glenfada Park, nor was he there at a time when the shooting was taking place, only later receiving orders to go into the Park to assist in escort duties for arrested civilians. This is most curious given the accounts that he later gives. It should also be remembered that, unlike other soldiers, this first account given by soldier J was two days after the event, at a time when the extent of the shooting by paratroopers was much clearer and the controversy over the killings was raging. In addition, it was clear that there would be an Inquiry into what happened.

ii) Soldier J's second account also makes it far from clear that he was in Glenfada Park at the material time. He describes moving up Rossville Street and taking up position on "the left hand corner of Glenfada Park observing in the direction of the compound, which was directly in front of me". There is no mention of turning right off Rossville Street and going through an alleyway into the car park. "The compound" may be a reference to the courtyard of Glenfada Park north as it is surrounded by walls but this description does not make it clear that the soldier was actually in the compound. It can be noted that a position on Rossville Street at the north east corner of the eastern block of Glenfada Park North, rather than a position actually inside the compound, corresponds to the position marked on a map by soldier J, or on his behalf and attached to his 1st RMP statement. This appears at **B267**.

iii) At this point Soldier J then gives a very detailed description of seeing two civilians who he very definitely says "were in possession of nail bombs" and carrying them in their left hands. He then describes F and G firing at the men who fell to the ground. At the very least this is a radically different account from that given by Soldier J in his initial statement. It is inconceivable that when he felt it was important enough to describe the escort duties he carried out in Glenfada Park in the first statement he would not have described this incident.

iv) It may be of some significance that this second statement was taken on 4th February 1972 (at 15.10). The Tribunal is aware that, in our submission, the statement taking procedure on 4th February was essentially a "clear-up" exercise designed to provide support for many of the allegations made by those who did the bulk of the firing on 30th January 1972. Further discussion of the statement taking exercise on 4th February appears at section five.

v) His statement to the Treasury Solicitor is the first time that Soldier J mentions going through an alleyway to Glenfada Park North and also hearing an explosion there.

vi) However, it must be noted that Lt 119 has said that he saw Soldier J in Glenfada Park **B1752.057** as has David Longstaff (INQ 023). **C23.6 paragraphs 33 to 35**

vii) Soldier J's evidence is that he saw Soldiers F and G in Glenfada Park and that he saw them fire at two people who may have been holding nailbombs. In his statement to the Treasury Solicitor he says that he saw F and G firing first rather than, as previously, seeing the civilians first. His certainty as to what the two men fired at were carrying diminishes as time goes on until at the Widgery Tribunal he cannot be sure that what they had in their hands were explosives. **B285B-C** As was put to him by Mr Hill at the Widgery Tribunal, Soldiers F and G describe their targets in Glenfada Park differently – F says he shot at a man with a nail bomb which was fizzing, and that G shot at a man with what appeared to be a rifle; G says he saw two men with what appeared to be small rifles in their hands. He fired at one and F fired at the same time, both men fell. The progressive uncertainty in J's statements leaves open the possibility that his evidence as to what the men were carrying can be reconciled with that of F and G.

viii) It should also be noted that that J's account of what happened in Glenfada Park begins and ends with a description of what F and G were doing and the civilians that they shot. He does not mention any other soldiers being in Glenfada Park when it appears clear that at least Soldiers E and H were there and claim to have fired in the park – H claiming to have fired 19 shots at one target. If the evidence given by the other soldiers is considered it is clear that if Soldier J saw Soldiers F and G fire in Glenfada

Park he should also, on his account, have seen Soldier H fire all of his 22 shots.

19.9.1.6.15. It is also clear from his evidence that J did not see the following:

i) A "full scale riot" in Glenfada Park (Soldiers F **B126** and G **B176**).

ii) A petrol bomb thrown at soldiers in Glenfada Park (Soldier E **B103B-C**).

iii) A crowd of about 40 people throwing missiles in Glenfada Park (Soldier E **B103A-C**).

iv) A youth picking up a nail bomb from one of those who was shot in Glenfada Park (Solider H **B220**).

19.9.1.6.16. He also claims not to have seen the following:

i) Soldier G making his way down to the southwest exit and firing into Abbey Park.

ii) Soldier F firing across from Glenfada Park along Block 2 of the Rossville Flats.

iii) Knights of Malta personnel or the incident where Eibhlin Lafferty was fired on as she entered Glenfada Park. **AM 17.4 paragraph 25**

Arrests

19.9.1.6.17. Soldier J has signed arrest forms for two individuals Anthony Coll and John Gormley. The arrest photographs and documentation appear at **ARR10.1 to ARR10.3** and **ARR23.1 to ARR23.3** respectively.

19.9.1.6.18. In his first statement J indicates only that he was ***ordered to assist in escort duties*** in respect of civilians arrested in Glenfada Park and not that he had arrested anyone himself. **B266**

19.9.1.6.19. He makes no mention of arrests in his second statement **B269 to B270** but then goes on to say in his statement made for the purposes of the Widgery Tribunal:

"Two suspects had been arrested by myself and my companion and they were taken by us to armoured vehicles waiting in front of the low rise flats in Rossville Street. From there they were taken over to the three tonners parked in front of the forecourt of Rossville Flats. We then got in to our vehicles and there were two sentries posted outside. Shots came from the direction of Rossville Flats and one of the soldiers who was sitting forward in the vehicle located the gunman and gunfire was returned. Then another gunman, or perhaps the same gunman, fired from the flats and the fire was again returned. There was then an ammunition check and I had fired two rounds." **B274**

19.9.1.6.20. This statement appears to be clear that the individuals were arrested by Soldier J and his companion in Glenfada Park. On Soldier J's evidence he certainly had not arrested civilians elsewhere and then brought them with him into Glenfada Park!

19.9.1.6.21. This can be contrasted with the arrest forms which indicate in respect of both arrestees that they were arrested by the Soldier for throwing stones at the Security Forces in Rossville Street.

19.9.1.6.22. Anthony Coll, says that he was in Glenfada Park when he was arrested. He alleges that Lance Corporal J, who he names in his statement as the soldier who gave details of his arrest to the RUC officer, gave him "a thumping." **AC84.8 paragraph 29** He also says, "I had not seen him before and I do not know if this was because he was not around earlier or because I had not noticed him." **AC84.8 paragraph 29**

19.9.1.6.23. The second individual arrested by Soldier J, John Gormley, also claims to have been in Glenfada Park when apprehended. He now says he was unconscious at the time when he was apprehended as a result of being struck by a soldier in the mouth **AG 46.4 paragraph 15** and only came to when he was being made to stand against a wall with others. **AG 46.4 paragraph 15**

19.9.1.6.24. J now has no recollection of making the arrests. He purported to rely on the statements he made at the time as evidence that the arrests were justified. When asked "may the position be that you were simply told to identify two people as having stoned the security forces when in fact you had not seen either of them do that?" he answered "certainly not, sir". **Day 370/88/6 to Day 370/88/10** This evidence is in marked contrast to the evidence given by J's colleague David Longstaff who admitted that he had done just that.

19.9.1.6.25. As noted above, Soldier J's evidence was remarkable for what he did not say. In our submission he has followed through with the threat he made in his interview with Toby Harnden to withhold evidence from this Tribunal. As with others however, when it came to answering allegations of wrongdoing, on his own behalf or on behalf of his colleagues, he was strident in his denials. This does not sit easily with his claimed loss of memory.

19.9.1.7. David Longstaff (INQ 023)

19.9.1.7.1. David Longstaff was a Private in the Anti Tank Platoon on Bloody Sunday. He had been in the army since 1966 and left in 1992. Longstaff is unique among the lower ranked soldiers in that he does not have the benefit of anonymity since he has placed himself and his views in the public domain by his appearance on 2 television programmes in the mid 1990s.

19.9.1.7.2. One other unique aspect of Longstaff's evidence is the fact that he claims that he fired a shot on Bloody Sunday but was not recorded as having done so at the time. As noted above at section eighteen there is no evidence beyond his own that supports his account that he did so. This revelation first came to light during the course of his interviews for the programme "A Tour of Duty".

19.9.1.7.3. Given that he was not identified as a shooter or key witness at the time, Longstaff did not make a statement in 1972, nor did he give evidence to the Widgery Tribunal. Despite this he appears to have a relatively good memory of the day although he says:

> "I want to say at the outset that I only remember certain things about what happened on Bloody Sunday. At times, it is difficult for me to distinguish between what has been impregnated in my mind by the TV and the media and what I actually saw and did. I cannot be sure what are genuine memories. I have a lot of memories in my head, which I must have obtained from the press, TV and radio or even the recent pictures in the newspapers, which are of scenes that I was nowhere near to but which now seem familiar to me because I have seen them or heard about them. I will therefore try and make it clear what it is I remember and what it is that I have seen or read about subsequently." **C23.1 paragraph 4**

19.9.1.7.4. Longstaff appears to have been particularly close to F and G:

> "...I was not paired with any particular person but the three of us, me Lance Corporal F and Private G often used to work together and sometimes there was a fourth person depending on the situation." **C23.3 paragraph 17**

19.9.1.7.5. It appears from his statement and evidence that the fourth person on Bloody Sunday may have been Lance Corporal J.

Longstaff's evidence to this Tribunal

19.9.1.7.6. Longstaff's evidence can be summarised as follows:

i) He remembers following Lance Corporals F and J and Private G and others to the right. They were ahead of him. He remembers seeing "the big block of flats to my left". **C23.5 paragraph 30**. Giving

evidence he confirmed that this was the Rossville Flats. **Day 374/67/10 to Day 374/67/20**

ii) Lance Corporal F and Private G were ahead. "I do not know where they were in relation to me except that they were close enough so that we could always communicate. We needed to be able to talk to one another. I do not remember who else was with me. They would stop, we would move. They would move, we would cover. We moved in a zig zag." **C23.5 paragraph 31**

iii) He indicated that he was detailed to cover the rear area of the platoon "they moved forward I was to keep my eye behind me". **Day 374/68/24 to Day 374/69/18**

iv) Longstaff was in a group of four with Soldiers F and G. He does not now know who the fourth person was although he worked regularly with F, G and J. **Day 374/69/22 to Day 374/70/16**. Later in his evidence he indicates that on Bloody Sunday he was always close enough to communicate with F, G and J. **C23.8 paragraph 51**

v) Giving evidence Longstaff confirmed that he was familiar with the sound of nail bombs exploding and that he did not hear that sound that day. **Day 374/74/22 to Day 374/75/5**

vi) He identifies the place they went to as Glenfada Park where he "was looking towards a straight road and saw lots of people." **C23.6 paragraph 33**. In the map attached to his statement he has indicated that he took up position in the North West entrance to Glenfada Park **C23.15**. Giving evidence he said he was not alone at that location **Day 374/104/9** and that there were other members of Anti-Tank Platoon around there to the east of his position. **Day 374/216/2 to Day 374/218/5**

vii) Longstaff says "....I believe I was at the north west corner of Glenfada Park North ... and that *I was looking northwards into Columbcille Court* when I heard gunshots. *They were coming from behind me*, from the south as I faced north. There were no shots in my area of visibility. I cannot remember how many shots there were. I do not know now whether it was a single shot, a tap or a volley of shots. I could not tell if it was high or low velocity fire. I just have a memory

of firing. I remember being aware that the threat to me had increased. I was more alert because of it. I was extra vigilant. *I did not turn around to pinpoint where the shots were coming from as it was my job to cover the rear of my mates ahead of me.*" **C23.6 paragraph 34** (emphasis added).

viii) When it was suggested to him that he may have taken up position with F, G and J in the north east corner of Glenfada Park Longstaff was "positive" that he did not. **Day 374/88/19 to Day 374/90/7**

ix) He did confirm however that in order to take up position in the North West corner of Glenfada Park it was more likely that he had first entered the park with his colleagues at the north eastern corner and crossed the northern end than that he had continued along the alleyway to the rear of the garages at the north end of Glenfada Park where he would have been out of contact with this colleagues. **Day 374/156/7 to Day 374/158/8**

x) That being the case he confirmed that he would have had a very good view of what was happening in Glenfada Park. **Day 374/158/9 to Day 374/158/21**

xi) Longstaff indicates that he was always close enough to communicate with F, G and J meaning that he was within shouting distance of them. **Day 374/87/7 to Day 374/87/15**

xii) Giving evidence he confirmed that he would not have been facing north the whole time and would have "taken glances around the area" **Day 374/93/23**. He also confirmed that he "must have" glanced into Glenfada Park. **Day 374/93/25 to Day 374/94/2**.

xiii) He could not recall what he saw there but was able to say that he would not have forgotten seeing a crowd of about 40 people throwing missiles there "I would not forget that but I did not see that, sir". **Day 374/94/5 to Day 374/94/7**

xiv) He also recalls seeing people lying on the ground although he does not know if they were taking cover or wounded. He does not remember where this was although he says it may have been Glenfada Park. He then says "It did not concern me. I took only a fleeting glimpse at them and when I registered that they were no threat to me or my mates

I stopped looking. I was much more concerned about any threats to me and my mates. I was aware when I was in the Glenfada Park area of other soldiers being there too but who they were and how many of them there were I cannot say." **C23.6 paragraph 36** Photograph **P686** was not familiar to him. **Day 374/99/7**

xv) Another recollection he has is of seeing people running. Indeed he has a particularly vivid memory of "an old man wearing a very old long coat who was not going very fast. He sticks in my mind because I remember thinking he was a bit too old to run. He was no threat." **C23.6 paragraph 37**. Longstaff is not now sure where he saw these people although he has a vague memory of people running in the direction through Abbey Park to the Old Bog Road (Fahan Street West). **C23.6 paragraph 37**

xvi) Longstaff gave evidence that he moved through Glenfada Park "afterwards" from northwest to southeast **Day 374/100/17 to Day 374/101/20**, **C23.16**. He does not now remember people at the southern gable wall of the eastern block of Glenfada Park. **Day 374/106/21 to Day 374/107/13**

xvii) Giving evidence Longstaff confirmed that he had no recollection of hearing the noise of a crowd behind him, or hearing the sound of missiles hitting the ground or of hearing a nail bomb explode. **Day 374/92/23 to Day 374/93/9**

xviii) Of his colleagues, Longstaff says "I did not see any of them fire. All through the time I was with them I could hear shooting; not a great volley of rounds but some shooting. I could not tell if it was high velocity or low velocity shooting, I just knew that rounds were being fired. I was not looking around at the others. I was on one knee with my weapon up in defensive mode." **C23.8 paragraph 50**

xix) He also comments "The guys I was with were first class. It is possible that they fired their weapons but I could not be certain. I did not see who fired. *I was not in a position to look and see which of them fired or whether any of them fired.* It was a confined area and shots always seem louder when they echo." **C23.9 paragraph 52** (emphasis added)

Issues Arising from Longstaff's accounts

i) Longstaff therefore appears to be saying that he was in Glenfada Park but that his role was to cover the rear of the other soldiers and, while he heard firing, he did not turn around to see what was going on. If he heard firing inside Glenfada Park it must have been from the soldiers, as even they themselves do not say that they were actually fired on while they were in Glenfada Park.

ii) Longstaff is quite clear in his evidence therefore that he did not see anything that posed a threat to him or his colleagues. He did not see or hear anything in Glenfada Park that would have justified the shooting of civilians. **Day 374/154/11 to Day 374/154/20**

iii) Longstaff was unwilling to assist the Tribunal with any more detail. In his statement he had said, "I was not in a position to look and see which of them fired or whether any of them fired. It was a confined area and shots always seem louder when they echo." **C23.9 paragraph 52**. It must have become clear to him that asking the Tribunal to believe that at no time during the firing in Glenfada Park did he look around to see what was going on was a step too far and therefore when giving evidence he admitted that he did look round on occasion. **Day 374/93/25 to Day 374/94/2**

iv) However, despite the fact that he did look around, that he was so close to F, G and J, and that he accepted he probably did enter Glenfada Park via the north east entrance before taking up position at the north west entrance, Longstaff claimed he was not in a position to describe what his colleagues did or what they were firing at. **Day 374/154/21 to Day 374/155/15**

v) It should be noted that if, as we submit, Longstaff did enter Glenfada Park with the rest of his colleagues the evidence of Soldiers F and G is that they fired almost immediately upon entering. Longstaff therefore must have seen that, or at the very least, he must have been in a position to confirm or refute their evidence as to the targets they say they saw as soon as they entered the park.

vi) He gave evidence that there were other members of the Anti-Tank Platoon in his vicinity – to the east of his position at the northwest corner of

Glenfada Park. **Day 374/216/2 to Day 374/218/5** This is the only evidence the Tribunal has to this effect.

vii) Longstaff says he did not see Eibhlin Lafferty enter Glenfada Park. **Day 374/103/13 to Day 374/105/4**

viii) He also maintained, in common with others, that he was not able to identify any other members of his platoon from the "arrest sequence" in Video 3. **Day 374/116/18 to Day 374/116/23**

ix) When asked to identify the "rotten eggs" in the platoon that he had referred to in his TV interviews Longstaff initially indicated that he was not prepared to give their names **Day 374/164/9**, then that he did not know who they were **Day 374/164/11** and then that he would not give their names unless he had an opportunity to speak to his counsel. **Day 374/164/24** When pressed to give the names Longstaff indicated that he could not be positive as to who they were and "would not like to give an incorrect answer". **Day 374/168/24** He then went on to identify Soldiers H and O27 as the soldiers he was talking about. In our submission it would have been clear to Longstaff that he was on relatively safe ground identifying those two soldiers in particular. H was apparently a figure of ridicule within the company and, given O27's evidence to the Tribunal, it is to be expected that he would no longer attract the loyalty that a member of the company could otherwise have expected to rely on from his colleagues.

Arrests

19.9.1.7.7. Longstaff appears in the records for the day as having arrested two people on Bloody Sunday– George Roberts and James Joseph Kelly. In both arrest photos he can be seen grinning broadly. **ARR 51.1**, **ARR 26.1** Longstaff confirmed that he signed arrest documents in relation to these two individuals. **Day 374/121/2 to Day 374/122/3**

19.9.1.7.8. Both Roberts and Kelly are said to have been arrested after "being seen throwing stones at the security forces in Rossville Street". The

documentation supplied includes arrest forms signed by Longstaff which contain this account of the reason for the arrests. **ARR51.3**, **ARR26.3**

19.9.1.7.9. Roberts tells of being made to sing "the sash" or "God Save the Queen" at Fort George although he cannot remember by which soldier. **AR13.3 paragraph 16** Kelly indicates that he was arrested from Glenfada Park and that the first soldier he encountered there was Longstaff (he remembers the name as "Falstaff"). He denies throwing stones on Bloody Sunday. **AK12.5 paragraph 19**

19.9.1.7.10. As to Bloody Sunday Longstaff said in his statement:

"All I remember about the detention place is big sheds with barbed wire compounds and a lot of military police. I think I was there to see if I recognised anyone. I remember the military police pointing at one or two people and asking me if I remembered them. The gist of what they were saying was "You remember them don't you?". Frankly they all looked the same to me and I probably said no, I did not remember them. There were hundreds of them. However, I probably agreed in the end that I had arrested some of them and probably signed something although I do not now remember the details. As far as I could see they were being looked after alright. They were just standing there. They were not lying on the ground. I then met up with my mates again and we went back to Belfast." **C23.7 paragraph 41**

19.9.1.7.11. Although Mr Glasgow QC, representing Mr Longstaff, questioned Mr Roberts on the basis that Longstaff may well have seen him throwing stones and identified him correctly **Day 151/111/1 to Day 151/113/3**, when Longstaff gave evidence the following exchange took place:

"Q. The allegation that has been made and put to other soldiers is essentially that they lied when they said that they had arrested a

particular individual and they went along with that lie so that they arrived at Fort George, picked out someone; stood next to him when a photograph was taken and lied as the arrest report form was filled out; do you follow what the allegation is?

A. Yes, sir

Q. Would you have taken part in such conduct?

A. I have done, sir, by the looks of it.

Q. So you would have done that?

A. Yes, sir." **Day 374/111/23 to Day 374/112/10**

19.9.1.7.12. Longstaff later admitted that he had been prepared to lie and say he had arrested the two individuals involved when he had not. **Day 374/121/21 to Day 374/122/3**

Conclusion

19.9.1.7.13. Giving evidence to this Tribunal David Longstaff appeared to be in somewhat of a quandary. As is noted above at section eighteen, he was not prepared to go so far as to provide a lying account to corroborate his colleagues' versions of events but nor was he prepared to break the bond of loyalty or go outside the brotherhood to assist the Tribunal by telling the truth of what they did on Bloody Sunday.

19.9.1.7.14. This approach left David Longstaff treading a very fine line before this Tribunal. On the one hand, he was prepared to admit that he had lied about arresting Mr Roberts and Mr Kelly and was also prepared to say that he had not seen anything that justified the shooting of civilians. On the other hand in order to maintain his position and despite his clear evidence that he was close to Soldiers F, G and J throughout the operation, in relation to their conduct he presented a story that was a mixture of claimed failed memory and downright lies, based on the premise that he did not see anything they did. It does not stand up to scrutiny. The fact that he was willing to freely admit to some matters stood in sharp contrast to his failure to admit to others. The reason for the contrast is all too evident.

19.9.1.7.15. The flaws in Longstaff's approach are perhaps best illustrated by his insistence that he was positioned at the northwest corner of Glenfada Park looking towards Columbcille Court and covering the rear of the platoon. As noted above, giving evidence he accepted that it is likely that he entered Glenfada Park by the northeast entrance **and** that he would have looked around on occasion from his position in the northwest corner. These admissions would clearly have afforded him ample opportunity to see **at least some** of his colleagues' actions. Given that when he was asked he was sure that he would not have forgotten a crowd of forty throwing missiles it can be assumed that he would not have forgotten seeing his colleagues open fire.

19.9.1.7.16. Despite what appear to be reservations about his colleagues' actions on Bloody it is apparent that the "brotherhood" between the paratroopers is still strong. Longstaff maintains that those he was operating with on Bloody Sunday were "first class soldiers". **Day 374/172/20 to Day 374/174/4**

Other soldiers who may have been in Glenfada Park North

19.9.1.8. Private 027

19.9.1.8.1. Soldier 027 was a radio operator who was a member of B Company but attached to the Anti-Tank Platoon of Support Company at that time.

19.9.1.8.2. The soldiers represented before this Tribunal had a clear interest in discrediting Soldier 027 given the allegations he makes about a number of members of his platoon. Their legal representatives took some time and care in questioning him in an attempt to show that his accounts of what happened on the day could not be relied upon. They suggested to 027 that he is liar, is prone to exaggeration and has exaggerated in his account of what took place on Bloody Sunday and on other occasions

and in providing an account to this Tribunal, and to others, has been motivated by financial considerations.

19.9.1.8.3. We accept that in respect of a number of issues Soldier 027's evidence is unreliable and that his 1975 "statement" in particular contains exaggeration. When assessing the evidence of Soldier 027 however the Tribunal must bear in mind that whatever the reason it was not for the purpose of building up a case against the army or the soldiers in general. He does not do that and indeed it can be seen, even from his most recent statement, that he is keen to provide a favourable account of soldiers in general, particularly in relation to their actions in Northern Ireland:

"My overall impression of our battalion on the streets is one of remarkable self control and self restraint. I was incredibly impressed by the way in which the Army, and specifically the Parachute Regiment, conducted itself in Northern Ireland. I do not believe that any other army in the world, in the circumstances in which we operated, would have conducted itself in such a way". **B1565.033 paragraph 50**

19.9.1.8.4. Many other examples of this are to be found in 027's written and oral evidence. It is to be presumed that the majority of the soldiers represented before this Tribunal would not disagree with sentiments such as this and it is our clear submission that the impression gained by 027 and the statement made by him above are demonstrably wrong. However, we do recognise that such a statement is typical of the attitude of many of the soldiers who have given evidence to this Tribunal and of the military in general to what took place in Northern Ireland over a very long period of time. It is also a good illustration of the loyalty shown by individual soldiers to the army and to other soldiers.

19.9.1.8.5. Rather than simply dismissing the entirety of the evidence given by 027 on the basis of the exaggerations that are contained in some of his accounts, the Tribunal must attempt to distinguish those portions that cannot be relied upon from other portions that can. The reason for doing this is that in a number of material respects 027's evidence chimes with other evidence before the Tribunal.

19.9.1.8.6. In relation to his description of what took place in Glenfada Park, Soldier 027 has the impression that events there were "shocking and unspeakable" **B1565.043 paragraph 109** and that he saw:

> "...no civilians with weapons, no threatening gesture, neither could I see or hear any explosive devices during the entire situation I was there." **B1565.043 paragraph 104**

19.9.1.8.7. In our submission he is clearly correct in his impression of the events that took place in Glenfada Park and further he is correct that soldiers were not under attack or in any way threatened there. However, when Soldier 027 was questioned by Sir Allan Greene the following exchange took place:

> "Q. 027, I have to ask you this: I accept that you were in Glenfada Park at some stage, but could you have been there at a time when the shooting had stopped and you did not actually see any of it; is that a possibility?
> A. (Pause). My current memory of the events in Glenfada Park (or lack of memory) does allow for that possibility, yes." **Day 249/136/20 to Day 249/136/23**

19.9.1.8.8. Given this admission it would be difficult for the Tribunal to place significant weight on any of Soldier 027's evidence as it relates to Glenfada Park. While it may be that Soldier 027 has given a first or second hand account of what happened in Glenfada Park we submit

that his evidence is not necessary for the determination of what took place there and therefore we do not seek to rely on it.

19.9.1.9. INQ 635

19.9.1.9.1. The statement which begins at **C635.1** is the only statement we have for this witness given that he does not appear to have made any statements in 1972. In his written statement to this Tribunal and on giving evidence INQ 635 was at pains to stress his limited memory of the events of Bloody Sunday. In his statement he said:

"My memory generally of the events of 30 January 1972 is limited and I only recall a few specific events." **C635.1 paragraph 4**

19.9.1.9.2. On giving evidence it appears that the limits of his memory were further constrained:

"The only memory of that day I have got is actually going from the building where I was a bodyguard to coming out of the Pig and seeing the gunmen at the barricade, that is my only recollection." **Day 352/50/19 to Day 352/50/22**

19.9.1.9.3. In his statement to this Tribunal INQ 635 describes being on Rossville Street and hearing a cease fire order. He then says:

"My next recollection is of suddenly being in what I would describe as a car park or courtyard area underneath some "flats on stilts". I remember a pavement and concrete pillars. It is an image I have in my mind and I cannot give a better description of the area. I cannot say where on the map this area was or how far away from Rossville Street this car park was. I remember being in this car park with two or three other soldiers and seeing three or four civilians running to my right to get out of the car park area. I cannot remember anything else about

these people or where they went to. I then withdrew, I assume upon a command to. I looked to my right and saw a man hiding behind a car. We made eye contact, and I turned to withdraw. We did not speak to each other. I cannot give any description of the man. I cannot give any description of the car" **C635.5 paragraph 33**

"I cannot remember getting from the small wall at Kells Walk to this car park area I have described. I know I did not move forward of the low wall. I think I ended up over to my right. I do not know if we were acting as snatch squads at that stage or not. I cannot remember being ordered in as a snatch squad. I do, however, remember that from being in the car park area someone then ordered us to pull back. I do not know where this command came from." **C635.6 paragraph 34**

"As we moved into this car park area, I do not know if firing was continuing at this stage or not. I cannot remember who the two or three other soldiers who were with me in the area were. I cannot give any description of what they looked like. I cannot remember if they were the same soldiers who had been with me behind the small wall at Kells Walk. Neither I nor the two or three soldiers who I was with fired any shots in this car park area." **C635.6 paragraph 35**

19.9.1.9.4. From the description given in this evidence it seems like INQ 635 may have been in Glenfada Park North. If that is so then given that he states he saw civilians running across Glenfada Park to get out of the car park he must have been there at a relatively early stage. However he does not remember seeing any bodies or seeing any soldier fire in that area.

19.9.1.9.5. Another indication that INQ 635 may have been in Glenfada Park North comes from the fact that he is listed as having arrested a number of people who say they were arrested from there. INQ 635 states:

> "As we withdrew, I remember that we were given a line of prisoners to take back to the holding area. I do not remember where these prisoners had come from, or who gave them to us, but I just have a recollection of escorting them to a holding area. I remember there was at least one woman in the group of prisoners and they were giving us a lot of verbal abuse. As I escorted the civilians to the holding area, I do not remember if there was firing taking place." **C635.6 paragraph 36**

19.9.1.9.6. In fact INQ 635 is listed as arresting officer for three people namely George Irwin, James McNulty and John Rodgers. Despite his current recollection that he acted only as an escort **Day 352/34/22 to Day 352/34/24** it is clear that in 1972 INQ 635 said that he saw these three people throwing stones at the security forces in Rossville Street. **ARR25.2**, **ARR43.3** and **ARR52.3**

19.9.1.9.7. Two of the three people INQ 635 claimed to have arrested were arrested from Glenfada Park. Mr Irwin says (at **AI 4.1 to AI4.2**) that he was initially on a balcony on the Rossville Flats then, when he saw gas, he left the building and went in to a car park where he lay down behind a car. From his position he saw the people at the southern gable wall of the eastern block of flats at Glenfada Park North and joined them. They were also joined by Fr Bradley when soldiers arrived and arrested them.

19.9.1.9.8. Mr McNulty says:

> "....One soldier said that he had arrested me in William Street at about 4.30pm. I said that I had not been lifted there but had been lifted in Glenfada Park North. The soldiers were making it

up about where we had been lifted so that they could say that we were lifted for rioting...." **AM377.5 paragraph 22**

19.9.1.9.9. Mr Rodgers has said that he was in a car on William Street when it was stopped by soldiers, himself and the others travelling in the car were taken out and taken to Fort George **AR42.1 paragraphs 4 to 8**.

19.9.1.9.10. Mr Rodgers has also said:

"Later on we were each brought out of the line and made to stand against a wall to have our photo taken with the soldier who was allegedly our arresting officer that had seen us rioting. I had been pulled out of the crowd and there was a man behind a desk. I cannot remember if he was police or army. There was a soldier standing behind me and the man behind the desk just said to me "He's arresting you..." pointing at the soldier behind me, "...for rioting." I cannot recall if this was the soldier that had arrested me, but this is the first time I remember seeing this soldier, whose name is INQ 635. I know his name because I saw it written down on the piece of paper on the desk. I was told not to look but I did and saw the name INQ 635. I was not rioting – I was caught in a car at the top of William Street as I have already described above. I never threw stones in Rossville Street. I was not given an opportunity to give an explanation." **AR42.3 paragraph 12**

19.9.1.9.11. Mr Rodgers confirmed this account when he gave evidence before this Tribunal on Day 410.

19.9.1.9.12. Giving evidence INQ 635 indicated to the Tribunal that he was sure that he had not gone forward of the low wall on Rossville Street at all and that he was sure that he had not been in Glenfada Park. **Day 352/27/22 to Day 352/32/17**

19.9.1.10. INQ 1694

19.9.1.10.1. This soldier was the platoon sergeant of the Anti-Tank Platoon and was present in Derry on Bloody Sunday. Despite this fact no contemporaneous statement exists from him at all. He is now dead and this Inquiry was therefore not in a position to take a statement from him.

19.9.1.10.2. INQ 1694 is listed as having arrested two individuals namely Hugh O'Boyle **ARR47.1 to ARR47.3** and Robert Wallace. **ARR55.1 to ARR55.3** His name also appears on the board in the photograph of Myles O'Hagan, the schoolboy who was taken to Fort George but later released without further action. **ARR49.1** No supporting documentation exists in relation to Myles O'Hagan beyond an incomplete arrest report form bearing his name and address. **ARR49.2**

19.9.1.10.3. All three of these individuals said that they were arrested from Glenfada Park North although in the arrest report forms in respect of Mr O'Boyle and Mr Wallace it is alleged that they were seen throwing stones on Rossville Street. **ARR47.3**, **ARR55.3**

19.9.1.10.4. Mr Wallace is clear that the paratrooper who identified him in Fort George was INQ 1694 and that he was not the same paratrooper who had arrested him in Glenfada Park North. **Day 154/167/15 to Day 154/168/17** Mr Wallace denied that he had been rioting. **AW3.12 paragraph 19**

19.9.1.10.5. Mr O'Boyle gives a similar account, namely that the soldier who identified him at Fort George was not one of the soldiers who had actually arrested him in Glenfada Park North. **AO1.8 paragraph 47**

19.9.1.11. INQ 1237

19.9.1.11.1. INQ 1237 describes how, after firing had ceased on Rossville Street, the soldiers were told to seal off the area to the right. **C1237.7 paragraph 56**

19.9.1.11.2. INQ 1237 does not appear to be able to identify where he went next. What he does say is that he ran down an alleyway to his right (west) where he came across a group of people including a priest. **C1237.7 paragraph 57** INQ 1237 does not appear to remember seeing any bodies or anything untoward happening although he does describe threatening a priest with arrest.

19.9.1.11.3. Giving evidence INQ 1237 could not assist any further as to where he might have been **Day 366/28/7 to Day 366/34/14** and he denied that he was the soldier who had stopped Father Bradley from attending to the bodies in Glenfada Park. **Day 366/76/2 to Day 366/72/15**

19.9.1.11.4. INQ 1237 is listed as the arresting officer for Charles Glenn and George McDermott. He has signed arrest forms to say that he saw them both throwing stones at his patrol on William Street. **ARR22.4**, **ARR37.2**

19.9.1.11.5. As has been seen above Mr Glenn was arrested with Joseph McColgan on William Street. He had previously attended to the dying Jackie Duddy with Fr Daly. Mr Glenn has said:

"the para said that he had arrested me in William Street although I said that I had never seen him before....The para then said he had seen me throwing stones..." **AG43.8 paragraph 59**

19.9.1.11.6. Giving evidence Mr Glenn denied that he had been throwing stones that day. **Day 080/199/22 to Day 080/199/24**

19.9.1.11.7. Mr McDermott's 1972 statement indicates that he was arrested in Abbot's Walk. **AM183.3**

19.9.1.11.8. As the Tribunal knows INQ 1237 would not have been on William Street at around 1600 when he claims he saw Mr Glenn and Mr McDermott throwing stones there.

19.9.1.12. Soldier 229

19.9.1.12.1. In his statement to the Royal Military Police Soldier 229, a member of Composite Platoon, states that he:

> "finished up with elements of Support Company in Glenfadda (sic) Park. There was a crowd of civilians throwing stones at us and being generally abusive. I was aware that shooting was taking place, but it seemed to be coming from above us. I do not recall seeing any of the soldiers firing at that time, neither do I recall seeing any dead or injured persons in the area at that time". **B2208**

19.9.1.12.2. He then states that he arrested two young male civilians, one of whom was called McLoughlin. He took them back to the "rear echelon" where he handed them over. **B2209**

19.9.1.12.3. Soldier 229 now says "At some point I must have been in Glenfada Park, because this is recorded in my previous statement given to the RMP....I cannot remember being there now though." **B2211.005 paragraph 37** Giving evidence he confirmed that he could not remember being in Glenfada Park **Day 341/46/3 to Day 341/46/13** and that it may be that he had encountered the arrestees somewhere further north such as Columbcille Court. **Day 341/47/6 to Day 341/48/7**

19.9.1.12.4. Soldier 229 is listed as having arrested Patrick McGinley and Denis McLaughlin. The arrest report forms in respect of both of these

individuals claim that they were seen throwing stones at the security forces in Rossville Street. **ARR42.3**, **ARR40.3** Both men say they were arrested from Glenfada Park. Giving evidence however, Soldier 229 admitted that he had signed the arrest forms **Day 341/56/9 to Day 341/56/10** and indicated that he may have just provided standard information to the police even though he knew it was not true. **Day 341/56/24 to Day 341/57/4**

19.10 ABBEY PARK

19.11 Civilian Evidence

"These men were shot in cold blood" **AD85.3 paragraph 17**

19.11.1 Summary of Submissions

i) Gerard Donaghey and Gerard McKinney were shot dead in Abbey Park.

ii) The civilian evidence establishes, as Maureen Doherty stated, "these men were shot in cold blood" **AD85.3 paragraph 17**.

iii) The evidence suggests that one soldier was responsible for these killings. This was Soldier G.

iv) There has been no attempt to explain, let alone justify, thesekillings.

v) It has accordingly been established that both Gerard Donaghey and Gerard McKinney were murdered by Soldier G in Abbey Park.

vi) The bulk of the civilian evidence is also inconsistent with the"shoot-through" theory.

19.11.2 William O'Reilly

19.11.2.1 William O'Reilly (now deceased) gave evidence to Widgery - see **AO69.8 to AO69.15**. On 30 January he was at 7 Abbey Park and he told Lord Widgery that he was looking out of the front window of his house on the ground floor. He saw *a soldier* come through the alleyway that leads into Glenfada Park North. He saw two individuals sheltering behind the western wall of Glenfada Park North who then ran towards the steps that lead to numbers 9 to 11 Abbey Park. These

two, he said were Gerard Donaghey, wearing blue jeans and blue top and Gerard McKinney who was wearing a brown overcoat.

19.11.2.2 He said that Gerard Donaghey ran up the steps that lead to Nos. 9 to 11 Abbey Park, *followed by* Gerard McKinney, who got between the soldier and Gerard Donaghey. Then, according to Mr O'Reilly, the soldier fired *two shots* clasping the rifle to his side by his elbow inside his upper arm. He said both men fell. On his account it was Gerard McKinney who shot first.

19.11.2.3 He told Lord Widgery that neither of the two men had any weapon and they were both running away at the time they were shot across the line of fire of the soldier who fired two single shots.

19.11.2.4 In his Eversheds statement at **AO69.2 paragraph 11** he stated:

"The one lad who was wearing a denim jacket and tight denim jeans (which was then the fashion) jumped over the small wall that bordered the grass area to the west of the block of flats, being the western block of Glenfada Park North. He had his hands in the air. He ran up towards the Credit Union building up the steps that were in grid reference F14. An older fella then jumped after him and I think that he was shouting at the young boy to stop. He got to just behind the young boy who had already reached the top of the steps. Their position was as shown in photograph C. They were two to three fee apart when shot".

19.11.2.5 At **AO69.2 paragraph 12** he stated:

"The soldier, who was then in the position that I have shown on photograph B, shot both of them. He did not aim the rifle to his shoulder, but had his gun rather tucked in to his side ..."

19.11.2.6 What this evidence demonstrates is that this witness sees a boy in denim clothes running towards the steps. He is followed by an older man. A soldier who had come out of the alleyway from Glenfada Park North shot both of them.

19.11.3 **John O'Kane**

19.11.3.1 John O'Kane attended the march with Gerard McKinney, his brother in law. Insofar as Abbey Park is concerned he ultimately found himself with a group of six or seven others including Gerard Donaghey and Gerard McKinney taking cover in a small garden which ran alongside the western side of the western block of Glenfada Park North surrounded by a low wall about two feet high **AO48.4 paragraph 15**

19.11.3.2 In his statement dated 23 February 1972 **AO48.40 to AO48.41** he said:

"As we did so I noticed my brother-in-law and Gerard Donahey who was still standing. I stepped about five paces from them and said 'Come back, come back it's not worth it'. It appeared that they were sure they would get across.

My brother-in-law was standing with his left side facing the opening which we had run through and young Donaghey was standing just next to him on his immediate right. My brother-in-law's arm was outstretched across the boy's chest and James Gerard McKinney said just a minute son till we see if it's clear.

As he turned towards the opening to see if it was safe to cross his arms shot up in the air and he shouted 'No! no!' as he did so a shot rang out and he fell to the ground right in front of my eyes and

then another shot rang out and young Donaghey fell to the ground gripping his stomach and squealing right in front of my eyes".

19.11.3.3 In an undated typed statement **AO48.24** he gave a similar account in the following terms:

"Gerry decided after a few minutes to take a chance and accompanied by a youth, whom I don't know, he led us out across the court. As we went forward I was some yards behind Gerry [McKinney]. At a stage when I can only assume he was visible from the other side of the entrance Gerry turned, shouted 'no, no' and put his hands in the air. A shot rang out which caught Gerry about the chest and he fell forward. A second shot rang out and the youth who was leading the way along with him fell to the ground".

19.11.3.4 He describes in **AO48.4 paragraph 16** how Gerry McKinney and he made their way north along the wall to the point marked K on the map **AO48.26**. He said they were all talking about how they would escape.

19.11.3.5 In **AO48.4 paragraph 17** he refers to the cobblestone steps in Abbey Park and states:

"... One of the boys with us was particularly anxious to escape and he went first. Gerry was behind him and I was behind Gerry. The boy in front walked over the cobblestones to the right of the steps as we looked at them, in an arc shape, which brought him out at the top of the steps. As he hit the top step, he made as if he was about to run, but at that point a single shot rang out. The boy fell to the ground, clutching his stomach as he did so".

19.11.3.6 Mr O'Kane did not see the soldier who shot Gerard Donaghey as he was out of his line of vision but that he would have been about 25 feet away.

19.11.3.7 At **AO48.6 paragraph 18** he stated:

"I did not know the name of the boy, but I now believe it was Gerard Donaghey. As far as I know, he had come through the southwestern exit of Glenfada Park North with us and I think he must have been in front of us because he was further north in the garden that we were when we got to it. He would have been conscious that the Paras were there as he walked out because he had run with us through the courtyard and had been with us in the small garden when we were discussing how to get away from the Paras".

19.11.3.8 At **AO48.5 paragraph 19** he states:

"Despite the shooting of the young boy, Gerry and I decided to take our chance. In any event, we wanted to go to the young boy's assistance. Gerry was about five feet in front of me. I remember saying to him "be careful". He walked forward onto the cobblestones and across them at a right angle, which led him on to the second of the three shallow steps. He was watching the alleyway all the time. As he approached the step, he turned his head to the left and put his hands in the air, saying "no, no, don't shoot". A shot rang out and he fell across the steps. He landed on his back and I remember him saying "Jesus, Jesus" and blessing himself. His legs kicked and then he lay still. I knew that he was dead".

19.11.3.9 In his undated 1972 statement Mr O'Kane said that Gerard McKinney was shot *before* Gerard Donaghey **AO48.24**. In his 23rd February 1972 statement Mr O'Kane said that Gerard McKinney

was shot *before* Gerard Donaghey **AO48.41**. In his evidence he agreed that it was pretty clear that his consistent recollection in 1972 was that Gerard McKinney was shot first **Day 163/34/21 to Day 163/34/24**. In his Eversheds statement Mr O'Kane said that Gerard Donaghey was shot *before* Gerard McKinney **AO48.4 paragraphs 18 to 19**. In his interview with Stephen Gargan he said that Gerard Donaghey was shot *before* Gerard McKinney **AO48.62**. In his oral evidence he said that it was his brother-in-law who was shot first **Day 163/27/22 to Day 163/27/25**.

19.11.3.10 The witness "totally disagreed" with the suggestion that there may have been a "shoot through" scenario **Day 163/57/9**.

19.11.4 Maureen Doherty

19.11.4.1 This witness was looking from the kitchen window of number 7 Abbey Park. At **AD85.3 paragraph 16** referring to Gerard Donaghey and Gerry McKinney she stated:

"The soldier that I described earlier was aiming his gun at these two men".

19.11.4.2 At **AD85.3 paragraph 17** she states:

"As I looked at the two men, I heard two shots and they both fell. I cannot remember which one was shot first. It is possible that the older one fell first and the young one fell afterwards, but I honestly can't remember. ... I do not recall seeing the youngster move at all. As far as I am concerned these men were shot in cold blood - they were not doing anything - they had their hands raised and were simply not doing anything".

19.11.4.3 Maureen Doherty's account of the death of Gerard Donaghey is, as Christopher Clarke QC said during the opening, "congruent with a substantial body of other testimony" **Day 030/25/5**

19.11.4.4 In her evidence she describes how the soldier who shot Gerard Donaghey and Gerard McKinney was aiming his gun at these two men **Day 161/105/21 to Day 161/106/7** and how as she looked at the two men she heard two shots and they both fell.

19.11.4.5 When asked whether she could tell where the shots were coming from she said "that soldier fired the two shots. He was the only one there with a gun". When asked whether she had actually seen him fire she said yes and when asked what it was she saw she said "I think his gun sort of moved and I knew it was him was firing the shots for there was nobody else there, he was near - there were nobody else round the men only him" **Day 161/106/21 to Day 161/106/25**

19.11.4.6 When asked if she could remember which one was shot first she said that she wasn't too sure now but that she thought Mr McKinney fell first **Day 161/107/1 to Day 161/107/14**

19.11.4.7 In her contemporary accounts it was the older man who fell first **AD85.9** and **AD85.11**.

19.11.5 John William Porter

19.11.5.1 William Porter (now deceased) was a Quarter Master Sergeant who was serving in the Irish Army who made a number of contemporary statements and gave evidence at the Widgery Inquiry.

19.11.5.2 In his statement at **AP11.16** he describes how from No.7 Abbey Park he saw a young man running from the direction of Fahan Street and then noticing an older man lying on his back between the corner of Glenfada Park and Abbey Park. The older man had a rustic coloured overcoat on. He could not see the older man's wounds but he didn't move. He stated that the young lad running had his hands up. He saw him stop, look up toward Abbey Street or Columcille court and shout "don't shoot". He then saw him fall in the same area as the older man. In his oral evidence to Widgery he said "As I looked out of the door. He was coming to my left" **WT8.49B**

19.11.5.3 In his evidence to Widgery the following exchange took place:

"Q.What was this second young lad doing?"

A. "He was running towards the direction of where the man was lying on the ground and waving his hands in the air as he done so. Whenever he got to the corner he stopped and he looked sort of half-way up from where he was standing and he shouted "Don't shoot, don't shoot.

Q. What happened?

A. I saw the man begin to fall and I heard a bang immediately to the left in a similar direction to where the boy was looking.

Q. Did he fall fairly near to the older man that you have described as lying motionless?

A. Going down in the direction slightly to the left about half-way between where I was and the man".

WT8.46D

19.11.5.4 The Tribunal is also referred to **WT8.49A-G** where Mr Porter describes the sequence of events including how he saw a woman running towards the two bodies and falling.

19.11.5.5 Asking her afterwards, Eiblin Lafferty told him that she had been shot at and that was the reason she fell **AP11.27**.

19.11.5.6 It is clear from Mr Porter's evidence to Widgery that Gerard McKinney was already on the ground before Gerard Donaghey was shot. Based on this man's evidence there could not have been a "shoot-through".

19.11.6 **Gerard McCauley**

19.11.6.1 This witness describes in his statement seeing two people moving out from the area which he had marked D on his attached map. He did not know where they were heading. They were walking and reached a set of two or three low steps set in a cobbled area between Glenfada Park North and Abbey Park. One was a man and the other was a, what he described as a "wee lad, a cub". He then describes them going down, having been shot. He could not see where the shots came from. He states that they were not doing anything which caused them to be shot and there was nothing in their hands. He says that "wee lad" started falling first but because the man fell straight to the ground he hit the ground first. The man fell on the shallow steps. **AM95.2 paragraph 11**

19.11.6.2 He says he went over to the man first but that he was dead. He then moved towards "the cub" who was groaning and as he walked over to him he saw two soldiers in the alleyway between GFPN and GFPS. **AM95.2 paragraph 12**

19.11.6.3 Whilst bending over the boy a girl in a white coat or uniform appeared and a came up between the two soldiers at points knelt down and fired a shot which hit the pavement about two feet in front

of her. He did not see the bullet but he saw movement on the surface of the concrete. **AM95.2 paragraph 13**

19.11.7 **John Carr**

19.11.7.1 John Carr was looking out the front bedroom window of his house at 8 Abbey Park. He heard gunfire and saw a group of people take shelter tight against the wall of the western block of Glenfada Park North. A soldier emerged through the entrance into Abbey Park and all those who had been taking shelter ran away except one man. He states that when the man saw the soldier he threw his hands up in the air and turned to his left to look at him. He states that as the man put his hands up and looked at the soldier, the soldier put his rifle to his right shoulder and shot the man. The man fell to his right and then onto his side and rolled onto his back. He fell in the position where he was standing. **AC42.3 paragraph 19**

19.11.7.2 Gerard McKinney was standing on the steps leading to Frederick Street, facing in a south-easterly direction. Upon seeing the soldier he put his hands in the air and turned to face him Gerard McKinney was doing nothing and had his hands clearly in the air He also stated:

"From the window I could see that he blessed himself with his right hand across the centre of his face. I could not believe what I had seen. There was absolutely no reason for it. The man had been doing nothing and had his hands clearly up in the air".**AC42.3 paragraph 19**

19.11.7.3 The witness was referred to this paragraph in questioning by Christopher Clarke QC:

Q. You say in the sentences that follow that:

"There was absolutely no reason for it. The man had been doing nothing and had his hands clearly up in the air."

Had anything been going on at that stage, or immediately before this stage, other than the arrival of the soldier and the other civilians running away?

A. Nothing, no.

Day 158/172/17 to Day 158/172/24

19.11.8 **Gerry Campbell**

19.11.8.1 Gerry Campbell (from whom there is no contemporary statement and who did not give evidence before Widgery) was looking out through the kitchen window of No. 7 Abbey Park. He states:

"Suddenly a young lad ran away from the group ... He would have been about 17 or 18. As the lad ran out, the soldier ... turned towards him and shot him in the chest or stomach". **AC13.3 paragraph 17**

19.11.8.2 This young lad, we know, was Gerard Donaghey.

19.11.8.3 At **AC13.3 paragraph 18** he states:

"After the lad had been shot, a man who had been hiding behind the wall by Glenfada Park South ... jumped up with his hand in the air shouting 'don't shoot, don't shoot!' ... He started to climb over the wall ... The man was not young, I would say he was in his 40's. I think he was wearing glasses. He had his hand up in the air, slightly higher than his head. .. As he straddled the wall with one foot over it, he was shot..."

19.11.8.4 This man was Gerard McKinney

19.11.8.5 The witness confirmed this account in his oral testimony on **Day 401**.

19.11.9 James Logue

19.11.9.1 This witness was looking out of the living room window of No. 7 Abbey Park. He described seeing Gerard McKinney with his hands in the air facing the soldiers in Glenfada Park North nearest the alleyway. There were two soldiers near the alleyway with rifles to their shoulders. They aimed their rifles at Gerard McKinney. **AL18.2 paragraph 15**

19.11.9.2 He then describes hearing shots and Mr McKinney falling. He is confident that these soldiers shot him **Day 161/70/16**, **AL18.3 paragraph 15**. Mr Logue stated that he did not see Gerard McKinney with anything in his hands and he did not see anything thrown or fired at the soldiers who shot him **AL18.4 paragraph 22**.

19.11.9.3 He told Ms McGahey, when giving evidence, that it was still his recollection that he saw two of the soldiers near the alleyway raise their rifles to shoulder height and aim them at the man. **Day 161/70/1 to Day 161/70/4**

19.11.10 Vincent Harkin

19.11.10.1 This witness was in a "ditch" along the pathway between Abbey Park and Glenfada Park South **AH34.5 paragraph 9**. He states that he saw Gerard McKinney standing facing the entrance into Glenfada Park North **AH34.5 paragraph 10**. He then saw Gerard McKinney with his hands up in the air was waving a white hankerchief. He was approximately 20 yards away from the witness.

He did not actually see Gerry McKinney shot **AH34.3 paragraph 12.** He then remembers seeing Mr McKinney on the ground and, at some stage, Fr Mulvey giving him the last rites **AH34.3 paragraph 113**.

19.11.11 **Paddy McCauley**

19.11.11.1 This witness describes how there was panic in Abbey Park and that people were diving for cover in the gardens **Day 162/79/14 to Day 162/79/15**. He describes seeing a man lying on the eastern side of the path but he was unsure whether this man was shot or simply taking cover. He later learned through this Inquiry that it was Gerard Donaghey. **Day 162/85/1 to Day 162/85/12.**

19.11.11.2 He then describes seeing a man to his left, whom he now knows to be Gerard McKinney, running in a southeasterly directions towards the man he thinks was Gerard Donaghey. **Day 162/84/15 to Day 162/84/20.** He describes how in what seemed to be one movement, how the soldier shot Jim Wray then spun to his right and, with his rifle at hip level, shot in the direction of himself and the man he thinks was Gerard McKinney. He describes that as the soldier turned to shoot he dropped to the ground and heard the man he thinks was Gerard McKinney make an 'Ugh' like noise and fall down on the stone steps on his backside lying sprawled across virtually all five of the steps **Day 162/87/6 to Day 162/88/4**.

19.11.12 **Joe Mahon**

19.11.12.1 Joe Mahon witnessed Jim Wray being shot twice in the back by a soldier. He then describes the same soldier walk into the alleyway between Glenfada Park North and Glenfada Park South and go into Abbey Park and no longer seeing him. He describes hearing three or four shots coming both from Abbey Park and ringing out behind him in the area of Rossville Street. He then describes that after some time the soldier came back through the gap and took his helmet off and wiped his forehead with the back of his hand. He could then see

that the soldier had blond hair. See this witness' statement at **AM18.4 paragraphs 21 to 23** confirmed in oral evidence **Day 167/26/4 to Day 167/26/22**

19.11.13 **Other Witnesses**

19.11.13.1 Other witnesses who did not actually see the shooting did however confirm, inter alia, the general locus of where Gerard Donaghey and Gerard McKinney fell. Some of these witnesses rendered assistance in the most difficult circumstances and without concern for the risk to their own lives. See, for example:

i) **Eiblin Lafferty** (now Mahon) - **AM17.2 paragraph 16 to paragraph 18** (re Gerard McKinney) and **AM17.3 paragraph 23** (re Gerard Donaghey) – **Day 166**. Her most detailed account is at **AM17.3 paragraphs 17 to 18**. She says that bullets were bouncing around her, that she was shouting "First aid", that the shooting was "continuous" and that one bullet hit the side of her trousers causing her to dive to the ground. This bullet singed the trousers at knee level on the right leg **Day 166/85/5 to Day 166/85/15** She tried to attend to Gerard McKinney and could see three bodies to her right, lying in Glenfada Park North.

ii) **Sean McDermott** – **AM188**, **Day 180** - This witness was in Abbey Park and saw the body of a man lying on his back on the steps. There were a few people around him and they thought that he had had a heart attack because there was no blood - he gave him chest massage but he was already dead from a gunshot. This man was Gerard McKinney **Day 180/103/23 to Day 180/104/10** - He remembers Evelyn Lafferty coming on to the scene - she had her hands on her head and was shouting "First aid, do not shoot".

iii) **Robert Cadman** – **AC1** – Knight of Malta who treated Gerry McKinney along with Sean McDermott and Eiblin Lafferty;

iv) **Benn Keaveney** - **AK2.10 paragraph 47 to AK2.11 paragraph 48** – **Day 159**

v) **Brian Baker** – **AB1**, **Day 088**

VI) **Michael Rogers** – **AR22** – he took the cine film of Gerry McKinney on the ground being treated in Abbey Park.

vii) **Dr McClean** – **AM105, Day 175** - left No. 8a Columbcille Court having treated Damien Donaghey and John Johnston. He proceeded south from the house and walked across the open space between Glenfada Park North and Abbey Park where he saw Gerry McKinney lying on the shallow steps between the cobbles. There was a suggestion that he had a heart attack. There was no pulse. Dr McClean opened his coat and saw that there was blood on both sides of his chest.

19.12 The "Shoot-Through" Theory

19.12.1 It is clear from the above civilian evidence that Gerard Donaghey and Gerry McKinney were shot separately and that Gerard Donaghy was not killed as a result of a "shoot-through".

19.12.2 The **forensic evidence** does not assist those seeking to advance the "shoot-through" theory – if in fact that theory is still being pursued.

19.12.3 On this issue the principle evidence of Dr Shepherd in relation to Gerard Donaghey is to be found at **Day 229/37/16 to Day 229/49/21**, **Day 229/64/22 to Day 229/66/14** and **Day 229/102/9 to Day 229/102/17**.

19.12.4 Dr Carson had recorded that the bullet that entered Gerard McKinney had traveled from front to back at 10° and from left to right and **upwards** at 10°. Dr Press told Lord Widgery that the bullet that entered Gerard Donaghey had traveled at an angle of 15° **downwards** – **Day 229/64/22 to Day 229/65/7**.

19.12.5 Accordingly, assuming they were standing, the bullet that exited Mr McKinney's body was traveling upwards and the bullet that entered Gerard Donaghey's body was traveling downwards **Day 229/65/8 to Day 229/65/11**.

19.12.6 It was then suggested to Dr Shepherd that if the measurements were correct, the bullet that exited Mr McKinney's body was traveling upwards and the bullet that entered Mr Donaghey's body was traveling downwards and if that was the case he was asked whether he agreed that it makes it less likely that the so-called shoot-through theory could be correct to which he replied "Absolutely. The orientation - if they are correct, then the orientation cannot be one that would allow for the shoot-through.

19.12.7 In fact the civilian evidence from those who witnessed the circumstances in which Gerard Donaghey and Gerry McKinney were shot is inconsistent with any shoot-through theory.

Conclusion

19.12.8 Gerard Donaghey and Gerard McKinney were murdered in Abbey Park by Soldier G.

19.12.9 The overwhelming evidence is to the effect that Gerard McKinney and Gerard Donaghy were shot separately and that Gerard Donaghy was not killed as a result of a "shoot-through".

19.13 Gerard McKinney

19.13.1 Personal Details and Background

19.13.1.1 Gerard (Gerry) McKinney was 35 when he was murdered on Bloody Sunday. He was married to Ita and they had seven children. His eighth child, also Gerry, was born eight days after Gerry McKinney died. Gerry McKinney lived in the Waterside area of Derry and worked in John McLaughlin ornamental wrought iron works. He had no political affiliations.

19.13.2 Civilian Evidence

19.13.2.1 Please see Section 19.10 entitled Abbey Park.

19.13.3 Injuries Sustained

19.13.3.1 The post mortem examination was carried out by Dr Carson 9pm on 31st January 1972. The report of Dr Shepherd and Mr O'Callaghan appears at **E2.49, E2.50** with the accompanying diagram at **E2.79**. The morgue photographs are in **Bundle P2 TAB 10**.

19.13.3.2 Gerry McKinney sustained two gunshot wounds. He was struck by a bullet which entered the left side of his chest and exited the right side of his back.

"Gerard McKinney was struck by a single shot and, assuming he was in the Normal Anatomical Position, the shot passed from right to left and slightly from front to back."(**E2.50**)

19.13.3.3 The cause of Gerry McKinney's death was stated to be Laceration of Lungs, Spinal Cord, Left Kidney and Spleen Gunshot wound of Lower Chest (**D0313**).

19.13.3.4 Gunshot wounds were present as follows on the chest:

A circular entrance wound 7mm diameter in the left mid-axillary line, 15cm below the armpit fold. (**D0314; P147**).

A triangular exit wound on the right back measuring 16mm x 14mm and centred 2cm below the level of the lower angle of the scapula and 17 cm from the mid-line. (**D0314; P146; P149**).

The track connecting the two wounds through the body passed from left to right with an inclination backwards at about 10 degrees to the coronal plane and an inclination upwards at about 10 degrees to the horizontal plane (**D0314**).

"The bullet had entered the left side of the chest in line with the centre of the armpit and 15cm below it and had then passed between the 8th and 9th left ribs, before lacerating the lower part of the left lung. It had fractured the inner ends of the 11th and 12th left ribs and passed through the 11th and 12th thoracic vertebrae, severing the spinal cord at this level. On leaving the spine the bullet had fractured the posterior ends of the 11th and 12th ribs lacerated the lower part of the right lung and left the back of the right side of the chest between the 8th and 9th right ribs. In its course the bullet had also damaged the spleen and the left kidney." (**D0317**)

19.13.3.5 An abrasion found on Gerry McKinney's right leg was described as 1cm in diameter. Dr Carson concluded that it was "possibly made by a bullet fragment on the back of the mid-thigh" (**D0314**). Dr Shepherd and Mr O'Callaghan conclude that while it may be possible that this abrasion was caused by impact by a bullet fragment "this cannot be stated with certainty" (**E2.50**)

19.13.4 **Removal to Hospital**

19.13.4.1 Gerry McKinney was shot and fell in Abbey Park on the shallow steps directly opposite the alleyway which leads from Abbey Park

to the south west corner of Glenfada Park North and the north west corner of Glenfada Park South (**VIRTUAL REALITY HOTSPOT 39**). He was treated where he fell by Knights of Malta volunteers Sean McDermott and Robert Cadman (**AM188.2, paragraph 8, Day 180/103/19 to Day 104/10**; **AC1.37, paragraph 25**[15]). Due to the absence of blood from his wound the two medics did not believe that he had been shot but rather that he had had a heart attack. Gerry McKinney was taken directly from the steps in Abbey Park to an ambulance driven by Ronald Moore (**ED36.8, ED36.9**) attended by John Rutherford (**ED36.10, ED36.11**), along with the bodies of Joe Mahon and Michael Kelly, arriving at Altnagelvin Hospital at 1700 hrs (**D500.27**).

19.13.5 **Forensic Evidence**

19.13.5.1 No explosive residue was detected during tests on Gerry McKinney's clothing in 1972 (**D0301**).

19.13.5.2 In 1972 tests showed lead particle density on Gerry McKinney's coat to be within the normal range (**D0304**). No lead was detected from the hand swabs tested (**D0304**). Dr Martin concluded that Mr McKinney had not been using a firearm (**D0304**).

[15] See also **P690.1 - P701**

19.14 Gerard Donaghey

19.14.1 Personal Details

19.14.1.1 Gerard Donaghey was 17 when he was murdered on Bloody Sunday. He had been adopted and his adoptive parents died within four weeks of each other in 1966, when he was just 10. Gerard then lived with his sister Mary Doherty and her husband in the Bogside area of Derry. Gerard had been at Technical College and at the Maydown Training Centre and got work at Carlin's Brewery in the Waterside area of Derry.

19.14.2 Civilian Evidence

19.14.2.1 Please see Section 19.10 entitled Abbey Park.

19.14.3 Injuries Sustained

19.14.3.1 The post mortem examination was carried out by Dr Press at 10.30am on 31st January 1972. The report of Dr Shepherd and Mr O'Callaghan appears at **E2.22**, **E2.23** with the accompanying diagram at **E2.70**. The morgue photographs are in **P2.11**.

19.14.3.2 Gerard Donaghey sustained one gunshot wound. A bullet had entered the left side of the abdomen about two inches above and three inches to the left of the umbilicus. It had passed through the stomach, the duodenum, the aorta, the largest artery of the body, and the inferior vena cava, the largest vein in the body. It had then grazed the right side of the second lumbar vertebra before lodging in the muscles on the right side of the back wall of the abdomen **D0372**.

"Assuming the Normal Anatomical Position the angle of contact is clearly from left to right and downward" E2.0023

19.14.3.3 The cause of Gerard Donaghey's death was stated to be Laceration of Aorta, Inferior Vena Cava, Stomach and Duodenum due to Gunshot wound of Abdomen **D0369**.

19.14.3.4 There was an entrance gunshot wound in the left hypochondrium centred 8cm to the left of and 5cm above the umbilicus. It was 44 inches above the soles of the feet. It was an oval hole, 3 x 2 cm with its long axis vertical. Its right margin was undermined whilst the left shelved outwards **D0369**; **P151**[16]

19.14.3.5 The track in the body was from front to back with an inclination downwards of about 15 degrees to the horizontal plane and a deviation of about 40 degrees to the right **D0372**.

19.14.3.6 There was no exit wound and a bullet was found lodged about 4cm to the right of the 2nd lumbar vertebra. This was removed during the post mortem examination **D0370**, **D0371**; **P159**, **P160**.

19.14.3.7 Dr Martin noted that the size of the hole in Gerard Donaghey's clothing indicated a bullet with its stability upset by striking some object, causing it to yaw or tumble **D0354**.

19.14.3.8 Dr Shepherd and Mr O'Callaghan concluded that there is no doubt that Gerard Donaghey "was struck by only one bullet and that that bullet struck his abdomen approximately "side on" most probably with the nose of the bullet pointing downwards and the base upwards" **E2.0023**.

19.14.3.9 They further note that "The "side on" contact, the lack of penetration of the body and the damage to the bullet all indicate that the bullet had struck another object or person before striking Gerard Donaghey" **E2.0023**.

[16] Also **P153**; **P154**; **P156**; **P157**; **P163**; **P164**

19.14.3.10 The bullet recovered from Gerard Donaghey's body was forwarded to Dr Martin. He identified it as:

"...a slightly damaged 7.62 NATO rifle bullet with rifling marks consistent with having been fired in a British Army self loading rifle" D354

19.14.3.11 After further tests Dr Martin pronounced himself "satisfied" that the bullet in question was fired in the rifle with the DIFS reference "JLS/7" **D0356**. Soldier G later confirmed that this rifle was his.

19.14.3.12 Suggestions have been made to a number of witnesses by those representing the soldiers[17] that the bullet that struck Gerard Donaghey was the same bullet that had previously struck Gerry McKinney. The "Shoot-Through" theory is dealt with in Section 19.12.

19.14.4 Removal to Hospital

19.14.1 The evidence suggests that Gerard Donaghy was shot and fell at a point just to the north west of Gerry McKinney and the shallow steps in Abbey Park **AM7.11 paragraph 22 AS42.2 paragraph 13**. He was then carried into Raymond Rogan's house, 10 Abbey Park, where he was examined by Dr Swords **AS42.3 paragraphs 17 to 21**. He was taken in a car driven by Raymond Rogan towards Altnagelvin hospital, accompanied by Hugh Leo Young **AR24.3 paragraphs 10 to 11; Day 184/20/19 to Day 184/21/8**. The car was stopped by soldiers at Barrier 20 in Barrack Street and Mr Young and Mr Rogan were arrested. The car was then driven by Soldier 150 to the Bridge Location via Company HQ in Henrietta Street **B1918.002 paragraphs 10 to 12**.

[17] See, for example Mr Glasgow QC's questioning of John O'Kane (**163/56/22 - 57/9**)

19.14.2 On arrival at the Bridge Location Gerard Donaghy was examined by Soldier 138 **B1859.002 paragraphs 9 to 11**; **B1859.003 paragraphs 16 to 18**. At some point after his arrival at the bridge location nail bombs were found on Gerard Donaghy's person. The ATO, Captain 127 arrived some time later and after he had dealt with the nail bombs Gerard Donaghy's body was removed in an ambulance manned by Samuel Hamilton **ED47.24** and Alan Cahill **ED47.25**, **AC2.2** to Altnagelvin Hospital.

Military Evidence

19.15.1. Introduction and summary of submissions

19.15.1.1. The submissions made in respect of the soldiers of the Anti-Tank platoon who gave evidence about the events in Glenfada Park apply with greater force to the circumstances surrounding the deaths that occurred in Abbey Park. Unlike the other locations with which the Tribunal is concerned there has been no attempt to explain, never mind justify, the events in Abbey Park and the deaths of two people there.

19.15.1.2. The state of the evidence is such that no soldier admits to

i) Being in Abbey Park;
ii) Firing into Abbey Park from the south west corner of Glenfada Park North or any other position or;
iii) Seeing or becoming aware of any of his colleagues being in Abbey Park or firing into that area.

19.15.1.3. However there is evidence before the Tribunal that does account for what happened in Abbey Park and the deaths that occurred there in that it places Soldier G either in Abbey Park or as firing into Abbey Park. Together with the civilian evidence outlined above this evidence therefore identifies Soldier G as the soldier who murdered both Gerard McKinney and Gerard Donaghey. That evidence is

i) Soldier G's first statement to the Royal Military Police;
ii) Soldier G's evidence to the Widgery Tribunal and;
iii) The bullet recovered from the body of Gerard Donaghey and matched to Soldier G's weapon.

19.15.2. Evidence of Relevant Soldiers

19.15.2.1. Gerard McKinney and Gerard Donaghey were shot dead in Abbey Park. No soldier has ever claimed responsibility for their deaths and there is very little military evidence as to what took place there.

19.15.2.2. The soldiers who were best placed to account for the deaths in Abbey Park were the members of the Anti-Tank Platoon who had entered Glenfada Park. The evidence they have given is as follows

i) Solider E saw no soldier go near the south western exit into Abbey Park, nor did he see anyone fire there or any civilian fall there. **B114 C-F**

ii) Soldier F, giving evidence to this Tribunal, claimed that not only did he not see or become aware that a soldier had gone into or shoot into Abbey Park he could not recall seeing a soldier on the west side of Glenfada Park. **Day 375/112/18 to Day 375/113/6**

iii) Soldier H said he was not conscious of any soldier being in Abbey Park, nor did he see any soldier come back from Abbey Park **Day 377/93/17 to Day 377/94/3**. He said that he did not discuss it with G nor did he become aware that G had lied **Day 377/94/4 to Day 377/95/22**

iv) Soldier J "cannot remember" seeing a soldier on the west side of Glenfada Park. He did not see a soldier either go into Abbey Park or return from Abbey Park. Did not see a soldier shoot into Abbey Park. He did not go into Abbey Park. He did not become aware that a soldier had gone into Abbey Park **Day 370/63/18 to Day 370/64/10**. Soldier J said he did not learn from Soldier G where he had fired that day. He said that he may have discussed it with him afterwards but does not remember now **Day 370/64/11 to Day 370/64/20**.

v) Lt 119 does not remember going down the alley way into Abbey Park **Day 363/171/16 to Day 363/171/17**. Nor does he remember hearing that two people had been shot in Abbey Park **Day 363/172/11 to Day 363/172/14**.

He does not know how it comes to be that no soldier admits to firing in that area **Day 363/172/24 to Day 363/173/5**.

19.15.2.3. We submit that the evidence of these soldiers in relation to what took place in Abbey Park is a blatant attempt to conceal the true circumstances in which two men were murdered there. Despite these attempts however there are two separate lines of evidence, which show that Soldier G was responsible for those shootings.

19.15.2.4. The first comes from Soldier G himself. In his first statement to the Royal Military Police he describes entering Glenfada Park and shooting there, as described above. He says

> "The group of people *standing near to the gunmen picked up the two weapons and ran off down an alleyway in a North Easterly direction.* We split up and gave chase. I ran *down the alleyway past the two bodies lying on the ground* but the people with the weapons had already turned off from the alleyway out of sight." **B169** (emphasis added)

19.15.2.5. Although this statement refers to a "north easterly" direction it is submitted that, read in its entirety it is clear that the location being referred to in Soldier G's evidence is the south-west alleyway in Glenfada Park for the following reasons:

i) The marked map at **B171**;
ii) In all subsequent statements where he describes their location he indicates that the gunmen he claimed to have shot were in the ***southwest*** corner of Glenfada Park North;
iii) His trajectory photograph **P11**.

19.15.2.6. In his statement made for the purposes of the Widgery Tribunal Soldier G said on this point

"There were a fair number of people on the *opposite side of the courtyard.* When the men fell a small crowd gathered round quickly. I could not actually see anyone pick up a weapon because there were too many people in front. I did not fire at them. The crowd ran off quickly *up a little alleyway only a couple of yards behind them.* F moved down the wall of the eastern building to the big opening by the barricade and *I worked around the other two walls.* We could not run straight across the courtyard because it is open on a number of sides and we could have been fired on. By the time I reached the far corner the crowd had completely vanished. There was nobody there at all, just the two bodies and another body a few yards further down towards the opening." **B187** (emphasis added)

19.15.2.7. When he gave evidence before Lord Widgery Soldier G described shooting at gunmen in the southwest corner of Glenfada Park North and seeing them fall. The following exchange then took place between him and Mr Gibbens

"Q. What went on round there? A. There was a fair crowd along this footpath. They immediately ran past these two and when they had run past the weapons had gone as well.

Q. When you say a crowd, what do you call a crowd? A. About 15 people – around that number.

Q. They ran past them and through the alleyway? A. Yes.

Q. Did you then see what F was doing? A. F then went up this wall over here sir, while I made my way round here and over here and up this way.

Q. Why did you not go diagonally across the park? A. As you can see, this is open from a number of ways. I had to cover him and he had to cover me, and we had to get across without being shot ourselves.

Q. You ran along the sides of the courtyard? A. Yes.

Q. How far did you get? A. I got up to the top here.

Q. You got to where the bodies were? A. By them, yes.

Q. Had the other people gone by now? A. Yes, sir, there was no sign of anyone there.

Q. Was it still your duty at the time to cover F, or was he on his own? A. F had cover from the rest but I was sort of located with him. I kept my eye on where he was, and he the same with me. My idea of moving up there was to find where the weapons had gone.

Q. And you could not find any? A. Just as we got there – it all happened in a short time, and just as we got there we got the recall.

Q. Before you got the recall did you fire through that alleyway in the direction of Abbey Park, towards you on the model? A. ***Yes, sir***

Q. Did you see any bodies through there in the open space just beyond the gap? A. Do you mean through here?

Q. Yes. A. No, sir.

Q. You did not see any bodies through there? A. No

Q. Then you say you got a recall? A. Yes." **B195D to B196C** (emphasis added)

19.15.2.8. This appears to be a clear admission on Soldier G's part that he fired through the alleyway that leads from the southwestern corner of Glenfada Park into Abbey Park. As counsel to this Inquiry, Christopher Clarke QC, indicated

"This is a very puzzling piece of evidence in more than one respect". : if in what he said to Mr Gibbens he meant to say or was understood to say that he shot towards Abbey Park through the alleyway which leads there from Glenfada Park, he would have been the only soldier who accepted firing into or towards Abbey Park." **Day 31/10/12 to Day 31/10/18**

19.15.2.9. Indeed as Mr Clarke also recognised this evidence would also mean

i) That G had, at the very least, lied either about the number of shots he fired or about the circumstances in which he fired those shots and;

ii) That the significance of the evidence had been missed by a large number of people including Lord Widgery and the counsel involved in the case **Day 31/10/18 to Day 31/11/11**

19.15.2.10. While the latter proposition was, according to Mr Clarke QC, "a hypothesis that seems inherently improbable" **Day 31/13/2 to Day 31/13/3** it must be remembered that, at the time this evidence was being given there was still confusion about where Gerard McKinney and Gerard Donaghey died. This confusion was not resolved by Lord Widgery who found the evidence "too confused to make separate consideration [of the deaths of Willie McKinney, Jim Wray, Gerard McKinney and Gerard Donaghey] possible" (**paragraph 83 of the Widgery Report**). In these circumstances it is perhaps not such a surprise that the significance of the answer was not appreciated at the time.

19.15.2.11. In any event, when he was questioned further by Mr Read, counsel to the Widgery Tribunal, G clearly confirmed his earlier evidence that he had entered the alleyway

Q. In the first statement that you made to the SIB you said "The group of people standing near to the gunmen picked up the two weapons and ran off down an alleyway in a north-easterly direction"? A. Yes

Q. "We split up and gave chase" Do you remember saying that? A. Yes.

Q."I ran down the alleyway past the two bodies lying on the ground, but the people with the weapons had already turned off from the alleyway out of sight". Do you remember saying that? A. Yes.

Q. To what alleyway did you intend to refer? A. What I mean is that I came through here, through there and looked down here.

Q. And looked across here? A. Yes.

Q. You did go down that alleyway? A. I did not go down here or in here. *I just went into that alleyway, sir.*

Q. Coming just to the people who had fled down there? A. I mean trying to ascertain what is happening. I could not actually chase across there. We had to do that in a soldierly way, working our way round.

Q. *You went up that alleyway looking for the people who had gone away with what you believed were the weapons from the two men who you thought had been shot? A. I did not follow them any further than that, sir, because we got a recall.*

Q. Who recalled you? A. Our Platoon Commander. He came over.

Q. He came over and recalled you? A. Yes. I do not know whether it was him who actually said to me, but *I got the words "come back"* **B209 B-F** (emphasis added)

19.15.3. Soldier G's bullet

19.15.3.1. It is submitted that it is most likely that the evidence recorded on the transcript of the Widgery Tribunal is correct as it ties in with the second line of evidence which connects Soldier G to the deaths in Abbey Park, i.e. the fact that a bullet from his weapon was recovered from Gerard Donaghey's body.

19.15.3.2. While Soldier G was giving evidence to Lord Widgery Mr Gibbens acting on his behalf indicated that the rifle with the number A.5259 was that which Soldier G kept with him all the time **B209F**.

19.15.3.3. The rifle with that serial number had previously been linked to the bullet recovered from the body of Gerard Donaghey by Dr Martin **D0356**, **D0566A - D**.

19.16 Observation Posts

19.16.1 Introduction

19.16.1.1 According to the Operation Order:

> "The containment line and the area within it are to be dominated by physical military presence, by OP observation and by sniper posts. The maximum number of soldiers are to be in the shop window. They are to be covered by deployment of OP's and by a massive deployment of snipers in the anti-sniper role, who should be deployed at ***every possible vantage point*** within our secure area" (Operation Order **G95.568**, *emphasis added*)

19.16.1.2 Bearing in mind that soldiers were to be deployed at "every possible vantage point", the most striking feature of the evidence of the soldiers deployed in the observation posts, both permanent and *ad hoc*, is that claimed sightings of civilians engaged in hostile action against the army are few and far between. The majority of these soldiers did not claim to have seen anything that could have justified the use of lethal force by the Parachute Regiment on Bloody Sunday. None of the witnesses positioned on the Observation Posts claims to have witnessed the sort of widespread and intensive shooting and bombing that the Parachute Regiment claims to have sustained.

19.16.1.3 While there is some evidence from soldiers on Observation Posts of civilians firing a weapon or throwing a nail bomb, these allegations are undermined by the following:

i) The fact that their colleagues positioned beside them and observing the same area see nothing;

ii) Their universal failure to report the claimed sightings over the radio, as is reflected by the radio logs;

iii) Their universal failure to report these sightings to their more senior colleagues.

19.16.1.4 There were a large number of soldiers positioned on the City Walls on Bloody Sunday. A small number of them give evidence about incidents they claim to have seen in sector 4.

19.16.2 Soldier 030 and Soldier 001

19.16.2.1 Soldiers 030 and 001 were members of the 22 Light Air Defence Regiment and on Bloody Sunday were stationed on a platform at the City Walls. The location of this platform can be seen marked as point A on **B1612.009** and is shown in **P198**.

19.16.2.2 Both soldiers say that they were tasked to observe the Rossville Flats/ Glenfada Park areas. Soldier 030 says

"My first memory is of being deployed on the City Walls at the approximate point marked "A"...I am almost certain I was observing with UNK 358 with whom I did everything at the time. We would have been together throughout the time we were deployed that day. We did not have a radio with us." **B1612.001 paragraph 7**

19.16.2.3 In his second RMP statement (taken by Colonel Overbury) he says

"My position was at the wall. 134 and 040 were right behind on the top floor of a building on the other side of the street." **B1612.017**

19.16.2.4 Giving evidence to Lord Widgery he was asked

"Q. Did you have any radio apparatus there? A. No.
Q. What means of communication did you have of such things as you observed? A. Above us was another OP and he had radio communication. We were within shouting distance from him.
Q. You were within shouting distance to an OP who was to the back and rear, only a few yards away? A. Yes, sir.
Q. Apart from the radio operator there, did he have other soldiers with him? A. One.
Q. Was he a Sergeant or Corporal? A. One Sergeant and one gunner was up there.
Q. And a radio operator? A. No the two of them. Just the two.
Q. Their duty, apart from other duties, was to transmit such messages as you might send? A. Yes, sir." **B1612.026**

19.16.2.5. Soldier 001's current recollection is that

"We had radios with us and were in contact with our headquarters, but no special orders came through..." **B1347.002 paragraph 11**

19.16.2.6 Both soldiers say that a crowd began to filter into Rossville Street from William Street. By 1620 hrs the crowd had built up to 2-300 people around the Rossville Flats and they then heard baton rounds and gas cartridges being discharged in the area of Rossville Street/William Street **B1590**, **B1344**.

19.16.2.7 At this point Soldier 030 describes hearing one low velocity shot and then a number of low velocity shots. He says

"It was then I saw a youth standing firing a pistol. He was in between Blocks Nos 1 & 2 Rossville Flats. Taking cover slightly behind Block 2. There were about 10-15 people

crowding around him, therefore I did not shoot for fear of hitting a member of the crowd. The gunman was wearing a brown jacket, faded blue jeans and he had long dark well kept hair." **B1612.010**

19.16.2.8 Soldier 030 gave other evidence about his alleged sighting of this gunman. His evidence on this point has been examined in some detail in the section on observation posts in sector 2.

19.16.2.9 Soldier 030 later describes hearing

"A burst of slow automatic fire of a low velocity which in my opinion came from a Thompson Sub Machine Gun. 001 directed my attention to a 5' high wooden fence on the left hand corner and the far block in Glenfada Park. I then heard another burst of slow automatic fire and saw muzzle flashes on the top of the fence. I then started to aim my SLR at the gunman.

"Suddenly a soldier in combat kit appeared running from between the two blocks of Glenfada Park from the right. He stopped and knelt down about four doors (30 yards) to the right of the gunman, on the same side of the road. He aimed his SLR in the direction of the gunman and fired three rounds. The gunman disappeared and automatic fire from that position ceased.

"The soldier then turned and aimed his SLR in my direction. I then heard a number of single low velocity shots from below me. This was followed by one shot from the soldier in Glenfada Park. I then glanced down and saw a body below me. It was surrounded by about 20 people who were shouting for a priest. I then saw a priest run towards the body. I could not see any soldiers about." **B1591**

19.16.2.10 In the statement taken by Col Overbury he says

"When I first heard shooting the crowd at Free Derry Corner was quite separate from the crowd at Rossville flats and Glenfada Park.

"When I saw the soldier kneel and fire in the direction of the machine gun fire, he was in the open space somewhat to the right of the last tree in the centre on the southern end. He then swung round and aimed his rifle in my direction towards the area between Joseph Place and the Rossville Flats. I heard a volley of low velocity single shots coming from below me. I then saw the paratrooper fire one shot in the direction from which the shots had come. When I looked over the wall I saw a man lying on the ground.

"A crowd gathered round him and some kneeled down. I heard them shouting for a priest who came. The man was lying by the trees and was in the position from which I had heard the low velocity shots. My position was at the wall. 134 and 040 were right behind on the top floor of a building on the other side of the street." **B1597**

19.16.2.11 In his statement to the Treasury Solicitor he says

"Then I saw a body lying on the pavement by a telephone box between block 1 and 2 Rossville Flats, there was a big pool of blood round him. At this time I had heard no high velocity fire at all. I then heard a burst of low velocity automatic fire which to my mind came from a Thompson SMG, and 001 pointed out the direction of fire which was a high wooden fence on the far left hand corner of Glenfada Park in the block nearest Columbcille Court which has trees in the centre of a carpark.

I heard more automatic fire from this direction and saw muzzle flashes coming from the top of the fence. I started to aim my SLR at this position. Just at that moment a soldier came into my view. He stopped and knelt down to take aim at a position just by the last tree in the centre of the carpark at the south end. He aimed his SLR in the direction where I had seen the muzzle flashes from the top of the fence and fired 3 rounds. I could not see behind the fence to tell whether anyone had been hit.

"The soldier then turned and aimed his SLR in my direction, immediately after this I heard single low velocity shots from below me but I could not see who was firing since my view was obstructed by the City Wall. However, I looked down and could see a body lying below me opposite the gap between Blocks 2 and 3 of Rossville Flats. People had gathered round the man lying on the ground and I could not see him clearly. I heard the crowd shouting for a priest and I then saw a priest running up who gave the man the last rights." **B1599 to B1600**

19.16.2.12 By the time Soldier 030 came to give evidence to Lord Widgery however, his account had changed substantially and he was in a position to say that he saw the gunman, saw him running and also that he could see his weapon and was able to positively identify it

Q. Then you heard a burst of fire? A. Yes, I heard automatic fire – low velocity automatic fire.
Q. What kind? A. I would say Thompson sub-machine gun, sir.
Q. Have you experience of hearing Thompson machine gun fire? A. Yes, I have had one fired at me, sir.
....
Q. Then did you see who was firing the Thompson sub-machine gun? A. Not the first burst I did not see it.

Q. Did you see what direction it came from? A. No, it was the Sergeant that was in charge of me. I believe his number is zero-zero-one. He noticed a gunman run. This was in Glenfada Park.

Q. He drew your attention to it? A. Yes.

Q. Did you see a man running? A. No I was elsewhere at the time.

Q. When he drew your attention to it what did you see? A. In Glenfada Park. There was a gunman running there with a machine gun. Then I saw him there at the corner of Glenfada Park.

Q. You saw him where about? A. In here, sir.

Q. In the south west corner?

LORD WIDGERY: Of the southern block? A. No sir, there I am sorry.

MR GIBBENS: The alleyway going towards Abbey Park, yes. Did you see what he was doing? A. He was aiming up Glenfada Park. He was aiming up this way.

Q. Northwards? A. Yes.

LORD WIDGERY: What sort of weapon had he? A. It looked like a Thompson sub machine gun.

Q. Could you see the weapon? A. Yes, I could see the weapon.

MR GIBBENS: Could you see it close enough to distinguish what type it was? A. Since I have been out here the only thing I have been fired at with is a Thompson and to me it looked like a Thompson. It is one of the smallest machine guns you can get.

Q. Have you ever used a Thompson yourself? A. No

Q. What happened when you saw him fire? A. He fired another burst and then I took aim to fire and a soldier running in from Glenfada Park knelt down and fired three shots towards the gunman.

LORD WIDGERY: He ran in? A. Yes sir.

Q. Ran in from where to where? A. From this area sir. I couldn't say whether he came that way or that way, because I couldn't see over there.

MR GIBBENS: A soldier suddenly came into your view, knelt down and took three shots at him? A. Yes, sir

Q. Did you fire? A. No, sir

Q. Or did you refrain? A. No sir.

Q. Did you see whether the soldier's fire had any effect? A. There was no more automatic firing after that.

Q. Did you see what happened to the man? A. When he fired, the man who was firing seemed to go back quick. I don't know whether it hit him or he ran.

Q. Did you lose sight of him then? A. Yes, sir."

19.16.2.13 When he was cross examined by Mr McSparran QC the witness indicates that he reported this incident to an officer in his own regiment and told him about "*seeing* a man with a Thompson sub machine gun" **B1609**.

19.16.2.14 Giving evidence to this Tribunal Soldier 030 agreed that he had developed his account significantly when he gave evidence to Lord Widgery **Day 366/144/5 to Dy 366/144/11**. He could not explain the "improvement" in his account of the second gunman by the time he came to give evidence to Lord Widgery **Day 366/144/20 to Day 366/145/1**.

19.16.2.15 Soldier 030's current recollection places the second gunman he saw at the back of the Joseph Place flats and gives a detailed description which he has never given before. He also says

"I do not recall hearing a burst of slow automatic fire of a low velocity which at the time I believed came from a Thompson sub-machine gun which I described at paragraph 6 of my RMP statement. I have no recollection of UNK 359 directing my attention to a five foot high wooden fence on the left hand corner and the far (western) block in Glenfada Park. I have marked the position of the second gunman who I saw that day

around the approximate point "E"....I know that I saw a second gunman in my area of observation but, as I have said, I cannot now recall for certain where he was. I have no memory of hearing another burst of slow automatic fire and seeing muzzle flashes on the top of the fence which I also describe at paragraph 6 of my RMP statement. I have no recollection of starting to aim my SLR at the second gunman because I do not remember aiming my SLR at all that day." **B1612.005**

19.16.2.16 In his statement to this Tribunal Soldier 030 indicated that he now has no recollection of the soldier firing at the gunman in Glenfada Park and then across in front of Block 2. He now thinks that this has been mixed up and the second gunman he saw (who was dressed in combat gear) has been "misinterpreted by them at the time" **B1612.005**.

19.16.2.17 Giving evidence Soldier 030 indicated that he wished to rely on the accounts he gave in 1972 rather than on the statement he prepared for this Inquiry **Day 366/82/13/to Day 366/82/15**.

19.16.2.18 Soldier 001's RMP statement records that he heard fire from a Thompson sub machine gun and directed his observations towards the Glenfada Park area and told Soldier 030 to do the same. He also made a statement to the Treasury Solicitor and has made a statement for the purposes of this Inquiry.

19.16.2.17 Soldier 001 also describes hearing automatic fire and seeing made one other statement in 1972 to the Treasury Solicitor where he said that at about 1500 he heard the sounds of baton rounds and gas cartridges being fired in the area of Rossville Street/ William Street. He then said that it appeared to be coming from Glenfada Park and he saw a youth with long hair behind a fence. He also described the youth popping up and down behind a fence and a soldier firing at him.

19.16.2.18 In relation to whether or not he reported this incident Soldier 030 was questioned by Mr McSparran at B1612.026. The gist of the questioning was that it would have been important for him to report the sightings of gunmen given that troops would be coming in to the Bogside. Soldier 030 denied that he had any prior knowledge of this. However, in his Evershed's statement he remembers

"hearing a shout from the command post: something like "Watch it, the paras are coming in." **B1612.002**

19.16.2.19 He now says that he did report both gunmen he saw to officers in the command post **B1612.008 paragraphs 46 to 47**.

19.16.2.20 The following observations can be made about the evidence given by these soldiers:

i) There is no shot admitted by any soldier in Glenfada Park that would account for the shots Soldiers 001 and 030 say the soldier they saw fired at the gunman with the Thompson sub machine gun.

ii) None of the soldiers who admit to having been in Glenfada Park says they were fired on while there at all never mind by a Thompson sub-machine gun.

iii) There is no report on the log of the 22 Light Air Defence Regiment of the incidents described by Soldiers 030 and 001.

iv) It is also clear that, despite having what appears to be a good view of Glenfada Park neither of them claims to have seen the actions of the soldiers in Glenfada Park or the bodies of the people they shot there. Nor do they appear to see Fr Mulvey on Rossville Street by the ambulance and coming under fire.

19.16.2.21 It is submitted that the allegations made by Soldiers 001 and 030 to the effect that they saw and heard automatic gunfire emanating from Glenfada Park, that they saw a gunman behind a fence there and

that they saw a soldier engage this gunman are fabrications. Both soldiers lied in their statements to the Royal Military Police and to the Treasury Solicitor and Soldier 030 lied under oath when he gave evidence to Lord Widgery.

19.16.3 INQ 1990

19.16.3.1 INQ 1990 was a Staff Sergeant in 1 Royal Anglian Regiment. He did not make any statement in 1972 . In his statement to this Tribunal he says

"I regret not having given evidence because 28 years later memories fade. I was in the army for [redacted] years after this incident and I could easily have mixed things up in my mind. However, I am a Historian and it is my job to remember things and although I may have got a few incidents mixed up, everything I have said in this statement is something I remember from the day." **C1990.7 paragraph 35**

"The statement is made with the best intentions. I cannot say it is 100% accurate. After 28 years many memories merge. I have been back to Londonderry in 1999 to try and refresh my memory. However it has changed, many buildings are now not there." **C1990.7 paragraph 38**

19.16.3.2 INQ 1990 says he was at the point marked A on the map on the city walls and as he looked down he could see thousands of people milling around below. **C1990.2 paragraph 10**

19.16.3.3 INQ 1990 says

"On the day of the march, there were about a dozen people on the top Block 3 of the Rossville Flats. I could see them quite clearly. There were always people on the roofs of the flats; in

fact I never knew a time when they were not there, except possibly in the middle of the night and they were probably there then as well. In the past, people had thrown stones at us off the top of the roof but on this day they were just standing there shouting. With all the noise going on I do not know if they were shouting at us or at all, but I assumed they were." **C1990.3 paragraph 14**

19.16.3.4 It should be noted that, when asked, soldier 134 who was in position with soldier 040 in 3 Magazine Street said that he did not see anything untoward on the top of the flats that day **Day 363/95/16**

19.16.3.5 INQ 1990's evidence is that on the day he saw at least three gunmen from his position on the City Walls. He describes what he saw thus

"Then I saw a figure carrying a handgun. It was not a revolver, it was too square for that. It was probably a pistol, it was definitely a gun. It might have been a toy gun for all I know but he was pointing it around. He came out from between Block 2 and 3 of the Rossville Flats, southwards from the car park area towards Joseph Place. He moved in a westerly direction along the southern side of Block 2, stopped started moving again and then disappeared from my view....He looked like what we used to call a "drama-merchant". He was running, in sharp, swaggering movements, taking up position, pointing his weapon and looking around and then running off again and stopping. He thought he was the big "I-Am" but in fact there was no one around that he could have been pointing his weapon at. He had the gun in his right hand and every now and then he would point his weapon but I have no idea what at. The people around him were cheering him. We could not do anything about him because the Yellow Card would not allow it" **C1990.4 paragraph 16**

19.16.3.6 He describes this gunman as

"Wearing a dark olive-green anorak coat with the hood up, dark trousers and trainers. The anorak was not particularly long. I cannot remember whether he was wearing gloves or not. He was also wearing a mask which covered his mouth and nose. It was either a balaclava or a scarf, I could not tell because he had his hood up and just his eyes were showing. He was of average height but I cannot say anything else about him." **C1990.4 paragraph 17**

19.16.3.7 INQ 1990 then says

"Shortly after I saw a second gunman. He came out of Joseph Place and I first saw him at about point B... on the map. He moved back the oppopsite way to the route the first gunman had taken, towards the gap between Block 2 and Block 3 of the Rossville Flats away from Joseph Place. He seemed to be a lot more focused and calmer somehow than the first gunman. He was also carrying a gun but it was pointing downwards and he was not holding it or moving it in such a dramatic fashion as the first gunman. His gun was not a hand gun and from where I was I would say it was UZI-type weapon, a machine pistol or something of that nature. Perhaps it was a pistol with a stock on it which was quite common amongst civilians at the time but I could not see very well from where I was. I lost sight of him as soon as he moved through the gap between Blocks 2 and 3." **C1990.4 paragraph 18**

"He was a similar sort of build to the first gunman and dressed in similar clothes but he was definitely wearing a balaclava rather than a hood. He was dressed almost entirely in black but

then it was a dull day so everything below me looked dark anyway." **C1990.4 paragraph 19**

19.16.3.8 As to the third gunman he saw

"The next thing I remember is seeing a car arrive and drop off a third gunman. I think it came west down Fahan Street West from the direction of the cemetry and parked at approximately point C...near Lisfannon Park. I am not entirely sure about the street the car came down but I have looked at a photograph...and I think it was Fahan Street West. The car was greyish in colour and I think it had two doors. I did not see who was driving. It was a smallish car, which looked like what a Corsa looks like today. Perhaps it was a Viva or something similar. The third gunman was, once again, in dark clothing with a black woolly bobble hat. I could just see the white of his face." **C1990.4 paragraph 20**

19.16.3.9 INQ 1990 then goes on to say that the third gunman met up with another two gunmen at a point in the middle of Rossville Street south of the rubble barricade and between Glenfada Park South and Joseph Place. He says

I believe these were the first two gunmen I had seen and had lost sight of, but they may have been two others. They all stood...and talked to each other for about 10 or 15 seconds and appeared to be reporting back to one another.

19.16.3.10 The witness also says

The two who I believe were the first two gunmen I had seen were holding their weapons differently but that was the only difference in them, otherwise I would say they were the same men. However, there were so many people in dark clothing

running about that day that they might not have been. There was a fair bit of arm waving and gesturing going on. Then, after about 10 to 15 seconds one of the gunmen, I did not know which one by this point, went back north up Rossville Street towards the Rubble Barricade. The other two walked south together for a little while back to about point C, and then split up. One went off towards Joseph Place (east) and the other went back towards where the car the third gunman had got out of was still parked in Fahan Street West. I did not see him get into the car but he definitely went in that direction. **C1990.5 paragraph 23**

19.16.3.11 The witness also thinks that the length of time during which he was looking over the city walls was at least 30 minutes **C1990.5 paragraph 24**. Incredibly he says

"I did not report my sightings. Whilst I was on the City Walls I was not specifically asked to observe but to escort the 2IC. There were lots of other people there on the Walls who must have seen what I saw. There was certainly some language there to the effect of "look at that..." but so much was going on that day you could not report it all. In a normal Thursday afternoon riot situation everything would have been reported about 50 times but on that day there was just too much happening. Everything we saw that day was worthy of logging but I do not know if it actually was. I was never asked to make any sort of report either." **C1990.5 paragraph 26**

19.16.3.12 There are no entries on the log of the 1 Royal Anglian Regiment or in the statements of other soldiers that describe three (or more) gunmen as suggested in this statement. Indeed the major who INQ 1990 was escorting, INQ 1310, says

"I do not remember seeing any unusual activity in the Bogside or hearing any. This could be because there was no activity below the City walls at the time I looked over or because the noise was masked for some reason or because I was so used to seeing and hearing it." **C1310.2 paragraph**

19.16.3.13 INQ 1990 indicated when he gave evidence that he was always within 15 yards of the officer whom he was escorting on Bloody Sunday **Day 367/10/10 to Day 367/10/12.**

19.16.3.14 It defies belief that at least three gunmen would have been acting in the manner described in this statement in full view of the soldiers stationed on the walls and not have been seen by others. Even INQ 1990 himself accepted that

"Because there was so many people on the wall that day it would have been impossible for only one person to have seen what I seen" **Day 367/4/8 to Day 367/4/10**

19.16.3.15 Even less credible is the assertion that something so important would not have been reported by a soldier because he expected others to do it. In any event it is clear because no entry appears on the communications log that no other soldier in fact reported the incidents described by INQ 1990. It is submitted that this is because they did not happen.

19.16.4 Soldier 227

19.16.4.1 The evidence of this soldier is examined in detail in the section on observation posts in Sector 3.

19.17 Civilian Gunmen

19.17.1 Introduction

19.17.1.1 This section addresses the evidence identified in the Lawton document entitled "Civilian Gunmen Table" which is attached to a note from Counsel to the Inquiry dated 22nd July 2002. This section deals only with the entries at pages 62 to 78 – Glenfada Park and Abbey Park.

19.17.2 The Lawton Document

19.17.2.1 Willie Barret

19.17.2.2 The portion of Mr Barrett's evidence relied on is

"My wife and I lived at Glenfada Park South until 1979. It was a celebrated place...There was a man called [redacted] who used to fire a machine gun at the army post at the top of the Embassy Building and the area itself was pretty dodgy." **AB110.3 paragraph 4**

19.17.2.3 Mr Barrett confirmed on evidence that this individual would sometimes fire from Glenfada Park North **Day 198/64/21 to Day 198/65/2**. He also indicated that he would fire from "inside the square" **Day 198/65/16** but that he could not remember whether or not this happened before Bloody Sunday **Day 198/66/1 to Day 198/66/20**.

19.17.2.4 As noted in the Lawton document (at page 62) Mr Barret was not in a position to say whether this happened before or after Bloody Sunday. He certainly did not make any suggestion that this

individual was present in Glenfada Park North with a gun on Bloody Sunday. His evidence can not therefore be relied on for this purpose.

19.17.3 Joe Carlin

19.17.3.1 This is a Sunday Times interview. The witness did not give oral evidence to the Inquiry. The account was put to a Mr John Joseph Carlin who gave oral evidence on **Day 91/192/25 to Day 91/193/18** and who denied that the notes of the interview were anything to do with him.

i) The person who supposedly gave the interview to Mr Barry of the Sunday Times is reporting people suggesting that events were about to take place.

ii) He is speculating on the intentions of the persons who were inviting people to move however his "impression" was that this information had come from only one person and that the people pushing them and encouraging them to leave to area did not seem to know any more than they had been told by this person. He did not recognise any of the people involved.

iii) This is an example of an individual apparently giving an interview reporting overheard conversations and gaining mere impressions of events. This could not in any way amount to credible or substantial evidence of the presence or otherwise of a gunman or gunmen in this area.

iv) It was, of course, impossible to test this information further by examination in oral evidence and in any event appears to have occurred prior to the deployment of Support Company.

v) It is hard to envisage how this could be possibly represented as credible evidence of the presence of civilian gunmen in this area which appears to be more relevant to Sector 1 in any case.

19.17.4 Ivan Cooper

19.17.4.1 In respect of Ivan Cooper the document relies on the following passage from the Sunday Times notes which appear at **KC12.71**

"IC had seen the Officials in the march. But nowhere else. And IC only heard later that OIRA6 had fired a revolver in Glenfada Park. CIV2 [CIV2 , Provisional IRA] told IC that OIRA6 had been running around mad with a pistol all afternoon. CIV2 says he fired very early."

19.17.4.2 In respect of the Sunday Times notes Ivan Cooper has said

"I have read some typewritten notes which I am informed were prepared by the Sunday Times Insight team. I have never seen them before making this statement. I find this account poisonous and disturbing and I reject it in its entirety. The manner in which it is written smacks of British security intelligence operating; it is for the most part, factually incorrect. There are many examples of factual inaccuracies in the articles. I therefore wish to reject this document in its entirety and will not even begin to give it credibility by addressing it in more detail." **KC12.30 paragraph 97**

19.17.4.3 Giving evidence Mr Cooper said that

i) He never knew CIV2 o be "linked with the Provos" **Day 419/111/11 to Day 419/111/13** and;

ii) He was never interviewed by anyone who was said to be from or be connected with the Sunday Times Insight team **Day 419/77/16 to Day 419/78/2**.

19.17.4.4 In addition, the Tribunal has a statement fron CIV2 in which he states

i) "I am not and never have been a member of IRA/Sinn Fein, neither have my family before me nor my family after me." **AM208.1 paragraph 1**

ii) that he does not know anyone of the name of OIRA6 **AM208.4 paragraph 16.10**.

19.17.4.5 Even if the Tribunal was to find that Cooper have an interview with John Barry and in all likelihood made these remarks, we respectfully refer the Tribunal to the following. **AM208.10 paragraph 17**:

"Ivan Cooper is a fantastic liar he is the sort of person that I have always wanted to and have tried to avoid. I would take anything he says with a "pinch of salt". The statement that he made to the Sunday Times is a fabrication. I suspect he made the statement to make himself sound like an important politician for the journalists."

19.17.4.6 As a general comment this is in itself a highly colourful and fanciful account, which is not corroborated by any witness whether civilian, or military and moreover the incidents described therein appear to have escaped the notice of Special Branch, Military Intelligence and the Security Services. In these circumstances it is submitted that this extract from the statement cannot be relied on.

19.17.5 Danny Craig

19.17.5.1 The Tribunal is referred to our submissions on this witness at **section 14.3.3.3.29**

19.17.6 Alphonsus Cunningham

19.17.6.1 The portion of Mr Cunningham's evidence relied on is

> "When I was behind the gable wall at the position marked F on the map (the south gable wall of the eastern block of Glenfada Park North), I heard semi-automatic, high velocity gunfire. I cannot remember which direction it was coming from but my impression was that the shots were being aimed and were not being fired simply to scare people." **AC125.2 paragraph 10**

19.17.6.2 Mr Cunningham is clearly referring to army gunfire here. As the Tribunal knows the SLR was a semi-automatic high velocity weapon.

19.17.7 Daniel Dunn

19.17.7.1 The extract relied on in respect of this witness appears in his "NICRA" statement

> "I was standing in Glenfada Park at the Archway entrance into Abbey Park. There were about five of us including Derek McFeely and a Christian Brother. Shooting began and we ran shelter to this spot. The soldiers at the time were moving up Rossville Street passed (*sic*) the flats. A crowd had been in the car park. There was a burst of automatic fire followed by a few single shots." **AD172.8**

19.17.7.2 Giving oral evidence to this Tribunal Mr Dunn did not remember hearing automatic gunfire **Day 161/13/23 to Day 161/14/2**. He also confirmed that he was in the company of Derek McFeely and a man "in clergy clothes with a white collar" at the time when he was in Glenfada Park **Day 161/9/9 to Day 161/9/16**.

19.17.7.3 Derek McFeely has made a statement to this Tribunal and has given oral evidence. Giving oral evidence. Mr Dunn's 1972 statement was put to him and Mr McFeely does not have any recollection of hearing automatic fire. In fact his recollection is of "single rounds as opposed to automatic fire" **Day 061/105/5 to Day 061/105/14**.

19.17.7.4 The "clergy man" referred to may have been Brother Francis Bernard Sharpe. His statements and attachments appear at **H23.1 to H23.22**. He has made a written statement to this Tribunal and gave oral evidence to Lord Widgery. He does not refer to hearing automatic gunfire.

19.17.7.5 The Tribunal has also heard from a large number of witnesses who agree that although they initially thought that they heard automatic fire in fact what they had heard was a large number of SLR rounds being fired at once.

19.17.8 Insight Article

19.17.8.1 The following portion of the Insight Article is relied upon:

"One, and possibly two, IRA gunmen were in fact operating in the car park." **L213**

19.17.8.2 along with the following exchange between Peter Pringle and Mr Glasgow QC:

"Q. That is the passage I wanted you to help the Tribunal with, if you could: do you know where the possibility of the second came from?

A. I cannot recall that. I should say that it ought to be clear from this article that we are being as scrupulously fair as we could have been to the question of what the IRA did on this day. Therefore, if there is

a possibility that there was a second gunman, either identified by eyewitnesses or heard as a low velocity shot, then we have included it in our final article, in order to be as objective as possible.

Q. Would that too, sir, have to pass the rule of thumb test: that it must have been corroborated by at least one person, or might it have just depended on one account?

A. In principle it would have passed that test.

Q. So be it. Again, I will not waste time on it," **Day 191/39/11 to Day 191/40/2**

i) Like Mr Glasgow, we are also unable to find anything in the Sunday Times material that supports the conclusion above, *viz*, that "two IRA men were in fact operating in the car park". We are also curious why the quotation ends in mid-sentence in the Lawton document and does not carry on from **Day 191/40/2 to Day 191/40/7**.

ii) It may be that one of the gunmen referred to in the article is OIRA6 who features in the document that purports to be an interview with Ivan Cooper by John Barry **KC12.71**. In that document it says that (CIV2 told Ivan Cooper that "OIRA6 had been running around mad with a pistol all afternoon" and that he had fired it in Glenfada Park very very early on. If this is the case OIRA6 denied that he was armed on Bloody Sunday, or that he knew either Ivan Cooper or (CIV2 and that he had never spoken to the Sunday Times or any other journalist **Day 413/163/4 to Day 413/164/4**. Similarly CIV2 has denied knowing the real name of OIRA6 **AM208.4 paragraph 16.10**. He was not a member of the OIRA Command Staff and would not have been entitled to carry a personal weapon.

19.17.9 **Benn Keaveney**

19.17.9.1 The following portion of Mr Keaveney's written evidence to the Tribunal is relied on

"As I returned to the Abbey Parade area, people were in shock, I saw 2 people carrying a large box containing between 2 and 4 nail bombs. I remember that the box was too big for the amount of nail bombs contained in it. They were wearing bulky jackets and may also have had some other bombs in their pockets. They appeared to have just arrived in the area and did not know anything about what had happened. They were between 19 and 20 years old and they asked me where the Brits were. At that point, an old man approached us and he and I both looked at the bombs. He said, "Don't do it. The soldiers moved back." And he added that they (by which he meant the army) would only use it as an excuse for their actions that day. After the old man had spoken to them they appeared to be resigned and moved back towards the Bog Road." **AK2.12 paragraph 54**

19.17.9.2 Giving oral evidence Mr Keaveney indicated that he would have known one of the boys by sight and he had seen him at previous riots, although he had never seen him in possession of a nail bomb before **Day 160/46/2 to Day 160/46/25**. He confirmed that he assumed that the boys had just arrived in the area **Day 160/47/24 to Day 160/48/11**.

19.17.9.3 Mr Keaveney has made it clear that

i) This incident happened "long after the shooting was over" **AK2.22**
ii) He did not see any other nail or petrol bombs or gunfire **AK2.22**
iii) The men did not "pass them to anyone else, light the fuses or throw them" **AK2.22**.

19.17.9.4 For these reasons it is submitted that even if Mr Keaveney's account of what he saw in Abbey Park is correct it occurred at a time well after the shootings in that area had taken place and

therefore had no impact on the actions of soldiers on Bloody Sunday.

19.17.10 **Gerard Kemp**

19.17.10.1 **Gerard Kemp M47** said that he interviewed a man that he knew to be a member of the Official IRA **M47.1 paragraph 2**. This interview appears at **L210**. OIRA1 in his oral evidence denied that he spoke to Gerard Kemp **Day 395/138/5 to Day 395/138/9**.

i) It is clear that the detail contained in the Kemp article **L210** reflects to a degree OIRA1's evidence and some of what is contained in the PIN437 document.

ii) If it is accepted that OIRA1 did speak to Gerard Kemp, it is clear that OIRA1 put his .303 into the boot of the car and did not remove it again. Further, the article states that this occurred 10-15 minutes before the Paras moved up.

iii) It is not clear at all from the article what balcony is being referred to or where the other person who supposedly fired with a pistol was located. The article then goes on to described the person giving the interview as placing himself by the barricade in Rossville Street and seeing three civilians go down.

iv) It is not clear from the text of the article whether the person giving the interview was claiming to have seen the person on the balcony firing at the Paras or the other person firing with the pistol.

v) The Inquiry therefore is not in a position to determine whether this is a first hand account or hearsay. In the absence of confirmation from the interviewee, the text of the interview does not provide an answer to this question.

vi) This could not be considered an eyewitness account of either shooting from a balcony at the Paras or someone else firing with a pistol.

19.17.11 Michael Kivelehan

19.17.11.1 The following extract from the material attached to Mr Kivelehan's statement is relied on

"Off the record:
- Man with short arm in their flat, disarmed and got rid of
- Two nail bombs dumped in the street outside his flat. Know because dragged the 2 boys in who had them." **AK45.1**

19.17.11.2 This extract is a portion of notes taken by John Goddard of the Praxis team which are described as "off tape".

19.17.11.3 Mr Kivelehan has given written and oral evidence to this Tribunal. In his written evidence Mr Kivelehan says that he "does not remember the interview" **AK45.5 paragraph 22**

19.17.11.4 He then says

"I do not remember anything about two boys with nail bombs. Maybe there were two boys in the house with us but I did not see them and I don't remember them having nail bombs. I have been referred to the evidence of Michael Quinn given to this Inquiry where he talks of two lads with nail bombs being led away. I know nothing about this. Certainly, I was not involved in any such incident. I do have a vague memory of a youngster about 18 and 19 who was brought into the house by John McCourt but I do not remember him having any nail bombs of there being any short arm or pistol in the house. If it happened I do not remember it." **AK45.5 paragraph 26**

19.17.11.5 He also said "I have to say I do not remember the interview but in view of what he says about lots of Kivelehans being together I wonder whether these notes were made at the 50th wedding anniversary of my parents in 1992." **AK45.5 paragraph 22**.

19.17.11.6 Giving oral evidence, Mr Kivelehan confirmed that he did not remember being interviewed by a journalist **Day 406/65/20 to Day 406/66/9** and that he had no memory of how the journalist even made contact with him **Day 406/68/6 to Day 406/68/10**.

19.17.11.7 Nor did he recall making the "off the record" statement to the journalist **Day 406/78/8 to Day 406/78/19**.

19.17.11.8 Mr Kivelehan was clear in his evidence that he did not see anybody with nail bombs or a shortarm in the area on Bloody Sunday nor was he ever told about such a thing **Day 406/79/5 to Day 406/79/22**. He was also clear that had he seen such things he would be prepared to tell the Inquiry about them **Day 406/81/11 to Day 406/81/14**. He admitted that he was probably drunk at the time he spoke to the journalist **Day 406/81/18** and suggested that if he said such a thing to the journalist then it could have been because of this **Day 406/83/16 to Day 406/83/23**.

19.17.11.9 Mr Kivelehan's wife who was also in the flat in Glenfada Park on Bloody Sunday with her husband has indicated in both written and oral evidence to the Tribunal that she has no knowledge of the alleged interview Mr Goddard conducted with Mr Kivelehan nor of the content of the note. She says "There was certainly no such man in the living room, and nobody in my family has ever mentioned such a thing to me. I would certainly have remembered if they had. The same comment applies to the suggestion in the notes that boys with nail bombs were dragged into the flat and that the nail bombs were dumped outside." **AK48.4 paragraph 28**.

19.17.11.10 Mrs Kivelehan confirmed this evidence when she appeared before the Tribunal on Day 423. She said that

i) She was not aware of a journalist ever coming to her home to speak to her husband **Day 423/82/24 to Day 423/83/1**;

ii) Her husband had never told her he had been interviewed by a journalist **Day 423/83/2 to Day 423/83/4**;

iii) She never heard from either her husband or another member of the family that there had been a person in the flat who had a firearm **Day 423/84/16 to Day 423/84/19**;

iv) If she had been aware of such an incident she would have mentioned it in her statement to this Inquiry **Day 423/86/14 to Day 423/86/19**;

19.17.11.11 Mr Kivelehan's brother-in-law John Michael McCourt also gave evidence to this Tribunal. He was also in the flat in Glenfada Park on Bloody Sunday.

19.17.11.12 Mr McCourt has a vague memory of seeing a journalist with blond hair in Mr Kivelehan's home **AM144.10 paragraph 7**. He is clear that if he had seen anyone with a gun he would not have let him into the house **AM144.10 paragraph 4**. He also says that his wife's grandmother was very religious and she would not have let an armed man into the house **AM144.10 paragraph 5**.

19.17.11.13 Mr McCourt also stated that Mr Kivelehan had once before mentioned to him that he had seen a "boy with a gun" on Bloody Sunday but Mr McCourt dismissed it "In my view Michael can be fanciful on occasions and I just put it down to silly, stupid talk." **AM144.10 paragraph 6**. He also commented "I do not think that what is described in the Praxis notes happened" **AM144.10 paragraph 7**. Giving oral evidence he said "Mickey was the type of person who tended to make himself feel important, you know." **Day 423/105/25 to Day 4236/106/1** and also "Very strange that no-one else seen this, I mean, there was quite a lot of people in this flat." **Day 423/107/1 to Day 423/107/2**.

19.17.11.14 Mr McCourt also indicated that Mr Kivelehan could not have dragged two boys with nail bombs into the flat because Mr Kivelehan and himself had gone inside at the same time with Mr Kivelehan before him. As they entered the flat they closed the door and "nobody went back out again" **Day 423/108/2 to Day 423/108/16**.

19.17.11.15 Mr McCourt's wife (who is Mr Kivelehan's sister) also gave evidence to the Tribunal. She did not remember a journalist interviewing her brother **Day 423/121/4 to Day 423/122/5**, nor did she see the incidents described in the note **Day 423/123/5 to Day 423/124/4**. She agreed that her husband could be "fanciful" **Day 423/125/2**. She also indicated that her sisters were not on the march on Bloody Sunday and therefore could not have supported Mr Kivelehan's story **Day 423/126/11 to Day 423/126/22**.

19.17.11.16 The only evidence before the Tribunal that such an incident took place appears in Mr Goddard's notes of the interview he says he had with Mr Kivelehan. Mr Kivelehan does not now remember giving such an interview and is clear that on Bloody Sunday he did not see what is described in the notes. No other witness gives evidence of such an incident and the others who were present in the flat in Glenfada Park are clear that they did not see any person with a gun or nailbombs. In these circumstances and given the evidence of Mr McCourt that his brother-in-law is prone to making himself "important" and may have made up the incident for the journalist's benefit it is submitted that it did not happen.

19.17.12 RM2

19.17.12.1 The portion of this witness' evidence relied on is as follows

"Whilst I was still standing at point E, I looked west across Rossville Street into the car park of Glenfada Park. I heard

between six to eight shots of very raid fire; the shots were all in succession. I could see dust coming up from the tarmac as the bullets hit the ground, between points J and K on the attached map (grid reference I15). The first shots were at point J and then moved in a zig zag fashion to point K....These shots were duller, louder and heavier than I had heard previously and they came from a machine gun. They made a different sound to the high velocity SLRs I had heard earlier, and were not from an SLR being fired very quickly. I had heard a lot of shooting on previous occasions and was able to distinguish between different weapons and shots. This was the only burst of machine gun fire I heard that day and I presumed that it had come from the army ferret car on Rossville Street, which people had heard earlier they had seen." **AK42.12 paragraph 26**

19.17.12.2 Points J and K are located on the witness' map **AK42.17** at the south-eastern corner of Glenfada Park North.

19.17.12.3 When this witness gave oral evidence he said

i) When he heard this fire he was "fairly certain" that it was machine gun fire but "I suppose if a number of rifles were being fired at the same time it is possible that it could have been – confusion there." **Day 424/43/5 to Day 424/43/9**

ii) It seemed like the firing was coming from the direction of the army Ferret car **Day 424/44/2 to Day 424/44/19**

19.17.12.4 Given the witness' uncertainty it is submitted that what he heard was not machine gun fire but army fire. In addition, his clarity about where he had seen the shots land reinforces the proposition that it was not civilian fire he saw given that it would appear that

there would be no point in civilians firing towards that position given that there were no soldiers in that area. In addition, there is no other evidence that there was machine gun fire in the vicinity of Glenfada Park and certainly not towards that position.

19.17.12.3 However, this witness is not the first to have given evidence that suggests that the army fired from the Ferret car. The Tribunal is referred to the evidence of journalist Robert Hammond **M37.2**, **WT2.36D-E** and that of John Gorman, who had previously served nine years with the Royal Enniskillen Fuisiliers **AG45.2**, **WT8.37D to WT8.39C**.

19.17.13 Michael Lynch

19.17.13.1 The portion of this witness' evidence relied on is as follows

> "I returned gradually to the window in the living room to see what was happening. I remember seeing a man with a handgun come out quickly from the north east side of Glenfada Park North at approximately the point marked B on the attached map (grid reference J13) and fire two shots towards the soldiers in Rossville Street. I think the pistol was in his right hand. I do not think he had time to aim at anyone. He was wearing a Parka jacket and he had the hood of the jacket up covering his head. From the way he moved I formed the impression that he was a young man. I cannot recall any further details about the man. As soon as he had fired the shots, he ran away in the same direction from which he had come from. I do not know what happened to the gunman after this." **AL38.2 paragraph 10**

19.17.13.2 The Tribunal is referred to the oral evidence given by this witness on Day 148 in which he accepted that he may be wrong in placing

this gunman on the Rossville Street side of the Rossville Flats and it may in fact have been Father Daly's gunman that he saw **Day 148/220/4 Day 148/229/12**. Alternatively Mr Lynch accepted that the man he saw could have been "Father O'Gara's gunman" **Day 148/230/14 to Day 148/234/24**. Either way it is submitted that the person seen had no impact on the actions of the soldiers on Bloody Sunday.

19.17.14 **Liam Mailey**

19.17.14.1 **Liam Mailey M50**. After the Paras had entered the Bogside and begun to fire, this witness when moving across the Rossville Street Barricade heard three shots which appeared to be of lower calibre that the rifle shots. They appeared to be fired from the area of Glenfada Park or Kells Walk but the witness was unable to give the direction **M50.57 to M50.58**.

i) The witness places the firing in a number of different locations in different statements. In 1972 he thought it was Glenfada Park or Kells Walk **M50.57 to M50.58**. His oral evidence before Lord Widgery was that "would imagine it came from somewhere around Kells Walk" **M50.27**. In his statement to Eversheds he thought it came from the area of either Glenfada Park North or perhaps the southern end of Columbcille Court. He qualified this by saying he was unaure but the latter was more likely **M50.2 paragraph 6**. In his oral evidence to this Tribunal the witness said that he was unable to be any more precise as to where he was when he heard the low calibre gunfire **Day 163/96/2 to Day 163/96/4**

ii) It may well be that this witness has heard the shots spoken of by Father O'Gara who saw a man draw a pistol from his pocket, lean over a wall at the end of Kells Walk and fire three shots quickly.

iii) The witness has given confused evidence in respect of how these shots fitted in to the sequence of his photographs and that he may have been looking down the Lecky Road, on his way to the Rossville Flats at the

junction between William Street and Rossville Street or around the Rubble Barricade **Day 163/64/18 to Day 163/95/10**.

iv) The witness thus cannot give evidence of what events were actually occurring when he actually heard these shots and therefore cannot assist the Tribunal as to the impact of these shots, if any, on events or the actions of soldiers and civilians on the day.

19.17.15 Anthony Martin

19.17.15.1 The portion of the Mr Martin's evidence relied on is as follows:

"...I met an IRA man and he told [me] there were 2 rifles in a car – a green Avenger – parked in Glenfada Park and he wanted me to help him get to it. I learnt later that the rifles had been removed before the shooting started." **AM24.5**

"When we were in GPN to collect the body... soldiers were in the NE corner of the square and one soldier opened fire at us with a pistol. The shots rang out above my head. I had the impression it was an officer who fired because only an officer would have a pistol." **AM24.12 paragraphs 26 to 27**

19.17.15.2 In oral evidence the witness added "I thought it was a pistol because... an SLR would have took a lot more masonry out." He saw no soldier with a pistol. He did see a soldier without a rifle kneeling. "I would assume he had just had a couple of shots with a pistol". **Day 176/87/7 to Day 176/87/12**

"I headed out of GPN and met the man I knew who was involved in the IRA. He explained that there was a green Avenger car parked in GPN that had rifles in the boot. He asked me if I would help him go and collect them. I was so angry by that point that I said I would take one of the rifles myself and do something... The car was in position I have marked on the

attached map at grid reference I14 [parallel to E block]. The soldiers were still there and we decided it was too risky to approach the car". **AM24.12 paragraph 27**

i) The witness' evidence in relation to the rifles in the boot of the Avenger is hearsay evidence. The witness did not see any rifles near a car in Glenfada Park or in the Sector 4 area at all and in this regard is repeating something that he has been told.

ii) The witness' account is clearly suspect given his description contained in his Eversheds statement of a soldier firing a pistol in Glenfada Park **AM24.12 paragraph 26**. No soldier was armed with or fired a pistol in Glenfada Park.

iii) It is submitted that the witness is not qualified to give expert evidence in relation to bullet sounds or effects upon striking masonry. It is further submitted that the witness was never under any doubt that he was being fired upon by the Army **AM24.17**, **AM24.12 paragraph 26**, **AM24.20 Day 176/87/1 to Day 176/87/12**..

iv) Even if the witness' account to the Sunday Times was to be accepted the weapons were removed from before the shooting started and therefore had no impact on the actions of the Soldiers in this area.

v) The witness is also clear that at no time on Bloody Sunday did he see any civilian gunmen or nail bombers in this area **AM24.13 paragraph 28**.

19.17.16 **Noel McCartney**

19.17.16.1 The portion of Mr McCartney's evidence appears in his 1972 statement to the Treasury Solicitor

"I went through Glenfada Park to Fahan Street looking for a first aid man. I then saw a civilian with a rifle who appeared at the opening to Rossville Street, who crossed inside Glenfada Park in the direction of Abbey Street. I found a first aid post at Blucher Street but they were assisting a 15 year old youth shot in the cheek..." **M55.9**

19.17.16.2 In his Evershed's statement the witness says

"I think that after reaching Blucher Street I then went to the Lisfannon Park area. It was at some point around this time that I saw a civilian wearing a three quarter length coat holding a rifle in an upright position. The light was not good by this point and other than being able to say that this person was male I an unable to offer any more detail as to his appearance." **M55.2 paragraph 7**.

19.17.16.3 When Mr McCartney gave oral evidence to this Tribunal he indicated that he saw the man on the way to Blucher Street as opposed to when he was returning **Day 157/94/12 to Day 157/94/14**. He confirmed that it would only have been "when you had in effect got to or virtually to Fahan Street that you saw this civilian" **Day 157/117/6 to Day 157/117/12**.

19.17.16.4 Given this evidence it is clear that even if Mr McCartney's evidence is correct this man had no impact on the actions of the soldiers on Bloody Sunday.

19.17.17 Charles McGill

19.17.17.1 A note from the Eversheds representative who conducted the interview with Mr McGill reads

"*Information given by witness on condition that it was NOT used in Statement*

Mr McGill said he did not see any firearms on civilians that day but after the shooting had finished he saw a man with a rifle in Glenfada Park. He was wearing a long khaki/brown coat and had a rifle underneath his coat, which you could see. It was a

swallow tail coat. Mr McGill spoke to him that day. The man asked him where he could get a firing point and Mr McGill told him to fuck off. After that the man disappeared. Mr McGill thinks that perhaps he came from one of the flats in Glenfada Park and that he was a member of the Official IRA.

19.17.17.2 Mr McGill also mentioned nail bombs. He said that he saw these long after the shooting was over. He saw three people, young men with long hair who were panicking wanting to get rid of nail bombs. They had a tray with about 10 nail bombs in it which looked like grenades, shiny and well made. He saw them at about the same time and in the same area as the man with the rifle. He thinks these men were Official IRA (Stickies)." **AM230.11**

19.17.17.3 In a supplemental statement to the Inquiry Mr McGill indicated that

i) He believed the man with the rifle was a member of the Official IRA because he knew that the Provisional IRA had said they would be nowhere near the march. He reached the same conclusion about the three boys for the same reasons **AM230.9 paragraph 6**;

ii) He believes he saw the gunman in Abbey Park **AM230.9 paragraph 7**;

iii) He saw him after the shooting had ended and he did not know where he had come from **AM230.9 paragraph 9**;

iv) He saw the boys with nailbombs at about the same time **AM230.10 paragraph 10**.

19.17.17.4 Giving evidence Mr McGill was clear that when he saw these people he had already seen the body of Gerry McKinney who he knew **Day 069/113/8 to Day 069/113/9**. He was also clear that he had not been in Glenfada Park that day **Day 069/1565/11 to Day 069/156/25** and that he had not seen any soldiers in the area of Abbey Park that day **Day 069/158/18 to Day 069/158/19**. That

being the case it is submitted that even if Mr McGill's evidence is correct these men had no impact on the actions of the soldiers on Bloody Sunday.

19.17.18 Eamon Melaugh

19.17.18.1 The portion of Mr Melaugh's evidence relied on appears in the Sunday Times notes bearing his name which are attached to his statement at **AM397.29**

"The only time that I heard low velocity weapons being fired was when I was attending to the lad in the house who was shot in the back and I distinctly heard two low velocity shots ring out and I would conjecture again that they came from a 45 revolver. You see if you have lived in Derry you have a certain expertise in the calibre of weapons. They seemed to come from the house directly on the other side of the street – that is Glenfadda Park. I know now from Officials that they did take some action. They did fire some shots. I can state with utter conviction that before the troops came into the area there were no shots fired at them and I can rake (sic) you to the area where I can show you that the snipers would have taken a deadly toll of the troops had they been in position." **AM397.29**

19.17.18.2 When he gave evidence Mr Melaugh stated

"...I never made that statement and I think it is sinister to put the best connotation on it. I never made that statement, because I never heard any low velocity shots. Had I heard them I would not have drawn attention to it in the manner that it appeared in that. I did not hear any – at any time during the day, so that is sheer fiction and I put a sinister connotation on it." **Day 143/64/21 to Day 143/65/3**

19.17.18.3 Mr Melaugh therefore denies that he heard any low velocity shots on Bloody Sunday. Even if it were the case that he had heard something it is clear that the "lad in the house who was shot in the back" was Patsy McDaid and that Mr Melaugh therefore was in a house in Joseph Place. Given his location and what he was engaged in there, including the taking of photographs and attending to the seriously wounded Patsy McDaid the following submissions can be made:

i) Mr Melaugh may not have been fully concentrating on what he heard;
ii) Given his location inside the house it is doubtful that he would have clearly heard and been able to distinguish the sounds of gunfire;
iii) It is further doubtful that he would have been in a position to pinpoint the location of the source of the gunfire;
iv) In addition the houses "directly on the other side of the street" from Joseph Place are, at most, those of Glenfada Park South (see for example **P324**).

19.17.18.4 For the above reasons we submit that this evidence cannot be relied on to establish the presence of a gunman in Glenfada Park.

19.17.19 David Mills

19.17.19.1 The document relies upon a letter to Colonel Tugwell from David Mills (of BBC's "24 hours") dated 20th April 1972.

"You may also be interested to know that it is almost certain there were a car load of Officials in Glenfadda (sic) Park as the paratroopers came in. In their haste to escape they drove their car into a wall and fled on foot taking their weapons. Minutes after three of them started shooting from some way back near "Free Derry" corner. The fourth circled around and was shot at by Soldier G or F." **B1333.057**

i) This evidence is at least double-hearsay evidence. According to the witness this information may have come from Peter Pringle however the PIN437 document or the Insight Article **L211** did not say that the car was driven into a wall or that three of the men allegedly in Glenfada Park North started shooting from some way back near Free Derry corner.

ii) The Official IRA witnesses do not speak of any incident like this occurring.

iii) The Anti-tank platoon soldiers do not refer to seeing a "car load" of IRA men in Glenfada Park who drove their car into a wall and then fled on foot taking their weapons.

iv) The witness confirmed in oral evidence that he did not investigate the allegation very closely "and it was really just a piece of gossip that I was passing on. The Army had never mentioned this to me and my impression was they did not actually know about it." **Day 235/24/4 to Day 235/24/10.**

v) The witness confirmed that he could not say that the information was right or wrong at this stage **Day 235/24/13 to Day 235/24/14**. He further confirmed that he did not get information to suggest that whilst in Glenfada Park before fleeing, that any of the Officials fired **Day 235/25/7 to Day 235/25/18**.

vi) Given the foregoing it is submitted that the Tribunal could not possibly rely on this as credible evidence of events in Glenfada Park North.

19.17.20 Thomas Mullarkey

19.17.20.1 The portions of Mr Mullarkey's evidence relied on are as follows:

19.17.20.2 From his 1972 statement

"We waited until things appeared to quieten down and came out again on Rossville Street between the two blocks of Glenfada Park. A few minutes quiet and another shot. Then I heard what sounded like a burst from a machine gun and said "There's a Thompson". "It's time we were out of here". **AM452.16**

19.17.20.3 From his statement to this Tribunal

"I no longer remember coming out onto Rossville Street between the two blocks of Glenfada Park and hearing a burst from a machine gun. I was very familiar with the sound of a Thompson sub machine gun from my childhood. I grew up in the 1950s in an area near the border between Northern Ireland and the Republic of Ireland and I regularly heard such noises."

19.17.20.4 When he gave oral evidence Mr Mullarkey confirmed that he could not remember this sound but that it would have been clear in his mind when he made the statement in 1972 **Day 069/37/16 to Day 069/38/1**. It should be noted, however that the 1972 statement says only that the burst of fire "sounded like" a burst from a machine gun. It is also possible that what Mr Mullarkey heard was the sound of a number of army SLRs being fired simultaneously, or very close together.

19.17.21 Observer B

19.17.21.1 The Tribunal is referred to our submissions on Observer B which appear at **section 12.5.6**

19.17.22 OIRA 1

19.17.22.1 The Lawton document relies on what is recorded in the "PIN437" document, taken by John Barry, also found at **AOIRA1.1 to AOIRA1.2**. The note records the Bogside section of the Officials was under OIRA1's control. The Bogside OIRA units's available arms were in the boot of a car, possibly a green avenger. The note goes on to describe how OIRA1 removed a .303 rifle from the boot of the car and fired the shot from Columbcille Court after hearing about the two boys being shot in William Street.

19.17.22.2. The note goes on to say that OIRA1 returned to Glenfada, put the rifle back in the boot of the car. After seeing either Michael Kelly fall or the Saracens approach he shouted at five or six Stickies to get the car out of Glenfada but they could not get it out in time. OIRA1 then said to abandon it and get the arms out of the boot. They removed a Sten, a carbine, two .303s and a .22 automatic.

19.17.22.3 The note continues:

"He toyed with the idea of trying to make a fight of it, but rejected the idea. "The men weren't in position". Shouted to everyone to retreat. All did, except for one – who ran up to what OIRA1 swears was the north-western corner of Glenfada, that is the corner towards Wm St and furthest from the flats. OIRA1 says he got up on a balcony – on the front of C. Court, he said the bloke told him later, - and got in a couple of shots with the .22 automatic…

19.17.22.4 The note continues that OIRA1 saw Kelly fall and then saw 3 people at the barricade who fell after a burst of machine gun fire.

"He says that there was then the buzz that troops were coming up to Glenfada. He ran for it across Glenfada, out the Abbey Park entrance. He says that there were 2 or 3 people in front of him, and he is convinced that he was the last person to make it. He says there were 5 or 6 behind him. Says the person first behind him was Wray, whom he claims to have known."

19.17.22.5 He saw soldiers at both northern entrances to Glenfada Park, one of whom was carrying a Sterling SMG and then heard a burst of fire as he entered the Abbey Park alleyway.

19.17.22.6 A number of points arise in respect of this evidence:

i) OIRA1 has denied that he had an interview with John Barry but did not deny that he had ever met him. He has accepted that a number of the facts in the document are true in the sense that they reflect reality although some others are untrue **Day 395/106/8 to Day 395/109/18**.

ii) For example he was not in charge of the Bogside Unit of the OIRA. He said in his evidence that there was only one weapon in the boot of the car and this remained there and was collected after the killings. He denied that he took part in the march or that the .303 was obtained from the boot of the car in Glenfada Park. He also said that the language in the document would not have been his and further confirmed that Michael Kelly was not a relative of his. **Day 395/109/16 to Day 395/119/22**.

iii) Even if it is accepted that OIRA1 did provide John Barry with all or some of this information, it would appear from the document that the OIRA men had left the area before the Anti-tank platoon had entered it and their presence therefore did not impact upon their actions there.

iv) OIRA1 was unarmed once he returned the .303 rifle to the boot of the car. He further confirmed that there were no armed IRA volunteers in Glenfada Park **Day 395/125/1 to Day 395/125/2.**

v) We know that the Anti-tank Platoon entered Glenfada Park North with SLRs and not with rifles.

vi) For these reasons and the reasons set out in our Section relating to Sector 3 civilian gunmen we say that the PIN437 document is not a reliable account of what occurred on Bloody Sunday.

19.17.23 **Praxis**

19.17.23.1 The Lawton document refers to the note found at **O17A.1**, which is a reconstructed conversation with two OIRA men on 14th June 1991. It says the following:

"Q. What about the car load of men seen driving into GP, getting out, shooting their weapons and driving off again?

"They weren't our people. Definitely not"

19.17.23.2 A number of points arise from this note:

i) This is an un-sourced and untested account.

ii) The allegation is contained in the interviewers' question as opposed to any answer from the two OIRA men.

iii) The allegation is denied by the two OIRA men.

iv) The allegation is completely uncorroborated by either civilian or military witnesses including those witnesses who were positioned on the walls or observation posts and would have been observing the Glenfada Park area.

19.17.24 Michael Quinn

19.17.24.1 The portion of Michael Quinn's evidence relied on appears in the Sunday Times notes bearing his name.

"NOTES: under guaranty (*sic*) of total anonymity, quinn told us the following:

1. there were two 'IRA cars' parked in glenfadda park. he knows they were IRA men, known in the district. two were in one, unknown in the other. he saw no guns.

2. while standing between the fences on the south side of glenfadda he saw two youths carrying nail bombs in their hands. one had long fair hair and was wearing a blue denim jacket; the other had very black hair, shortish, and was wearing a fawn jacket. the boms (*sic*) were cylindrical shape with a black fuse projecting from the top; they were about 6ins long he estimates. at no time did he see the bombs lit but he is adament (*sic*) that he saw them....

3. he says he heard from a close source that a senior Official IRA man arrived on the scene and told the nail bombers to take them away as there was too much danger to other civilians..."

19.17.24.2 In his Evershed's statement Mr Quinn says

"I do not know how long I was in Glenfada Park North but I remember after some time seeing two young fellows in the northeast corner...who were looking round the corner of the flats into Rossville Street. They were only young, about my age or a little bit older, and I did not know them. I was concerned in case they did anything. They were clearly nervous too, looking out and back again. I recall one of them having a denim jacket and dark hair and one with fair hair and a quilted anorak. The boy with the fair hair and quilted anorak had something which might have been a nail bomb in his left side pocket. I had not seen one before and I didn't know what it looked like but I remember something like a coke tin with grey tape and a piece of material coming out of the top. Coupled with the fact that they were peering out towards the army and seemed very nervous and were keeping a look out I was very frightened by what I saw. It was then that I saw a man coming from the northwest corner of Glenfada Park North...towards these two boys. I remember hearing him say words to the effect of "Put those away, you will only get people killed". My only recollection is of seeing what I took to be a nail bomb in a pocket but my memory of those words suggests to me that the boys may have had something in their hands which I saw but cannot now remember seeing." **AQ11.22 paragraph 19**

19.17.24.3 Giving evidence Mr Quinn said that while he was concerned that what he saw was a nail bomb he could not say for sure that it was Day **169/70/10 to Day 169/70/13**. He also agreed that whatever he saw may or may not have been a nail bomb, that the height of his evidence was that he had seen one of the boys who had something in his pocket that might have been a nail bomb, that he had never seen a nail bomb before and that the young boys had left Glenfada Park before the army came in **Day 169/123/11 to Day 169/124/22**.

19.17.24.4 Given the evidence he gave to this Tribunal it is submitted that what Michael Quinn saw was not a nail bomb. In any event he is clear that the boys he saw had left Glenfada Park were "long gone" by the time the army entered that area **Day 169/129/20 to Day 169/130/4**. They therefore had no impact on the actions of the soldiers.

19.17.25 Raymond Rogan

19.17.25.1 The following portion of Mr Rogan's evidence to Lord Widgery is relied on

"Q. Can you tell my Lord this: is it not right that frequently rifle fire or IRA fire comes from Glenfada Park flats?
A. That I could not say with a great deal of certainty who actually does the firing.
Q. But firing does come from that area against the troops, does it not?
A. It is common knowledge." **AR24.31C-D**

19.17.25.2 When Mr Rogan gave oral evidence to this Tribunal he was shown this portion of his evidence and the following exchange took place

"I understand you there to have been saying that prior to Bloody Sunday it was common knowledge that fire directed against the troops came on occasion from the Glenfada Park flats; is that what you were accepting?
A. That is correct, yes." **Day 184/7/25 to Day 184/8/4**

19.17.25.2 Mr Rogan gave no evidence either in 1972 or to this Tribunal that indicated that there was any firing at the army on Bloody Sunday. It is therefore clear that Mr Rogan's evidence does not provide any support for an assertion that there was a civilian gunman present in Glenfada Park on Bloody Sunday.

19.17.26 **Simon Winchester**

19.17.26.1 The following portion of Mr Winchester's evidence is relied on

"...I was able to hear high velocity fire and I also heard what sounded like machine gun fire returning the army's fire. I am not now sure whether I heard this sub-machine gun when I was sheltering in a stairwell or when I had reached the south eastern end of Block 2 where it joins Block 3 but I am familiar with the sound of a SLR being fired and I was also aware of a helicopter flying overhead. I am obviously familiar with the sound of a helicopter's rotars turning and I am pretty sure that what I heard was neither a helicopter nor an SLR but the sound of a belt-fed machine gun. I also knew that the IRA had these weapons in their arsenal. It sounded to me as if this firing was coming from an elevated position in the Glenfada Park area or somewhere behind me in that direction." **M83.4 paragraph 24**.

19.17.26.2 In both his written and his oral evidence to Lord Widgery Mr Winchester only mentions sub machine gun fire on one occasion and indicates that it came from Rossville Flats **M83.19 paragraph 22**, **M83.27E**. His evidence is in these terms "I also thought I heard a sub-machine gun firing." **M83.19 paragraph 22**.

19.17.26.3 Mr Wichester's article which appeared in the Guardian on 31st January 1972 and appears at **M83.44 to M83.45** states

"There was certainly some firing from the IRA. I heard one submachine gun open up from inside the flats..." **M83.45**

19.17.26.4 When Mr Winchester gave evidence to this Tribunal the following exchange took place

"How confident are you that what you heard was the noise of a machine gun?

A. Well, it is difficult to be absolutely precise. I was well aware, I think even at the time, that it might have been a helicopter. There certainly was one, if not two helicopters in the air at the time. I remember thinking, noting in fact that the sound I had heard sounded rather more like a machine-gun, of a type that I knew that the Provos had at the time, than a helicopter. So it seemed vaguely consistent, but I could not swear to it." **Day 116/52/12 to Day 116/52/22**

19.17.26.5 Given the above it is submitted that either

i) The sound heard by Mr Winchester was not the sound of a machine gun. He cannot now be certain that it was or

ii) In any event he is not clear about the source of the firing and given the differing accounts he gives the firing certainly cannot be located in Glenfada Park.

19.17.27 **Witness X**

19.17.27.1 The Tribunal is referred to our submissions on Witness X which appear at section 3.1.

19.17.28 Conclusions

19.17.28.1 In light of the foregoing examination of the relevant evidence the following submissions are made

i) Such evidence as has been identified does not establish to the requisite standard that civilian gunmen/bombers were operating in sector 4 on Bloody Sunday or

ii) The evidence that has been presented indicates that any such individuals who were present and in possession of weapons

a) Were not seen by the soldiers who entered Glenfada Park and Abbey Park;

b) Did not, on the soldiers' evidence, provide the justification for them opening fire and;

c) Had no impact on the actions of soldiers on that day.

19.18 "Missing Casualties"

19.18.1 Introduction

19.18.1.1 This section addresses those identified as located in Glenfada Park and Abbey Park on

i) the list of so-called "missing casualties" provided to the Inquiry by the Lawton team. The list appears at **OS7.35** and;

ii) the list entitled "Examples (non-exhaustive) of unknown civilian casualties" provided to the Inquiry by the Aitken team. This document appears at **OS8.42**.

19.18.2 The Lawton Document

19.18.2.1 Number 1 Kevin Barrett

North of FDC. Boy of 14-15, slim build, in about thigh length brown coat, with dark hair being carried from direction of Rubble Barricade or RF in direction of FDC. Possibly still alive while being carried.

19.18.2.2 This witness claims that, whilst in the area of Free Derry Corner as the shooting died down, he saw a boy of fourteen to fifteen, who was of slim build, had dark hair and was wearing a thigh length brown coat, being carried from the direction of the Rubble Barricade or the Rossville Flats. **AB 26.4 paragraphs 27 to 30**. The witness accepts, however, that it is possible that this person came from the direction of Lisfannon Park. **Day 170/52/18 to Day 170/52/21**. In the latter event, it is probable, if the person to whom he refers was indeed injured, that this is a reference to Joe Friel who, wearing a parka type jacket, had been taken from Glenfada, where he was shot, to [redacted] and, from there, to a civilian car. A lesser possibility is Michael Quinn who, although

also helped to Fahan Street and around the same age as the person supposed to have been seen by Mr Barrett, had a very obvious wound on his face.

19.18.2.3 It must be noted that this witness did not make a statement in 1972. He cannot remember precisely the location from which the 'wounded' person came, whether anyone with the person said that he had been shot or whether he saw any blood or bandages, **Day 170/52/4 to Day 170/53/21**. Mr Barrett's assertion in his statement, at **AB26.4 to AB26.5 paragraph 27**, that the boy was died on route to Letterkenny Hospital is invalidated by:

(a) His oral evidence when he accepts that he connected general talk around about someone dying on route to hospital, he does not repeat Letterkenny therefore this is most likely a confused reference to Gerard Donaghey. **Day 170/53/24 to Day 170/54/9**

(b) His unfounded connection of the person he saw with the rumour about someone dying on the way to hospital.

19.18.2.4 Finally, it is Mr Barrett's memory that just before he saw this boy, when an ambulance arrived in Rossville Street, he could not see any soldiers. "It seemed as though they went away as quickly as they had come in." **AB26.4 paragraph 26**. The Tribunal is aware, based on the majority of the evidence, that this was not the case. It is our view that this witness provides insufficient detail to allow the Tribunal to consider the person he describes as a missing casualty. If, however, the Tribunal decides that the person that this witness describes in paragraphs 27 to 29 of his statement was wounded, the probability is that the witness has seen an identified casualty, most likely Joe Friel or Michael Quinn, but has become confused, in terms of location, timing and description, due to the passage of time.

19.18.3 **Number 2 Paul Coyle**

19.18.3.1 ***Alleyway between GPS and Abbey Park? Man with dark hole in centre of his chest being supported by two others. Tall, in his 20s. Long hair. Plain khaki top. Walking in northerly direction.***

19.18.3.2 When asked about this man when he was giving evidence Mr Coyle was not entirely clear about where he had seen him. He indicated that

i) he had seen him just the other side of the exit from Glenfada Park North within the area between the two western blocks of Glenfada Park North and South **Day 152/79/22 to Day 152/80/21**;

ii) in relation to the direction in which the man was walking, when Mr Coyle was coming out of the alleyway into Abbey Park the man was coming towards him **Day 152/80/23 to Day 152/82/3**;

19.18.3.3 When shown **P572**, a picture of Joe Friel Mr Coyle said he "would not have a clue" whether that was the man he saw or not **Day 152/83/23**.

19.18.3.4 The Tribunal knows that

i) Joe Friel was shot in the area of the south western alleyway which links Glenfada Park North and Abbey Park;

ii) With some assistance he exited Glenfada Park North into Abbey Park;

iii) He was shot in the chest;

iv) He was in his twenties;

v) He had long hair;

vi) He was wearing a parka, green with a hood, a light blue shirt and light grey trousers **Day 155/146/14 to Day 155/146/23**

19.18.3.5 In these circumstances it is submitted that the person seen by Mr Coyle may have been Joe Friel.

19.18.4 Number 3 Paul Coyle

Alleyway between GPS and Abbey Park? Young man holding something to his face, which was red with blood. Walking in a northerly direction.

19.18.4.1 As above Mr Coyle was "not 100 per cent sure" where he had seen this man **Day 152/82/24 to Day 152/82/25** although he thought it was somewhere in the area of the alleyway that runs between the Abbey Park houses and the western side of the western block of Glenfada Park south **Day 152/83/5 to Day 152/83/18**.

19.18.4.2 Again when shown a photograph (this time of Michael Quinn **P779**) and asked if that could be the man he saw Mr Coyle said "the second man I saw was walking with his hand up to his face, he had a handkerchief or something to his face which was soaked in blood; I could not tell you" **Day 152/83/24 to Day 152/84/5**

19.18.4.3 The Tribunal knows that

i) Michael Quinn was shot in the face;
ii) He was shot in the area of the south-west corner of Glenfada Park North;
iii) He exited Glenfada Park North via the alleyway into Abbey Park.

19.18.4.4 In these circumstances it is submitted that the person seen by Mr Coyle may have been Michael Quinn.

19.18.5 Number 5 John Gormley

GPS. Man lying on his stomach on the ground, not moving. Body moved by witness towards a house.

19.18.5.1 This witness did not give oral evidence and therefore the parties did not have an opportunity to test his evidence on this point. The following points can be made however about his written evidence

i) The witness does not mention this incident in the statement he made in 1972 **AG46.15 to AG46.16**

ii) He makes no mention of being in Glenfada Park South in his 1972 account;

iii) The only reference to carrying a body in his 1972 account relates to a time before he went to Glenfada Park;

iv) He does mention being with Fr McLaughlin in his 1972 account but not in connection with carrying a body;

v) Father McLaughlin's 1972 account indicates that he was in Shiels' house in Columbcille Court at the same time as Mr Gormley **H13.1**. This is confirmed in his account to this Tribunal at **H13.5 paragraph 14**

19.18.5.2 Given the above it is submitted that Mr Gormley is mistaken when he describes being in a house in Glenfada Park South at the same time as Fr McLaughlin and when he says he saw and attended to a body in Glenfada Park South.

19.18.6 Number 7 Patrick Kelly

GPN. Man lying close to pavement on his side

19.18.6.1 When Mr Kelly gave evidence on Day 158 he was asked about this boy. He said

i) "..I did not see the wound, I did not see any wound or any blood. It is possible he might have been hit with a rubber bullet, you know, it is possible. I did not see any blood" **Day 158/99/5 to Day 158/99/17**;

ii) "When I seen him limping, getting carried about, I took it, but I did not actually see any wound or any blood at the time. I cannot remember seeing that, but I took it when he was getting help like that he probably was shot." **Day 158/100/9 to Day 158/100/14**

19.18.6.2 Given his evidence on this point and the lack of corroboration of this evidence it is submitted that the man seen by Mr Kelly may not have been shot at all.

19.18.7 Numbers 8 & 9 Michael Love

GPN or South of CC. 16-18 year old boy, who was shot

GPN or South of CC. Man with grey hair, shot in the hip.

19.18.7.1 The following points can be made about this "missing casualty"

i) Mr Love's statement to this Tribunal is his first relating to the events of Bloody Sunday.

ii) Mr Love did not give oral evidence to the Tribunal and therefore his evidence on this point has not been tested by the parties.

iii) In his statement Mr Love has said that John Hume was encouraging people to come along to the march **AL21.6 paragraph 2**. As the Tribunal knows, Mr Hume gave evidence to the effect that

iv) Mr Love is not clear about the location of the two people mentioned at **AL21.8 paragraph 15**.

v) The Tribunal knows that Gerry McKinney and Gerard Donaghy were shot in Abbey Park. According to his map which appears at **AL12.5** the point at which the Tribunal knows Gerry McKinney and Gerard Donaghy fell would have been in the witness' line of sight as he ran from Glenfada Park through to Frederick Street.

vi) The witness' description of an older and a younger man fits with the description of Mr Donaghy and Mr McKinney.

vii) The witness claims to have seen Barney McGuigan shot at a location south of the rubble barricade **AL21.7 paragraph 12** when the Tribunal knows he fell to the south of Block 2 of the Rossville Flats.

viii) The witness claims to have been in the vicinity of the south gable end of the eastern block of Glenfada Park when he saw Mr McGuigan fall **AL21.7 paragraphs 10 to 11**. The Tribunal knows that at the time Mr McGuigan fell there were soldiers in Glenfada Park North and it is submitted that the witness could not have failed to

(a) see the soldiers;
(b) hear shooting in Glenfada Park and;
(c) see other bodies lying in Glenfada Park.

ix) Mr Love does not claim to have

(d) heard shots;
(e) seen soldiers at the time when he saw these two men and;
(f) seen that the boy he saw was shot.

x) Finally

(g) No other witness claims to have seen people shot here;
(h) The Tribunal has no other evidence that anyone was shot at this location;
(i) On Mr Love's account the individuals he claims to have seen fall were not engaged in any activity that would have justified their shooting and;
(j) No soldier claims to have shot or shot at anyone at that location.

xi) Given the above considerations it is submitted that either Mr Love is mistaken about where or when he saw these men or the men seen by Mr Love may not have been shot at all.

19.18.8 Number 11 Derek McFeely

GPN. Man face down on ground in quite long tweed effect black/charcoal overcoat. Quite short hair. Stocky. Mid-40s. Head facing GPS, feet towards GPN. Part of right side on kerb, left side and lower part of body lying on surface of car park.

19.18.8.1 When Mr McFeely gave evidence before the Tribunal he was shown the photograph **P439**. The following exchange took place between himself and Arthur Harvey QC

"Q. ...You have indicated to Mr Clarke that there is something familiar about – is there something which rings a bell in your mind about the body which can be seen in the centre of the photograph closest to the Mini?
A. Yes, as I stated, that is – it is basically the position of the body that I had witnessed in Glenfada Park on entering it." **Day 061/99/4 to Day 061/99/10**."

19.18.8.2 While Mr McFeely acknowledged that he would be speculating if he said that the body he saw was that of Willie McKinney **Day 061/100/23 to Day 061/101/2**, he agreed that

i) The body of the man he saw was in the same position as the body in **P439** that the Tribunal knows is Willie McKinney and;

ii) He had the impression that the man he saw was an older man, perhaps someone in his mid-40s. He agreed that although Willie McKinney was in his mid-twenties he looked older **Day 061/100/9 to Day 061/100/22**.

19.18.8.3 In these circumstances it is submitted that the body seen by Mr McFeely may have been that of Willie McKinney.

19.18.9 Numbers 13 & 14 Thomas McGlinchey

Northwest of GPN. Man in mid-30s with frizzy curly blonde hair, probably in a sports coat.

Northwest of GPN. Man's body lying on the ground.

19.18.9.1 When he gave evidence before the Tribunal Mr McGlinchey was shown **P694**, **P697** and **P690.1**. These photographs show Gerry McKinney where he fell on the steps in Abbey Park. When shown these photographs Mr McGlinchey was asked

"Q. Gerard Donaghy was shot in the abdomen on that day. Is it possible that the man that you saw fall at point E was Gerard McKinney

A. That is very possible, yes." **Day 389/56/22 to Day 389/56/25**.

19.18.9.2 In these circumstances it is submitted that the people that Mr McGlinchey saw may have been Gerard McKinney and Gerard Donaghy.

19.18.20 Number 20 Denis McLaughlin

GPN. Shot male

19.18.20.1 In his statement to this Tribunal Mr McLaughlin says he saw a group run out from the south gable end of the eastern block of Glenfada Park North and that he saw one of them fall **AM326.6 paragraph 23**.

19.18.20.2 When he gave oral evidence before the Tribunal Mr McLaughlin accepted that at the time he saw this man fall in Glenfada Park he was hysterical and traumatised **Day 159/57/7 to Day 159/57/14**.

19.18.20.3 He also indicated that what he remembered of the incident was

"The group running and I can remember the soldier firing and I can remember, whether one, two or three fell, I know one fell, so I cannot actually say how many" **Day 159/52/20 to Day 159/52/24**.

19.18.20.4 In addition, the statement made by Mr McLaughlin in 1972 says

"It was here that I saw four persons running away. These were part of our group farthest away from Rossville St. and so they would have seen the soldiers first. They got up and ran across the courtyard at right angles to the soldiers. A soldier shouted "Stop or we'll shoot." One Patrick McGinley, came back but the others were cut down as they ran from the soldiers." **AM326.21**.

19.18.20.5 The Tribunal knows that Patrick McGinley was one of the group of people that included Willie McKinney, Joe Mahon and Jim Wray and who attempted to make their escape from Glenfada Park North by running from east to west along the southern end of the car park. This can be seen, for example, in Myles O'Hagan's evidence at **AO43.3 paragraph 17**.

19.18.20.6 In light of this evidence it is submitted that Mr McLaughlin saw the three people who were shot and fell along the southern end of Glenfada Park North, as noted in the statement he made in 1972. His current recollection of only seeing one person fall is incomplete.

19.18.21 **Numbers 24 & 25 Sean O'Neil**

To the North of GPS. Man, possibly lying dead. FS 1. 2510

To the North of GPS. Boy sitting wounded.

19.18.21.1 Mr O'Neil did not give oral evidence to this Tribunal on medical grounds. The account he gives in his statement has therefore not been tested by any of the parties.

19.18.21.2 The "Lawton list" notes that Mr O'Neil has located the persons alleged to be "missing casualties" to the north of Glenfada Park South. In fact it is clear from Mr O'Neil's statement at **AO65.12 paragraph 57** that both of those listed were located along the southern side of Glenfada Park North.

19.18.21.3 Also at **AO65.21 paragraph 57** Mr O'Neil indicates that he remembers, at some point during the day, diving behind a fence on the south side of the Glenfada Park car park. While there he saw a soldier shooting from a north easterly direction and a man in his thirties was hit just in front of him on the other side of the fence. Mr O'Neil says that this was "possibly William McKinney" **AO65.21 paragraph 57**. He then says that he saw another man who was "possibly lying dead to the east of the first body". Mr O'Neil has located this body at grid reference H15 on **Q8**.

19.18.21.4 This location appears to be very close to where the person he identifies as Willie McKinney fell. The Tribunal knows from, *inter alia*, **P439** that three people fell in a line on or beside the pavement that runs along the south end of Glenfada Park North. Mr O'Neil has indicated in his statement that he knew Jim Wray and saw him fall **AO65.11 paragraph 53 to 56**. It may then be that the body seen by Mr O'Neil in close proximity to the person he identified as Willie McKinney was that of Joe Mahon. Alternatively the body he thought was Willie McKinney may have been that of Joe Mahon. The Tribunal knows from Mr Mahon's evidence that the man seen lying against the fence in **P439** is that of Joe Mahon.

19.18.21.5 In light of the above considerations it is submitted that this body was not a "missing casualty" and may have been one of the three men who fell along the southern side of Glenfada Park.

19.18.21.6 Mr O'Neil then describes seeing a "boy sitting wounded further east still at grid reference H15 although I am not sure who this was either" **AO65.12 paragraph 58**. Mr O'Neil does not describe how he knew this boy had been wounded, whether he could see a wound or bloody and what the nature of the wound was. It is therefore submitted that this person may not have been wounded at all and if he was he may not have been shot.

19.18.21.7 It can also be seen that Mr O'Neil's evidence is somewhat confused in that he refers to seeing Gerry McKinney lying wounded in Glenfada Park. The Tribunal knows that Mr McKinney fell in Abbey Park.

19.18.21.8 For the above reasons it is submitted that the individuals seen by Mr O'Neil were not "missing casualties".

19.18.22 Number 26 John Porter

"Slipway" in Southwest corner of GPN. Young man in group emerging from slipway in blue suit. Right eye covered in blood.

19.18.22.1 Mr Porter gave evidence at the Widgery Tribunal. He has since died and therefore this Tribunal has not received either written or oral evidence from him.

19.18.22.1 It is clear from the transcript of Mr Porter's evidence to Lord Widgery that when he refers to the "slipway" in the southwest corner of Glenfada Park North he means the alleyway in that area **AP11.5D**.

19.18.22.2 The actual description given of the person he saw is this "The young man in the front to the right wore a blue suit and I noticed his whole

right eye was all covered in blood and I got the impression that the side of his head had been shot off." **AP11.5D.**

19.18.22.3 In the statement he prepared for the purposes of the Widgery Tribunal Mr Porter also indicated that this boy had "long dark hair" **AP11.16**.

19.18.22.4 In the first statement he made in 1972 he said "The first thing I saw was about 4 or 5 people coming through one of the little gateways between the flats. A man at the front wearing a light blue suit and his right eye was shot off. In my opinion he kept running." **AP11.19**.

19.18.22.5 Given the injury that the man had sustained to his face and the location in which he was seen by Mr Porter it is submitted that this is not a "missing casualty" but rather that the person the witness saw may have been Michael Quinn.

19.18.23. Numbers 27 & 28 John Quigg

Middle of GPN. Man in his 40s lying on his back with head facing southwards.

Middle Of GPN. Severely injured man lying on his front.

19.18.23.1 Giving evidence Mr Quigg acknowledged that a lot of events have faded in his mind, and that at the time he was not familiar with the Glenfada Park area, he lived on the Waterside **Day 53/104/18 to Day 53/105/25**. Indeed his 1972 statement records that he was in the "Glenfada Park area" when he saw these individuals.

19.18.23.2 Mr Quigg was with Charlie Meehan on the day. Mr Meehan, who is now dead, made a statement in 1972 in which he described the shooting of Gerry McKinney, whom he knew personally **AM390.2**. Attached to this statement is a marked map which looks like the sort that was used by the Sunday Times journalists upon which it is

indicated that he had seen "one body, maybe two" in Abbey Park, not Glenfada Park **AM390.3**. Although this map also indicates that Gerard McKinney fell in the south west corner of Glenfada Park and William McKinney in Abbey Park the Tribunal knows that in fact the opposite is the case.

19.18.23.3 When he gave evidence Mr Quigg acknowledged that Mr Meehan knew the Bogside area better than he did **Day 53/106/15 to Day 53/106/17**. It also appears from his answers that he accepted that the bodies he described seeing could be those of Gerry McKinney and Gerard Donaghy **Day 53/111/3 to Day 53/114/2**.

19.18.23.4 It is therefore submitted that the bodies Mr Quigg saw may have been those of Gerry McKinney and Gerard Donaghy.

19.18.24 **Number 29 Michael Quinn**

Alleyway from GP car park to Abbey Park. Young man (19-20) shot in the leg whilst facing GP garages, fell to ground.

19.18.24.1 Michael Quinn has given a number of accounts about the man he says he saw shot in the leg. He spoke to Sunday Times journalists Philip Jacobson and Peter Pringle. Their note, dated 1st March 1972, records

"The next thing I recall is seeing a young man shot in the leg on the footpath near the passway to abbey park. My impression is that the shot came from the north east corner of glenfadda and when I looked back to the man – I had seen the bullet wound in his leg – he had gone (he saw him again later).." **AQ11.55**

19.18.24.2. The note then describes how Mr Quinn was shot and then records "I staggered through the passage way into abbey park and remember seeing the man shot in the leg lying near the back of the glenfadda block." **AQ11.55**

19.18.24.3 The draft article based on these notes says

"He had seen a young man shot in the right thigh. The man was wearing a black anorak and he had brown hair. Quinn saw him lying on the ground clutching his right leg and there was a dark stain on his trousers. He could not have been badly hurt as he had gone the next time quinn looked at him." **AQ11.57**

19.18.24.4 It later says that after Michael Quinn had been shot "he remembers seeing the same man who had been shot in the leg lying in the corner on the abbey park side of the alley way." **AQ11.57**

19.18.24.5 In his statement to the Treasury Solicitor Michael Quinn states

I saw a man who appeared to be nineteen of twenty years of age who was shot in the right leg at the entrance to the small alleyway that leads from the car park into Abbey Park (not Joseph Friel). I am quite sure that this man had nothing in his hands when I saw him." **AQ11.60**

19.18.24.6 Again, after Mr Quinn describes how he himself was shot, he says "I stumbled but got up again and ran on through the alleyway. As I was passing through I noticed the man whom I had seen being shot earlier, lying in the shadows of a nook in the alleyway." **AQ11.61**

19.18.24.7 Giving evidence to Lord Widgery Michael Quinn said that the boy was "standing just in front of the alleyway which leads into Abbey Park" **AQ11.70G**. He was then asked if he had seen any soldiers around when he saw this boy shot and he replied "No, I knew where they were, but there were none inside the car park at that time." **AQ11.71B**. He later confirmed "I didn't see any at the time" **AQ11.71C**. Again he confirmed that he had seen the boy in the alleyway as he exited from Glenfada Park. For the first time

however, he indicated that he had heard shots in Glenfada Park as the boy was shot although he couldn't be certain how many **AQ11.73F**.

19.18.24.8 In each of these accounts therefore Mr Quinn locates the man at or near the entrance to the alleyway that leads into Abbey Park.

19.18.24.9 In his statement to this Tribunal he says

"...I noticed a young fellow facing me, looking in my direction. My best recollection now is that he was standing at point J which I have marked on the map at grid reference H13 and I was standing at about point K grid reference I14 the other side of Glenfada Park North. I have also marked on the attached photograph MQ2 the points J and K. He was not doing anything and he certainly had nothing in his hands. Suddenly I heard him scream and saw him collapse to the ground. I did not hear the shot that hit him, he just went down. He was tall, thin, aged about 18 or 19. I saw the hole in his leg with blood coming out of it and it was clear to me he had been shot. I recall that he was wearing a grey jacket and grey trousers and the blood was a dark patch which appeared in the trousers covering the top of the right thigh. I looked round at the northeast corner of Glenfada Park North where I had seen the two boys earlier because I assumed that that was where they shot had come from. I could see no soldiers there. When I looked back towards the boy he had gone." **AQ11.22 paragraph 20**

19.18.24.10 Mr Quinn describes seeing the boy again after he had been shot

"I believe it was then, as I exited Glenfada Park North that I caught sight once again of the man I had seen shot in the leg in Glenfada Park North. Having looked at the map I believe that

this was in the Glenfada Park North area and my best estimate is that it was at point M, grid reference H14....Again I did not stop because I was so keen to get away, but our eyes met. I saw this man propped up on one arm. No-one was with him and I don't know who he is. He had not been doing anything sinister and as far as I know he was not among the listed wounded." **AQ11.24 paragraph 26**

19.18.24.11 Giving oral evidence to this Tribunal Mr Quinn indicated that when he saw what he was sure was blood on this boy it appeared "high up on the thigh" **Day 169/74/20**. Mr Quinn agreed that his "description of the wound makes it rather difficult to suppose that he was capable of getting to where you saw him subsequently under his own steam" **Day 169/79/17 to Day 169/79/19**. He now has no recollection of hearing the shot that hit the boy.

19.18.24.12 Giving oral evidence Mr Quinn accepted that the location where he currently places the boy could be wrong **Day 169/106/22 to Day 169/107/2**.

19.18.25.13 Michael Quinn has therefore a number of accounts which indicate that he believes he saw a boy wounded in the leg in Glenfada Park. The following points can be made about his evidence on this issue

i) His evidence as to whether he heard a shot when he saw the boy fall varies;

ii) At the time he saw the boy fall he did not see any soldiers, despite looking towards the north eastern corner of Glenfada Park;

iii) No soldier says he shot a man in the leg in that area;

iv) In any event Quinn does not say the man was acting in a manner that could be considered to be hostile towards soldiers, he is clear the man had nothing in his hands when he was shot;

v) No other witness saw this boy shot;

vi) As to his second sighting of this boy, Mr Quinn's evidence is that that occurred after he had himself been shot;

vii) No other witness saw a man lying in the alleyway in the manner suggested by Mr Quinn.

19.18.25.14 It is inconceivable that the details of this incident where a civilian who was unarmed and was not acting in a threatening manner to the soldiers and was shot and wounded in the leg would not have emerged at the time or over the last 30 years.

19.18.25.15 Michael Quinn stands alone as a witness to this event. His account is not corroborated by a single other witness either in Glenfada Park North or in Abbey Park.

19.18.25.16 It is also worth observing that nowhere in the intelligence material available to the Tribunal is there any mention of a so-called "missing casualty" in either Glenfada Park or Abbey Park.

19.18.25.17 We therefore submit that Mr Quinn is mistaken when he says he saw a man shot in the leg. Alternatively this boy is not a "missing casualty" in the sense that is intended by the Lawton team because he was not a threat to soldiers (or anyone else) when he was injured.

19.18.26 The Aitken document

19.18.26.1 The only example of an "unknown civilian casualty" listed for Glenfada Park North on this document is a man wounded in the leg. The document states

"The Tribunal ***knows*** that an unidentified man was wounded in his leg in Glenfada Park." **OS8.42** (emphasis added)

19.18.26.2 The evidence cited in support of this assertion is that of

i) Michael Quinn AQ11 and Day 169

ii) Hugh Duffy AD156 and Day 150

iii) Patrick Kelly AK21 and Day 158

19.18.26.3 The evidence of Patrick Kelly and Michael Quinn has been examined in some detail above. The evidence of Hugh Duffy is examined below. It is submitted that to assert as a matter of fact that "***The Tribunal knows***" that an unidentified man was wounded in the leg in Glenfada Park is misconceived and is not borne out by the evidence.

19.18.26.4 The extent of Hugh Duffy's evidence about the so-called "unknown casualty" is as follows

> "I have a ***vague recollection*** of somebody being taken into one of the houses near where Mr McKinney was lying. I think there were also a couple of other bodies in the area close to Mr McKinney, although I do not remember anything about them. I also remember that around this time I either saw, or somehow became aware of a man who had been shot in the leg. He may have been one of the other bodies I saw close to Mr McKinney or the person I saw taken into one of the houses near Mr McKinney's body." **AD156.4 paragraph 22** (emphasis added).

19.18.26.5 Giving oral evidence Mr Duffy stated "I had not seen the chap was shot in the leg, I did not see his injury, no..." **Day 150/96/4 to Day 150/96/5**. In addition, he accepted that the person he saw injured in the leg could have been Joe Mahon who was shot at the top of the right thigh and who was carried past the area in which Gerry McKinney's body lay **Day 150/96/3 Day 150/97/3**. Mr Duffy was not questioned on this issue at all by counsel instructed by either the Lawton or Aitken teams.

19.18.26.6 It should also be noted that in a statement dated 30th January 1972 Mr Duffy did not mention seeing anybody who had been shot in the leg in the area of Glenfada Park. In fact, the only person he may have seen shot in the leg was at the rubble barricade. That statement records

> "Two lads, we couldn't get out to them, were lying at the barricade. They were shot. One of the young lads was scraping away at his leg. First of all, I thought it was the leg he was shot in but I seen the blood coming out of his side." **AD156.9**

19.18.26.7 Mr Duffy's evidence does not in any way lend support to the any allegation of a man wounded in the leg in Glenfada Park or an "unknown casualty". The Tribunal could certainly not say that it "knew" a man had been wounded in the leg in Glenfada Park on the basis of Mr Duffy's evidence.

19.18.27 Conclusions

19.18.27.1 It is therefore submitted that the material relied upon does not provide evidence of "missing casualties" as defined by those representing the soldiers.

19.19.1.1.Specific Allegation Against Joe Friel

19.19.1.1.1. Introduction and summary of submissions

19.19.1.1.2. We submit that the specific allegation made by Soldier 104 against Joseph Friel is a fabrication. It cannot be maintained and, on Mr Friel's behalf, we invite the Tribunal to so find in express terms for the following reasons:

Soldier 104 is the only person to have made any allegation against Mr Friel. Mr Friel himself makes the allegation on the basis of an alleged admission to the soldier. Mr Friel has consistently denied that he was in possession of any sort of weapon on Bloody Sunday and further, has always denied that he made such an admission;

i) Soldier 104 now has no recollection of the alleged conversation he had with Joseph Friel and has not made himself available to give oral evidence to this Tribunal;

ii) The incident described by 104 bears no resemblance to Mr Friel's account of how he was shot;

iii) Neither does it accord with the evidence of eyewitnesses to Mr Friel's shooting, the evidence of the soldiers who admit to having fired in Glenfada Park, or any soldiers who admit to having fired on that day;

iv) None of the eyewitnesses to Mr Friel's shooting or those who saw him in its immediate aftermath describes Mr Friel carrying a gun or having one in his possession;

v) Soldier 104 was the only person to hear the alleged admission. He admits that he told no one except his Platoon Commander, this is despite the fact that almost immediately after he alleges it was made he was close to army colleagues. In addition, an RUC officer, Constable Malone, accompanied him to the Bridge Location with Mr Friel;

vi) Soldier 145, 104's Platoon Commander, has made two statements. He makes no mention of 104 telling him of the alleged admission in either statement. This is despite the fact that in the second statement he recalls

that 104 spoke to him about Gerard Donaghey on his return from the Bridge Location;

vii) Soldier 104's evidence was not considered sufficiently reliable to ground a criminal charge against Mr Friel or to mount a defence to his civil action against the Ministry of Defence;

viii) Mr Friel was never cautioned or charged for any offence arising out of the events of Bloody Sunday. He was not placed under arrest. His clothes were not removed for forensic analysis;

ix) Mr Friel was not aware of the allegation until it was put to him under cross-examination at the Widgery Tribunal. At that point it came as a complete shock to him. It would also appear that his legal representatives had no advance knowledge of the alleged admission;

x) Mr Friel had a clear criminal record and at the time and until 1992 worked as a tax inspector for the Inland Revenue, a position that required security clearance;

xi) The allegation is not repeated in any of the intelligence material in the Tribunal's possession.

19.19.1.2. The Allegation

19.19.1.2.1. Soldier 104 made a specific allegation in 1972 that Joe Friel admitted to him that he had been carrying a firearm at the time he was shot on Bloody Sunday. Soldier 104 was a member of the First Battalion the Royal Anglian Regiment and, at the relevant time, was on duty with other members of his platoon at Barrier 20 in Barrack Street **B1705.001 paragraph 5**.

19.19.1.2.2. Mr Friel was shot in Glenfada Park North and taken, via Abbey Park, to the Murray house at [redacted] where he was treated by Eibhlin Lafferty of the Knights of Malta **AF34.3 paragraphs 17 to 18**. He was then placed in a car and driven towards Altnagelvin Hospital by CIV 1, accompanied by Manus Morrison and Eugene O'Donnell. **AF34.3 paragraph 21**.

19.19.1.2.3. The car, and that carrying Gerard Donaghey which was just behind, was stopped at the check point on Barrack Street **AF34.3 paragraph 22** at which point CIV 1 and Mr O'Donnell were arrested and Mr Morrison ran away.

19.19.1.2.4. Soldier 104 then got into the car and drove it onwards a short distance with Mr Friel still inside. He was then joined by a police officer, Constable Malone, and they drove to the bridge location from where Mr Friel was brought to hospital **JM5.9**, **Day 219/119/9 to Day 219/120/6**

19.19.1.2.5. The substance of 104's allegation is contained in his RMP statement **B1680 to B1682**, his statement to the Treasury solicitor **B1690 to B1691** and in his evidence to the Widgery Tribunal.. He has also made a statement to this Inquiry **B1705.001 to B1705.006**. He states, in the first of these:

> "When the youth, who appeared to be quite lucid, asked me to take him to hospital, I asked him what he had been up to. He said that he had been shot, and I told him that I could see that and that he shouldn't have been playing with guns. I asked how he had been shot and he said that he had a gun and was carrying it when he walked around a corner and bumped into some soldiers, one of who shot him. He did not say where the incident had occurred nor did he say what sort of gun he had been carrying, but he did say that he had never done that sort of thing before and that he would never do it again. I asked him what had happened to his gun, and he said that he did not know." **B1681**

19.19.1.2.6. In his second statement soldier 104 recounts the alleged admission in broadly the same terms. He then says that it was too dangerous for him to drive the injured man to Company Headquarters, as ordered, without a police escort and, to this end, he asked an RUC man who

was nearby to go with him **B1690**[18] Mr Friel was actually taken to the RAP at RHQ, beside the Craigavon Bridge, where he was treated and transferred by army vehicle to Hospital.

19.19.1.2.7. Giving evidence at the Widgery Tribunal Soldier 104 recounted the incident in more detail. He told how he had been ordered to get into the silver coloured Cortina (the vehicle in which Joe Friel was lying) in order to stop it rolling downhill. He drove it to the top of the hill, about 40 yards behind the barricade, and was then told to take the car and the injured man in the back seat to Company Headquarters. He stated that he considered it was unsafe to do so and that he asked a nearby policeman to accompany him. In his direct evidence 104 stated, for the first time, that the man in the back of the car had been sitting up talking to him. He again recounts the alleged admission in terms similar to those in his statements **B1694D to B1696C**.[19]

19.19.1.2.8. During the course of 104's direct evidence at the Widgery Tribunal the following exchange took place

"Q. What did he [i.e. Friel] say?
I asked him what he was doing and he said he had walked round a corner and he got shot. I said to him "you shouldn't play with guns". He said, "I wouldn't do it again". Then he asked me my name and I would not tell him and he asked me to take him to hospital.
Q. Is that all he said?
I think so, sir.
Q. Now did he say what he had with him when he was wounded?
Yes, he said he had a gun." **B1695B to B1696A**

[18] This was not mentioned in the earlier statement.
[19] Soldier 104 also gave evidence that he was present in court when Mr Friel was giving evidence to Lord Widgery. He therefore said he was able to identify him as the man he had seen injured in the back of the car.

19.19.1.2.9. It is clear that it was only by the use of a leading question that 104 was prompted to give this extremely important evidence which formed the basis of his allegation against Mr Friel.

19.19.1.2.10. When the allegation was put to Mr Friel under cross-examination at the Widgery Tribunal it was with the suggestion that the admission had taken place in an Army vehicle when Mr Friel was being taken from the RAP to Hospital **AF34.22D to AF34.23B**. 104's allegation was that the admission had been made when he first got into the car with Friel and even before they had left Barrack Street.

19.19.1.2.11. In his statement to this Inquiry, soldier 104 now states that he saw three people in the back seat of the car carrying Joe Friel. He says

"Two of these people were dead and one was alive although he was injured. My 1972 statements state it was two bodies in two cars; one dead in one car and an injured man in the other. However my memory now is of three bodies in one car. It is more likely that my 1972 evidence is correct on this point." **B1705.002 paragraph 16**

19.19.1.2.12. As soldier 104 himself points out, this is completely at odds with his previous evidence, and also with that of Constable Malone, soldiers 138 and 145 and the civilians who accompanied Joe Friel as far as Barrack Street.

19.19.1.2.13. In relation to the alleged admission, Soldier 104 says

"I think I did have a conversation with him but I cannot remember any of the details of it now." **B1705.003 paragraph 17**

19.19.1.2.14. The incident, as described by 104 in 1972, is completely different to the evidence that has been given by Mr Friel. Mr Friel states that he

was in Glenfada Park North trying to escape the shooting. He made his way across the car park from the eastern side towards the southwest alleyway that leads to Abbey Park in an attempt to do so. As he approached the exit he heard someone shout "look out there's the limeys". At this, he stopped momentarily and turned around to look whereupon he saw at least three, perhaps four, soldiers in the NE corner of Glenfada Park North. One of these soldiers was standing out in front of the others, moving forward and firing with his firearm held just above waist height, moving it from side to side. Mr Friel then states that he heard three shots and felt a slight blow to his body. It was not until he looked down and saw blood that he realised he had been shot. **Day 155/56/5 to Day 155/60/2**[20]

19.19.1.2.15. Mr Friel has consistently denied that he was carrying a weapon when he was shot. In fact he has stated that he was not aware of the allegation until it was put to him under cross-examination at the Widgery Tribunal. At that point it came as a complete shock to him **AF34.26A to AF34.27B**. It would also appear that his legal representatives had no advance knowledge of the alleged admission **AF34.21B-C**.

19.19.1.2.16. Mr Friel made a statement to police while he was still in hospital **AF34.10 to AF34.11**, and two further statements are in existence, one taken from Mr Friel by the Sunday Times **AF34.13 to AF34.14** and a second taken by the Treasury Solicitor for the Widgery Tribunal **AF34.15 to AF34.16**. Mr Friel gave evidence at the Widgery Tribunal **AF34.17 to AF34.27**.

19.19.1.2.17. As has already been seen, witnesses Gregory Wilde and Patsy Bradley were close to Mr Friel when he was shot. They describe him as being part of the crowd running towards the southwestern exit of Glenfada Park North **AW15.6 paragraphs 11 to 12**; **AB68.3**

[20] See also the account Joe Friel gave of his shooting while in hospital **V4/10.56 to 12.16**

paragraphs 22 to 23. Their evidence clearly corroborates that of Mr Friel in that Mr Wilde clearly indicates that shots were fired from soldiers he saw in the northeast corner of Glenfada Park North **AW.15.6 paragraph 12**. While Mr Bradley did not look around at the time, and therefore did not see any soldiers, he indicates that he was running towards the western exit of Glenfada Park North when he saw Joe Friel fall and, as there were no soldiers in front of him, he assumed that Joe Friel had been shot from behind **AB68.3 paragraph 23**.

19.19.1.2.18. Others who say they saw Mr Friel in the aftermath of the shooting are Leo Young, Eibhlin Lafferty, Eugene McGillen, John Chambers, Eugene O'Donnell, CIV 1 and Manus Morrison. None mentions him carrying a firearm. In addition, none of these civilian witnesses describes an incident that resembles the admission allegedly made to Soldier 104.

19.19.1.2.19. Soldier 104 admits that he did not mention the admission to anyone at the time or shortly afterwards **B1703A-B** – this despite waiting close to the checkpoint for some time after he alleges the admission was made. Nor was the matter mentioned to Constable Alexander Malone who accompanied the soldier to the RAP who would have noted it in his report if it had been **Day 219/121/20**. Soldier 104 states that the only person he told of the admission was his Platoon Commander – soldier 145 – when he returned to the bridge later **B1703E**.

19.19.1.2.20. Soldier 145, who has since died, provided two statements, the first to the RMP **B1876 to B1877** and the second to the Treasury Solicitor **B1881**. He makes no mention of being told of the alleged admission in either statement; this is despite the fact that, in the later statement, he mentions soldier 104 speaking to him about Gerard Donaghey on his return from the RAP **B1881**.

19.19.1.2.21. In an opinion prepared for the Crown Solicitor in respect of Mr Friel's civil action against the Ministry of Defence, reference is made to the report of a Detective Inspector who attended the Widgery hearings and reported on Mr Friel's case to the Director of Public Prosecutions **OS1.191 to OS1.195** The opinion was prepared and signed by J.B.E. Hutton (former Lord Chief Justice of Northern Ireland and now a retired Law Lord) and W.A. Campbell (now a Judge of the Court of Appeal in Northern Ireland). It states that, from the D/I's report it would appear that 104 was a "rather poor witness" **OS1.194**. The opinion also notes the D/I's observations that, as can be seen from the transcript, the soldier had to be led to give evidence that Mr Friel was carrying a gun **OS1.194** and that he made no mention of the alleged admission to army investigators present at the scene **OS1.193**.

19.19.1.2.22. The author of these comments was D/I McNeill. His report states

> "I could not relate the content of the alleged statement [i.e. Friel's admission] with any of the evidence given." **OS1.197**

19.19.1.2.23. D/I McNeill also noted that

> "In Friel's evidence on Page 38 he was under cross-examination by Mr Gibbens and he was asked about the alleged admission as though it had taken place in an Army ambulance at the Bridge to Altnagelvin Hospital. In actual fact the soldier in his evidence did not come up to strength on his evidence (page 42) regarding the alleged admission" **OS1.197**

19.19.1.2.24. Thus it is clear that soldier 104's evidence was not considered sufficiently reliable to ground a criminal charge against Mr Friel or to mount a defence to his civil action against the Ministry of Defence.

19.19.1.2.25. Soldier 104 has not made himself available to give evidence to this Tribunal to stand over the allegations he made in 1972. He has failed to respond to communications from those representing him to such an extent that they have taken their instructions to have been withdrawn and he is no longer represented before the Tribunal **Day 380/1/9 to Day 380/6/12**, **Day 382/131/1 to Day 382/131/9**.

19.19.1.2.26. In addition, Mr Friel was never cautioned or charged for any offence arising out of the events of Bloody Sunday. He was not placed under arrest. His clothes were not removed for forensic analysis.

19.19.1.2.27. Mr Friel was employed as a tax inspector by HM Inspector of Taxes, a job he held until 1992 and which required security clearance. He had never been in trouble with the police and had a clear criminal record. In his statement to this Inquiry Mr Friel also notes that at the time of the incident his father was a civilian worker at Ebrington Barracks. His father, grandfather and great-grandfather had all served in the British army. In fact, he notes, the family would have almost been seen as a pro-British family **AF34.1 paragraph 3**.

19.19.1.2.28. The Tribunal also has evidence from Hugh Martin Gallagher who was fifteen at the time of Bloody Sunday. He has indicated that on 30th January 1972 he was near his home on Long Tower Street in Derry talking to a neighbour when a solider walked past them. The soldier walked on and then came back and "grabbed" Mr Gallagher saying that he was arresting him under the Special Powers Act for no apparent reason **AG66.1 paragraph 2**.

19.19.1.2.29. Mr Gallagher was then handed over to another soldier whose named he discovered later was Solider 104 **AG66.1 paragraph 3**.

19.19.1.2.30. Mr Gallagher was processed and received a summons on a charge of riotous behaviour. He appeared in court and the soldiers who initially arrested him and soldier 104 gave evidence against him. The neighbour Mr Gallagher had been talking to at the time of his arrest gave evidence on his behalf **AG66.2 paragraph 9**.

19.19.1.2.31. Both soldiers gave evidence that Mr Gallagher had been seen throwing stones at troops in Barrack Street. Mr Gallagher said he was not in Barrack Street at the time of his arrest or at all that day, nor had he been throwing stones and that the soldiers were lying. The charge against him was dismissed **AG66.2 paragraph 9**.

19.19.1.2.32. Mr Gallagher confirmed this evidence on oath before this Tribunal on **Day 158/1/3 to Day 158/16/18**. The Tribunal is also in possession of the newspaper article which reports the proceedings involving himself and soldier 104 to which he referred at **AG66.4**. The Tribunal has therefore had an opportunity to assess both the evidence of the witness and other, independent, material.

19.19.1.2.33. In our submission it is clear that Soldier 104 lied about the circumstances in which Mr Gallagher came to be arrested. In addition, he was prepared to commit perjury in court in an attempt to assure Mr Gallagher's conviction. We submit that there is a clear parallel between what Soldier 104 did and was prepared to do in respect of Mr Gallagher and what he did in respect of Joe Friel. Both involved lies and, eventually, perjury, their object being an attempt to falsely attribute criminal behaviour to a wholly innocent individual.

19.19.1.3. Conclusion

19.19.1.3.1. We therefore invite the Tribunal to reach the following conclusion in respect of the allegation made by Soldier 104 against Joe Friel

i) That it is not supported by any other evidence;

ii) That it is a fabrication;

iii) That Soldier 104 knowingly gave a false account of his contact with Joe Friel and;

iv) That Soldier 104 committed perjury when he gave evidence before Lord Widgery.

19.19.2 Gerard Donaghey

19.19.2.1 Summary of Submissions

19.19.2.1.1 The nail bomb(s) were planted on Gerard Donaghey at some time after he transferred from civilian custody to the custody of the security forces.

19.19.2.1.2 This is an inescapable inference from the evidence of numerous witnesses who saw Gerard Donaghey:

i) before he left the house that day;
ii) who accompanied him on the march;
iii) who saw him being shot;
iv) who tended to him after he had been shot;
v) who carried him to 10 Abbey Park;
vi) who examined and searched him there;
vii) who carried him out to Raymond Rogan's car;
viii) who travelled with him in the car;
ix) who saw him at Barrier 20; and
x) who examined him at the Regimental Aid Post (like Corporal 150 and Captain 138)
xi) that the nail bombs must have been placed on his body after their contact and examinations.

19.19.2.1.3 Whilst in the nature of things there will be no direct evidence of planting there is powerful circumstantial evidence which includes the following:

i) The fact that the evidence regarding the "discovery" of a nail bomb was bizarre, contradictory and unreliable;
ii) The fact that the police and/or army had motive, opportunity and access to the relevant materials to enable them to plant nail bombs;

iii) The fact that the nail bombs themselves were of a highly unusual composition and construction;

iv) The fact that there was no attempt or no adequate attempt to preserve the "crime-scene";

v) The fact that no explosive sample was forwarded to the Northern Ireland Forensic Science Department to enable the source of the explosives to be determined;

vi) The fact that the RUC photographer only took a photograph of one nail bomb on Gerard Donaghy's body;

vii) The fact that there was no fingerprint examination;

viii) The fact that Mr Rogan and Mr Young were not questioned about the nail bombs.

19.19.2.2 Introduction

19.19.2.2.1 On 29 December 1992 the then Conservative Prime Minister, John Major, in a letter to John Hume, stated:

"The Government made clear in 1974 that those who were killed on 'Bloody Sunday' should be regarded as innocent of any allegation that they were shot whilst handling firearms or explosives. I hope that the families of those who died will accept that assurance".

19.19.2.2.2 The evidence which this Inquiry has heard provides powerful support for the Irish Government's assessment of new material which was presented by them to the British Government in June 1997 (and which helped bring about the present Inquiry) in which they stated at **U325 paragraphs 260 to 261**

"Having regard to the evidence before Lord Widgery, his finding that on a balance of probabilities the bombs were in Donaghey's pockets throughout is so extraordinary as to border on the farcical. Nail bombs, which are bulky (weighing about half a pound and

measuring roughly 4.5 by 2 inches) could not conceivably have escaped the notice of civilians, medical experts and military personnel. If they were present, they would have been removed in any case by those civilians who had brought him to shelter. Nail bombs were not noticed by either Soldier 138 or any of the civilians who were with Donaghey during the last minutes of his life - one of whom, Young, actually stated that he searched Donaghey's jacket pockets.

The logic of the evidence presented to Lord Widgery is that the nail bombs were not in Donaghey's pockets until they were placed there while his body was in the custody of the authorities. Lord Widgery claimed that "not evidence was offered as to where the bombs might have come from, who might have placed them or why Donaghey should have been singled out for this treatment". However, the testimonies of the Royal Anglians' Medical Officer and the civilian eyewitnesses all agree fully on the point that Donaghey was not carrying nail bombs prior to his death; and the evidence clearly shows that the RUC and Army had the opportunity to plant them. Evidence was therefore offered as to where the bombs might have come from and who might have placed them there. The motive for planting nail bombs on Donaghey is clear since even Lord Widgery found that the shooting was without justification. Lord Widgery's attempt to besmirch Gerard Donaghey emerges as transparent as it was tawdry".

19.19.2.2.3 The British Prime Minister's statement and the Irish Government's assessment have both been reinforced by the substantial body of further material which has been made available to this Inquiry since both were made.

19.19.2.3 Personal Background

19.19.2.3.1 Gerard's father worked in the post office in Derry and his mother had worked in the shirt factory until they married. These were his adoptive parents. There were three children of whom Gerard was the youngest. His sister Mary was the eldest, and he had an older brother Patrick, who is now a priest and who is currently in Atlanta, Georgia.

19.19.2.3.2 Gerard went to St Eugene's school in Francis Street and then to Rosemount Boys Primary School. On leaving Rosemount Boys he went to St Joseph's Secondary School, Strand Road Technical College and Maydown Training Centre. When he was aged sixteen he took up his first and only job at Carlin's Brewery in the Waterside.

19.19.2.3.3 When Mary was about 18 and Gerard 10 their father had an accident at work and died three days later. Four weeks later their mother died as well. At this time his brother Patrick, who was studying for the priesthood in Spain, returned but eventually had to go back to college.

19.19.2.3.4 That just left Gerard and his big sister Mary who effectively took over the role as mother and as she says in her statement to the Tribunal at **AD86.1 paragraph 2** "since then, I had brought Gerard up more or less as my own son". They continued to live in the family home in Wellington Street and when that was knocked down in the redevelopment of the Bogside they were given a flat in [redacted] They were moved there in 1969.

19.19.2.3.5 Mary describes him as having a brilliant sense of humour and being a very kind person who was always very kind to her. His cousin, Margaret Mary McNulty, describes him in her statement to the Tribunal as a "gentle and mild person".

19.19.2.3.6 Gerard continued to live with his big sister after she married in 1970. In fact he was the best man at her wedding and when her son Denis was born in 1971 he babysat and looked after him.

19.19.2.3.7 Mary says in Eamon McCann's book *"Bloody Sunday – What Really Happened"* **OS1.226**:

"He hung around with a lot of fellows his own age from the area; a lot of them I never really got to know. There was trouble all over this area building up every day at that time and he would have been out in it. If you were his age and went out, you were in it. In 1971, when he was 16, he was given six months for throwing stones at policemen. He was running around dodging that for a time but then he came in one day and told Patrick and me that he thought he'd better give himself up. Patrick went with him to the RUC and they took him away".

Six months imprisonment was then the *mandatory* penalty for any offence of riotous or disorderly behaviour.

19.19.2.3.8 Whilst in prison he wrote regularly to his sister and she has kept these letters. In one of them **OS1.219** he says:

"Tell Eddie McCallion if you see him to go down to the Barracks and hand himself in. I am very sorry for all the trouble I caused you but it won't happen again I can assure you".

19.19.2.3.9 In another letter dated 2 December 1971 **OS1.221** he said:

"Well how's young Denis keeping? Does he still keep you awake at night or is he quieter now? I'm sorry I can't be there for the anniversary but I should be there for Christmas. I was wondering could you get me a pair of wranglers and a wrangler jacket which is

a jean coat with the money in the Credit Union and get yourself a present and a few drinks on me."

19.19.2.3.10 He finished off that letter **OS1.222** by saying:

"Well this is all for now -
PS Don't forget about the jeans - coat size 34, trousers 29 make sure that -? they are wranglers".

19.19.2.3.11 He was released from prison on Christmas Eve 1971. Five weeks later he was dead - wearing the denim jeans and jacket that he had asked his sister Mary to buy for him. He was only 17 at the time of his death. He never did see his 18th birthday which would have been a couple of weeks later on 20 February. (DOB: 20 February 1954).

19.19.2.3.12 Donncha MacFicheallaigh, who was a personal friend of Gerard Donaghey, stated in cross-examination **Day 409/146/23 to Day 409/147/1** that after Gerard Donaghey had been released from prison "he had more interest in reconnecting with some of his friends trying to pick up on a relationship that he had with a young Protestant girl"[21].

19.19.2.3.13 Mary also says in Eamonn McCann's book **OS1.22**

"Twenty years on I still feel very angry. I have bitterness towards the Paras. I pray every night that the truth will come out. I will never be satisfied until it does. I miss Gerard very much. I would love to have him here today".

[21] In view of the fact that Gerard Donaghey gave himself up to the police, was writing to his sister from the prison indicating that he was sorry for the trouble that he had caused and that it wouldn't happen again and the fact that on release his focus was on re-establishing his relationship with his protestant girlfriend – these considerations, which were never challenged, would make it unlikely that he would have involved himself with nail bombs - he would have had neither the motive nor the inclination to have done so.

19.19.2.3.14 In an article entitled "He was a son as well as a brother"**OS1.225** Mary Doherty says:

"I've only the one brother now, I have no sisters. There was just the three of us. Mammy and Daddy had died and I reared him from when he was 10. So he was a son as well as a brother. Gerard was a very good young fellow, there was never much bother with him really. He was football mad.

The doctor said if they could get him to hospital there would be a chance of him living. So Raymond Rogan and John Young put him into the back seat of the car. But they were stopped by the army and arrested.

I always think about what was going through his mind, him dying on his own. They left him lying alone in the car until he drew his last breath. It makes be very angry. To think that he died in an army post when they knew that they could have saved his life. That's when they planted the nail bombs on him.

He couldn't have got them into the rousers that he was wearing and the denim jacket was far too tight. Dr Kevin Swords, who saw him before he left for the hospital, didn't see the nail bombs.

I was on the march and came home. I was sitting knitting away, and happened to look out the window when I saw everybody running and heard bangs. You would have hardly seen the peoples' feet hitting the ground, they were running that hard.

So when I saw all Gerard's pals coming back I said there's definitely something up. Then Father Rooney came and told me he was dead. A young fellow came to the door and he says, 'Mary, your Gerard was shot dead today'. He just came straight out with it. If I had got hold of him, really I would have thrown him over the railings.

The army eventually released his body to the hospital around 10 o'clock that night. My husband went to the morgue. 'They had no call even to lift the sheet', he says 'I knew him by the boots that he had on him'.

After Gerard's death I started to go blind for spells. This lasted for five years. The doctor told me that it was delayed shock.

Sometimes I would be setting the table I would go to call him and then realise ... One night I got this rare feeling there was somebody in the room with me. When I woke up, I could see him as plain as anything. Ooh God, I loved him so much. Well, he never really goes away. Perhaps it's because he was the youngest, too.

I find that it doesn't get any easier. I pray every night that their names be cleared. I wake up thinking about it.

Can they not come out and admit that they were wrong? I don't think it would hurt them. I know it may be in the past but until justice has been done I cannot forgive anybody".[22]

19.19.2.4 Movements on the Day

19.19.2.4.1 In his sister Mary's statement **AD86.1 paragraph 8** she describes making lunch earlier than usual so that the whole family could take part in the civil rights march that afternoon.

19.19.2.4.2 Gerard left the house between 1.00pm and 1.30pm having indicated that he would be back home at about 6.00pm **AD86.1 paragraphs 8**

[22] There have been varying accounts of the numbers arrested that day ranging between 43 at the lower end of the scale and 57 at the top end. 22 of those arrested were arrested from the gable wall of Glenfada Park. [Dalzell (Day10 Page 33 Widgery) said First Para (including Support Company) made 43 arrests; General Ford (Day 10 Page 37 Widgery) said 51 or 53; L/Col.Steele (Day 16 Page 80) says 57 people were arrested. Wilford also says 57 people arrested]. None of those arrested were in possession of *any* incriminating items such as nail bombs etc. It is therefore a remarkable coincidence that the only nail bombs found that day were after the body of Gerard Donaghey had been seized and taken into the custody of the police and army.

to 9. He left the house to meet his friends, Dennis McFeely, Eddie "Nark" McCallion and Jim Begley (now deceased). She describes the clothing that he was wearing which included tight wrangler jeans and a wrangler jean jacket.[23]

19.19.2.4.3 She says that the jeans were always so tight, so much so that, inter alia, he could barely get any small change into his pockets. At the time Gerard left the house Mary was upstairs getting baby Dennis ready to go out on the march.[24]

19.19.2.4.4 In his statement Conal McFeely stated that on the morning of the march Gerard Donaghey had called to his house in Leenan Gardens to see his younger brother Dennis. Gerard wanted to know whether they would be going on the march. **AM 216.6 paragraph 1**. Conal went to the start of the march with his younger brother Dennis and a number of friends including Frankie McCarron, Gerard Donaghey and Jim Begly..." **AM 216.6 paragraph 2.**

19.19.2.4.5 In her statement Margaret Mary McNulty **AM 378.1** states that she met her cousin, Gerard Donaghey at place where the march was due to set off from **AM378.1 paragraph 4 to 5**. He came over to see her. She observed that he was wearing, inter alia, denim jacket and "skin tight drainpipe jeans". His jeans were so tight that he couldn't even get his cigarettes into his pockets.

19.19.2.4.6 In Donncha MacFicheallaigh's statement **AM7.7 paragraph 4** he recalls being with Gerard Donaghey and others and that during the course of the march he moved with different people at different times but most of the time he was with his brother and Gerry Donaghey. He states that Gerry and he were separated somewhere

---

[23] The evidence about his clothing is absolutely clear and is corroborated by numerous other witnesses. This demonstrates beyond peradventure that Paddy Ward was lying when he claimed that Gerard Donaghey was wearing a Parka

[24] In view of the fact that Gerard's family, including his baby nephew and his sister, were, to his knowledge, going on the march it is rather unlikely that he would engage in any activity that would endanger them.

on William Street between the junction of Rossville Street and the junction of Chamberlain Street **AM7.7 paragraph 2**

19.19.2.4.7 He doesn't encounter him again until he describes his attention being drawn to the sight of Gerry Donaghey lying in Abbey Park.

19.19.2.4.8 In his statement Ciarán McLaughlin confirmed that Gerard Donaghey was with him, as well as Dennis McFeely and Patrick "Pudger" O'Hagan..." **AM12.1 paragraph 6**

19.19.2.4.9 At **AM12.1 paragraph 17** he refers to the stewards around the junction of William Street, Rossville Street and Little James Street who were ushering people to move south to Free Derry Corner and that he was still with Gerard Donaghey and some others at this time. He states that they did not want to get involved in any rioting and so would go and hear the speeches at Free Derry Corner.

19.19.2.4.10 He then describes, inter alia, walking with Gerry Donaghey south along the rear of Kells Walk and making their way into Glenfada Park North via the north eastern entrance. Whilst there Gerard and he stopped by some wooden fencing and they went into the garden and hid behind the fencing at about position G (Grid Ref. J13) marked on the map attached to his statement **AM12.10**. At **AM12.5 paragraph 29** he states that he decided to make a run for it to the south west corner of Glenfada Park North through the entrance to Abbey Park. He doesn't think Gerard came with him and it is at this point that he thinks he lost him. At **AM12.6 paragraph 37** he states that Gerard had definitely been with him at position G but at the time he had made his crossing to the SW exit to Abbey Park he does not think that Gerard Donaghey had joined him. He states that he thinks that Gerard Donaghey ran to the north-west corner of Glenfada Park North.

19.19.2.4.11 He later found out that Gerard Donaghey had been shot dead not far from Mrs Carr's house **AM12.8 paragraph 57**

19.19.2.5 Civilian Evidence – Planting of Nail Bombs

"...there were definitely no bombs in any of Gerard Donaghey's pockets at any time when he was with me or in my house."

AR24.5 paragraph 18

Raymond Rogan

19.19.2.5.1 Raymond Rogan, who volunteered to take Gerard Donaghey in his car, was by any standard a pillar of the local community. He was the Chairman of the Tenants Association and also liaison person between the local people, the Army and the RUC. Sergeant McTaggart at **JM41.2 paragraph 14** stated that Raymond Rogan was "straightforward and honest" and that he "had no reason to doubt *anything* they were telling me".

19.19.2.5.2 Raymond Rogan assisted in carrying Gerard Donaghey's legs from the front door. He also describes his close fitting denims and the wound to his side. He describes Dr Swords examining him. He also says that Dr Swords was the first person to search him. Mr Rogan's wife also searched him. Raymond Rogan patted his trousers but Dr Swords and Mrs Rogan actually put their hands into his pockets. They may have found a religious medal. This witness states that Gerard Donaghey was "definitely alive" at that time and that now and then you would hear him groan. Gerard Donaghey was taken out of the house and put into the back seat of Raymond Rogan's car with Leo Young - **AR24.3 paragraph 9**.

19.19.2.5.3 At **AR24.5 paragraph 18** he says:

"... Lord Widgery failed to appreciate that no-one in their right mind would deliberately take a person with bombs into their house with their children there. I had told the truth and the truth was obvious. If Gerard Donaghey had bombs on him, I would not have taken him in. If I had at any stage become aware of the nail bombs when he was in the house, I would have got him taken out. Its' one thing being helpful trying to save someone's life, it is another thing to put other people's lives at risk, especially family. No way would I have put him into a car ant taken him to hospital if I had known that the bombs were there. The point is that there were definitely no bombs in any of Gerard Donaghey's pockets at any time when he was with me or in my house. I have never seen a nail bomb but would have recognised one if I did see one. I have seen what they do and wouldn't have had anything to do with them".

19.19.2.5.4 At **AR24.3 paragraph 19** he refers to the second of the three photographs attached to his statement which is a photograph of the back seat of his car with Gerard Donaghey lying on it. He says that he never saw Gerard Donaghey in the position shown in this photograph when he was driving the car. He also states that it is possible that the doctor opened his trousers when he was examining Gerard Donaghey but Mr Rogan does not remember this being done. He then states that he "simply could not have missed seeing any bombs if they had been there at the time" and would have spotted them either when carrying Gerard Donaghey's body into the house, when he was in the house or when he "patted his pockets".

19.19.2.5.5 In his oral evidence he was questioned by Christopher Clarke QC about his account regarding the searching of Gerard Donaghey by Dr Swords, Mrs Rogan and by himself in that he "patted" Gerard Donaghey's trousers front and back. **Day 184/18/22 to Day 184/19/7**

19.19.2.5.6 He did not remember the sequence in which the pockets were searched but he stated "certainly all the pockets were searched that were obvious to me". He stated that they could not find any form of identification. **Day 184/19/14 to Day 184/19/19**

19.19.2.5.7 He was then shown **P703** which is a photograph of Gerard Donaghey that was taken later in the day at the car-park by the side of the Foyle which shows in Gerard Donaghey's right hand pocket an object with what is said to be a fuse sticking out of it. He was asked whether it was possible in the confusion of the moment if he could have missed something of that kind to which he replied "I do not think it is possible that I could have failed to see that, if it had been there". **Day 184/20/1 to Day 184/20/8**

19.19.2.5.8 He was then asked whether, if he had found an object like that in any one of the four pockets, what would he have done to which he replied "Well, in the first instance I – when the young Donaghey was outside, I could not have failed to observe those in his pockets. Consequently I would not have allowed him to be brought into my house" **Day 184/20/12 to Day 184/20/18**

19.19.2.5.9 In cross-examination by Sir Allan Greene the witness stated "I am convinced – and I have very clear memories of the body, or the young Donaghey being searched for identification" **Day 184/51/25 to Day 184/52/2** – see also **Day 184/55/20 to Day 184/55/25**

19.19.2.5.10 Mr Rogan stated that his recollection was that Gerard Donaghey was in his house for between approximately 5 and 10 minutes before Gerard Donaghey was taken away in his car. **Day 184/22/1 to Day 184/22/5** None of those who were present in the house saw any nail bombs.

19.19.2.5.11 Mr Rogan, dealing with events at Barrier 20 and having been referred to the relevant portion of his statement was asked:

Q. And you describe facing the wall and when you looked around you saw that your car had gone; is that right?

A. Eventually, yes.

Day 184/25/3 to Day 184/25/5

19.19.2.5.12 Mr Rogan had been detained at this location for an appreciable time anywhere between 25 minutes to approximately 1 hour **Day 184/25/7 to Day 184/25/8** and **Day 184/38/20 to Day 184/38/22**

19.19.2.5.13 It was only after the car and body had passed into the custody of the security forces that the nail bombs were subsequently discovered.

Dr Kevin Swords

"I can say with total conviction that he did not have these objects in his pockets when I examined him"

AS42.3 paragraph 20

19.19.2.5.14 This witness (now deceased) describes seeing two bodies on the ground about six feet from each other in Abbey Park. He describes Gerard Donaghey's denim clothing and that he noticed nothing in his denim jacket pockets. He bent down to look at Gerard Donaghey and opened his clothing to look at him. The wound was then obvious. Though "deeply unsconscious" Gerard Donaghey was alive. He informed people present and several men came forward to help him into Mr Rogan's house. Inside Mr Rogan's house he identified himself as a doctor and examined Gerard Donaghey on the floor. He says that he did not search his pockets as he was not looking for any identification. He was only interested in his wound. He doesn't remember touching his clothes in detail or if he undid his trousers **AS42.2 paragraph 11 to AS42.paragraph 18**

19.19.2.5.15 When shown photograph **P6/703** in respect of the nail bomb he said "I could not have failed to notice it" **WT6.27G** and that there was

no such object there when he examined Gerard Donaghey **WT6.28A**.

19.19.2.5.16 Further, at Widgery he said that he pulled up his shirt, *after*, someone had looked in his pockets for identification. He could not have failed to notice a quantity of nails and explosives in those pockets and he himself helped to carry Gerard Donaghey out to the car **WT6.28A to WT6.29C**. He went over his whole body **WT6.30C** and frisked his whole body **WT6.32A** and **WT6.33A**.

19.19.2.5.17 In his statement dated 28 February 1972 he stated:

"4. In the course of my examination I saw the clothing Donaghy was wearing. I had a good look at him the house. When I examined him I felt over his whole body to check for other gross injuries. If he had any bulky object in his pockets I could not have missed it. I am sure there were none. I have seen the photographs EP5, 25, 26 and 27. I am sure that the bombs appearing in photographs 26 and 27 were not there when I examined him.

5. In the room there was a fire burning and we were smoking. If there had been bombs in Donaghy's pocket I would have wanted them removed because I would have thought them dangerous. I am certain they would have been removed before he was put in the car. People went through his pockets for identification".
AS42.9 paragraphs 4 to 5

19.19.2.5.18 At **AS42.3 paragraph 20** he stated as follows:

"Attached as Attachment 3 to this statement is a copy photograph of Gerard Donaghey's body P6/703. This shows very obvious bulges in his pockets and I think this is the first thing that would strike you when looking at him. I can say with *total*

conviction **that he did not have these objects in his pockets when I examined him. I have not the slightest idea what a nail bomb looks like as I have never seen one before. I think the people in Raymond Rogan's house were smoking and I am sure they would not have done so if there had been any nail bombs on the body".**

FS1.2547

Leo Young

"...it is an impossibility..."

AY1.6 paragraph 28

19.19.2.5.19 In his statement **AY1.3 paragraph 12** he describes his movements towards Abbey Park, hearing a crack and the bang of a bullet hitting the ground behind him and feeling the "whack" of the bullet as it hit the ground. The bullet missed him and he carried on running as he was committed to getting to the man who was on the ground. This round was discharged by a soldier as he ran past the entrance to the alleyway between Glenfada Park North and Glenfada Park South.

19.19.2.5.20 Eiblin Lafferty had been running behind him. He describes Gerard Donaghey's clothing. He tried to move Gerard Donaghey by the shoulder but he was too heavy to move. Gerard Donaghey was alive **AY1.3 paragraph 13**. He saw Raymond Rogan gesturing to bring the boy to his house and with the help of some other men, carried him by his shoulders into 10 Abbey Park **AY1.3 paragraph 14**. There were 6 or 7 people in the house huddled around Gerard Donaghey. A tall man in a herringbone jacket asked who was the boy and Young checked the two flap pockets of his denim jacket for identification but there was nothing there. The tall man who he knows to Kevin Swords took control of the situation and began examining Gerard Donaghey and told the people present to get Gerard Donaghey to hospital **AY1.3 paragraph 15**. Leo Young assisted in carrying Gerard Donaghey through the kitchen of the house and bringing him out to Raymond Rogan's car at the rear of the houses in Abbey Park. He got into the back seat with him behind the driver's seat **AY1.3 paragraph 16**.

19.19.2.5.21 At **AY1.6 paragraph 28** Leo Young states:

"It has been said that four nail bombs were found on the body of Gerard Donaghey, two in his jeans pockets and two in the bottom pockets of his denim jacket. I simply cannot believe that - it is an impossibility. There is attached to this statement two photographs showing Gerard Donaghey's body in Raymond Rogan's car marked 2 and 3. I only checked the top pockets of Gerard Donaghey's denim jacket. However if there had been nail bombs in his pockets as shown in photograph 3, I would have seen them. I saw his body on the ground where he fell, I helped to carry him to the house, I saw his body lying on the floor in the house, I helped to carry him from the house to the car and I sat in the car with him for perhaps ten minutes. On most of these occasions I was at his head, looking down at his body. There is no way that I could have missed the nail bombs shown in photograph 2. To be honest, if I had seen the nail bombs I doubt whether I would have carried Gerard Donaghey into the house. If I had thought he was carrying bombs, is it really likely that I would have been there in the back seat of the car with him? Everyone would have cleared off – he would have been left at the back of the house or something. If he had been carrying bombs why didn't the doctor see them? Why didn't Raymond Rogan see them? I knew that he had been shot but I had no idea why. When I saw the photograph marked 2, I simply couldn't believe it. Something that has always bothered me is that the RUC photographer only took a photo of one nail bomb on Donaghey's person – why didn't he take photos of the other nail bombs on his person?

19.19.2.5.22 Mr Young gave evidence on **Day 388/20/8 to Day 388/67/21** and confirmed his previous accounts.

19.19.2.5.23 There is evidence from numerous other civilian witnesses such as Gerald McCauley **AM95.3 paragraph 17**, Ciaran McLaughlin **AM12.8**, **AM12.9 paragraph 58**, Denis McFeely **AM7.12 paragraph 25**, Ursula Clifford **AC68.7 paragraph 34** and John Stevenson **AS33.2 paragraph 13** all of whom were in close contact

with or proximity to Donaghey and all of whom confirm that there were no nail bombs.

Gerald McCauley

19.19.2.5.24 This witness assisted in carrying Gerard Donaghey into and out of Raymond Rogan's house. He correctly recollects the tight blue jeans and jacket that Gerard Donaghey was wearing and said that if Gerard Donaghey had anything in his pockets he would have noticed. "If there had been anything in the boy's pockets I would have seen it. They were wee tight pants. There is *definitely* no way that the nail bombs shown in the photograph attached as Attachment 3 were there (**EP 5/28** and **EP5/27)" AM95.3 paragraph 17**.

19.19.2.5.25 In his oral evidence he was asked by Sir Allan Green whether it was possible that he could have overlooked objects that were in Gerard Donaghey's pocket to which he said no **Day 173/130/15 to Day 173/130/22**.

Ciaran McLaughlin

19.19.2.5.26 This witness states that Gerard Donaghey's whole demeanor and body language that day was not of someone who was carrying anything or hiding anything. He was not involved in any rioting. "...he wore a tight fitting denim jacket and tight jeans that day, there was nothing in his pockets, no bulges, I would have seen it if he had been carrying bombs. I was with Gerard Donaghey the whole time until we got split up at position G **AM12.8, AM12.9 paragraph 58**.

19.19.2.5.27 He confirmed his account during his oral evidence on **Day 415**.

Donncha MacFicheallaigh

19.19.2.5.28 This witness states: "If he had been carrying nail bombs I am **sure** I would have seen them. Also he would **not** have been **able to run properly**. What is more, had I noticed nailbombs in Gerry's pockets

when I found him lying on the floor near Abbey Park, I would have removed them myself" **AM7.7 paragraph 25**.

19.19.2.5.29 He confirmed his account during his oral evidence on **Day 409**.

Ursula Clifford

19.19.2.5.30 This witness, a theatre nurse at Altnagelvin Hospital, who attended Gerry McKinney in Abbey Park and who went into Raymond Rogan's house stated:

"(34)...I saw nothing bulky in his pockets. His jeans were so tight that I do not know how I could have failed to notice any bulky items in his pockets. They were that tight.
(35) (re the photographs)...As I have said, although I was concentrating on the boy's abdomen at the time, I don't see how I could have missed seeing anything in his pockets."
AC68.7 paragraphs 34 to 35

19.19.2.5.31 In cross-examination by Sir Allan Green the following exchange took place:

Q. You were asked this afternoon by my learned friend who questioned you first: could you have missed a bulky object and your answer, perhaps very fairly "I rather doubt it". Is this the position: that you think it very unlikely there were bulky objects in his pockets, but there is a possibility that there were; would that be fair?
A. I would say the number of people who were there in that room and the doctor and me and other people that had obviously looked at him before, that I would be really quite shocked to say that those things were in his pocket and not removed.
Q. But it remains a possibility?
A. Well, I do not think so.

Day 165/136/1 to Day 165/136/14

John Stevenson

19.19.2.5.32 This witness also refers to Gerard Donaghey's jeans being tight-fitting and states:

"(13) Gerard Donaghey was wearing a short blue denim coat and denim jeans. I specifically remember that the jeans were tight fitting and I remember noticing at the time how neat and tidy they looked, more like suit trousers. His trousers and belt were done up and his trousers were not creased. The jacket was loose.

"(14)...I am absolutely certain that there was nothing at all in Gerard Donaghey's jean pockets. The jeans were so tight, I have no doubt that we would have seen anything that had been there. The doctor did not find any identification on him".

AS33.2 paragraphs 13 to 14

(24) It is common sense that, if Gerard Donaghey had bombs in his pockets, Rogan would not have taken him in his car. He would not put a man with bombs in his pockets into his car."

AS33.3 paragraph 24

19.19.2.5.33 In his evidence to Widgery he said:

"I am sure that even if he had a bar of chocolate or anything similar I would have noticed that. They were that tight you could not have missed noticing anything at all in his pocket."

WT6.9E

19.19.2.6 **Military Evidence – Planting of Nail Bombs**

Soldier 135

"...I think it more likely that they were not there."

B1835.008 paragraph 19

19.19.2.6.1 Soldier 135 (Rifle Man in 7 Platoon B Company Royal Anglians) was shown photos of Gerard Donaghey when interviewed by Eversheds – he says at **B1835.008 paragraph 19**

"I think that if he had anything of any size sticking out of the pocket I would probably have noticed it, but I cannot be sure...I think it more likely that they were not there."

19.19.2.6.2 This is consistent with his RMP statement **B1832 to B1834** and his Treasury Solicitors statement **B1835.001 to B1835.002** where he does not refer in either to having noticed anything sticking out of his pocket.

19.19.2.6.3 He also reiterated in his evidence that "they would have been mad to have had them in the car and would have dumped them before coming near the road block" **B1835.008 paragraph 19**

19.19.2.6.4 At **B1835.008 paragraph 18** he says that he definitely pulled the blanket off Gerard Donaghey and in his oral evidence at **Day 379/175/20 to Day 379/176/6** he pulled the blanket off and saw the wound.

19.19.2.6.5 He said that when he pulled the blanket back he had clear recollection of seeing his "gut" **Day 379/177/1**

19.19.2.6.6 He agreed that this account was similar to that of Leo Young's account in his statement dated 23 February 1972 **AY1.9** where Mr

Young referred to the boy being "unconscious and his intestines seemed to be protruding out of his stomach" **Day 379/177/15 to Day 379/178/4**

19.19.2.6.7 After he had pulled the blanket right off him he went to the front of the car and hung on to the wing mirror while it was drifting backwards. He said that he had pulled the blanket right off him. **Day 379/179/16 to Day 379/179/21**

19.19.2.6.8 When questioned by Mr Ritchie he said that he let the blanket drop inside the car and that as far as he was concerned the body had been left with nothing covering it **Day 379/180/6 to Day 370/180/11**

Corporal 150

19.19.2.6.9 Corporal 150 gave evidence about what happened at Barrier 20. His account demonstrates that the police accounts of what transpired at Barrier 20 were unreliable and untruthful. For example, 150 agreed that from the description of the incident in his RMP Statement and indeed from his own recollection that he did not see any cars breaking through or attempting to break through the army barriers **Day 380/52/21to Day 380/53/1**

19.19.2.6.10 Corporal 150 was asked to look at the account by Constable Scott at **JS2.1**. The transcript at **Day 380/52/21 to Day 380/53/15** records the following:

Q. When you were there, from your description of the incident in your RMP statement and, indeed, from your own recollection, you did not see any cars breaking through or attempting to break through the Army barriers?
A.No.
Q. I want you to look at what an RUC officer by the name of Scott, JS2.1, this is what he said:

"At about 4.15 pm I heard a number of shots apparently from an automatic weapon coming from the direction of the Bogside. At approximately 4.30 pm I saw two cars break through an Army barricade. These cars were subsequently stopped by the Army."
You saw and heard nothing of that; is that right?
A. At the barricade I was on, the two cars were stopped before they got to the barricade.
Q. You agree with me, therefore, you did not see or hear any of the activity that that police officer refers to there?
A. No.

19.19.2.6.11 By the time Corporal 150 came over to the car that Soldier 135 was already out of the car (after having pulled back the blanket) and was actually holding on to the wing mirror at that stage.

19.19.2.6.12 It is clear from his contemporary statements and his evidence to the Inquiry that at any time at which he was involved with the car he did not see any blanket covering the body, that he was in a position to observe a gunshot wound and to such an extent that we was able to describe the location of the wound ie in the lower abdomen **Day 380/54/11 to Day 380/56/9**

19.19.2.6.13 Corporal 150 was directed by Lt 145 to take the dead or dying boy to Company Headquarters. When asked whether Lt 145 had explained to him why he was being directed to take the boy to Company Headquarters he told the Inquiry that he was given no explanation at the time. **Day 380/56/25 to Day 380/57/14**

19.19.2.6.14 Corporal 150 told the Inquiry that once he got to Company Headquarters someone spoke to him there and directed him to take the car containing Gerard Donaghey to the bridge location but that he doesn't now remember who had given him that instruction.

19.19.2.6.15 Corporal 150 agreed that if Gerard Donaghey was not already dead at this stage then he was very, very seriously wounded and that he obviously needed intensive care. He agreed that those facilities were certainly not going to be available at Co HQ in Henrietta Street and that they were certainly not going to be available at the bridge location either. He was then asked:

Q. "Again it was not your decision but you cannot assist us as to why those decisions were taken?
A. No I cannot".
Day 380/57/9 to Day 380/58/1

19.19.2.6.16 The witness agreed that he had made a detailed statement to the Inquiry and he did not put anything in his statement that he did not believe to be true.

19.19.2.6.17 The following exchange then appears:

Q. What you say there is:
"I am sure if there had been a nail bomb or bombs in the man's pockets, I would have seen them. Had I seen them, I would have told my officer and the thing would have unfolded from there. I had the opportunity to see if there was a nail bomb when I picked up the man's right arm to feel his pulse."
"Had he had anything in his jacket or trouser pockets, I think I would have seen them."
If you go to paragraph 21, about the middle of paragraph 21, beginning the sentence:
"I have no idea how the nail bombs got there, but they were certainly not there when I saw the body."
That is still the case, is it not?
A. That is still the case.

Q. Could I then also ask you to look at paragraph 29 of your statement:
"I did not see any bombs on the body."
Then you say, without any equivocation whatsoever,
"They were not there"; is that right?
A. That is right.
Q. You are quite sure that you definitely did not see what is shown in the photographs which are attached to your statement?
A. I am certain.
Day 380/59/23 to Day 380/60/22

19.19.2.6.18 When Corporal 150 arrived at the RAP the RMO (Captain 138) looked at the body - he pronounced Gerard Donaghey dead and told Corporal 150 to move the car to one side **B1900.**

19.19.2.6.19 In Corporal 150's evidence to Widgery he stated that within a couple of minutes after the arrival of the car at the RAP he felt Gerard Donaghey's pulse and there was none. **B1915, B1916** He informed the MO about this.

19.19.2.6.20 He looked at the body from the driver's door. He saw no bomb or anything remarkable. After this the MO pronounced him dead and on his instruction he moved the car to one side.

19.19.2.6.21 In Corporal 150's BSI statement at **B1918.003 paragraph 20** he states:

"I do not remember anyone at the time saying that the man in the back of my car had nail bombs in his pockets. There was certainly nothing in the back that was visible to me. I would not have driven the car if the man had nail bombs in his pockets in case the bomb was rigged or something. I am sure if there had been a nail bomb or bombs in the man's pockets I would have

seen them. Had I seen them I would have told my officer and the thing would have unfolded from there. I had the opportunity to see if there was a nail bomb when I picked up the man's right arm to feel his pulse. I picked it up by leaning over the man's head and shoulder. Had he anything in his jacket or trouser pockets I think I would have seen them. I do not think there was anything that looked like a nail bomb. There was nothing in there, either in the pockets of his denim jacket, that looked like the white object in that photograph 2."

19.19.2.6.22 At **B1918.004 paragraph 21** he states:

"...(W)hen I gave evidence at the Widgery Tribunal I was shown the photograph attached to this statement P6/703 of the body with the nail bombs in the pockets. I was *amazed* when I saw it."[25]

19.19.2.6.23 Here is another person who had close contact with Gerard Donaghey. We know from other evidence, including the photographs, about the prominence of the nail bomb in the right pocket. There is no way that this could have been missed. And if he had seen it he would not have forgotten.

19.19.2.6.24 We refer also to **B1918.005 paragraph 29** where he states:

"I did not see any bombs on the body. *They were not there.*"

19.19.2.6.25 This witness also effectively repudiated the evidence which had been given by Sergeant Carson before Lord Widgery. This is dealt with in a later section at 19.19.2.10.

Captain 138

"It would have been extraordinary if I had not seen nail bombs".
B1859.007 paragraph 36

19.19.2.6.26 Captain 138 agreed that he made a statement to the Treasury Solicitor in March 1972 in which he describes having carried out two examinations on the body of Gerard Donaghey. He agreed that he had indicated in the final paragraph of that statement that about 5 minutes **after** he had carried out his second examination he heard somebody indicate that a nail bomb had been found on the boy's body. He agreed that that statement was made 30 or so years ago and at a time when matters would have been considerably fresher in his mind and that he would not have stated anything in his Treasury Solicitor's statement which he did not believe to be true. **Day 383/56/1 to Day 383/56/24**

19.19.2.6.27 Having been reminded of the evidence he had given before Lord Widgery the witness agreed that in his Treasury Solicitor's statement and in his Widgery evicence that he was clear in his mind at the time that he did not learn about the nail bomb until some time after he had concluded his second examination. **Day 383/58/15 to Day 383/59/15**

19.19.2.6.28 He agreed that the two examinations that he described to Lord Widgery were performed from the passenger's door on the driver's side of the vehicle. Accordingly, from the nature of the examinations and from his location he would have been extremely well placed to observe the nail bomb sticking out of the pocket shown in the photograph – a proposition to which the witness did not dissent in cross-examination **Day 383/60/20 to Day 383/61/1**.

---

[25] **P6/703** which shows the view that Corporal 150 would have had since the photograph was taken from the

19.19.2.6.29 He was also reminded of his statement at **B1859.006 paragraph 36** where he stated "it would have been extraordinary if I had not seen nail bombs". The following exchange then takes place:

> **May I take it that one of the reasons you say that -- because, as we can see from the photograph, if you had been carrying out these two examinations, you would have been -- it would have been extraordinary, in view of what we can see in the photograph, it would have been extraordinary if you had not seen that nail bomb; is that not so?**
>
> **Yes, I think it is possible, yes.**
>
> **Day 383/61/15 to Day 383/61/22**

19.19.2.6.30 With reference to his first examination of Gerard Donaghey he stated at Widgery that he opened the off-side rear door; examined Donaghey's pulse (thinks the right wrist) and examined breathing, colour and pupil reactions to the extent that he was satisfied he was dead. He said he noticed nothing in his pockets **B1852**. When asked by Widgery would he have noticed a nail bomb or bombs in his pockets from the *first* examination he answered that he did *not* think that he would have **B1853**. However in respect of the *second* examination he stated that he believes that he would have noticed.

19.19.2.6.31 After the first examination of Gerard Donaghey, he carried out examinations of Friel and Campbell. He was away from Gerard Donaghey's body, according to his Widgery evidence, for 12 -15 minutes each examination of Friel and Campbell having taken between six to ten minutes **B1857D**

19.19.2.6.32 He returned to Gerard Donaghey to try to "find out why the man had died" – therefore to conduct a second – more thorough examination. He thinks that the door at the driver's side was still open – but he can't remember whether the car had been moved or not – he doesn't think it was.

"Although I cannot be certain I think I had been away from the white Cortina for less than 10 minutes."
B1859.003 paragraph 16

19.19.2.6.33 In his Widgery evidence he says that he was away from the body for 12 to 15 minutes (each examination of Friel and Campbell having taken roughly 6 minutes) **B1857D**.

19.19.2.6.34 Captain 138 described his second examination to Mr Gibbens at Widgery as follows. (138 had one foot inside the car and one foot outside) **B1853C**

"I examined his head and his neck. I then pulled up his shirt and vest and examined his abdomen and on through to the chest. ***I then unzipped his trousers and looked at the pelvis region to see if I could determine the cause of death....and having felt round everything here and on his right side I then unzipped his trousers to look at the groin and pelvis region...I unzipped his trousers and I put the zip up again, but I may not have put it up fully.*** **" B1853B-D**

"I did not see any wound in the left side, because I did not move the body or the back. All I could see was the front and his right hand side" B1854A

19.19.2.6.35 This last piece of evidence is particularly significant since practically all the witnesses who saw the cream coloured and arguably most

noticeable nail bomb saw it in Donaghey's *right* trouser pocket) **P6/703**

19.19.2.6.36 Lord Saville made an important interjection during the course of Mr Clarke's opening in respect of ATO 127's oral evidence to WT.9.55 C **Day 036/124 to Day 036/126** in which 127 said that he saw the body lying on his back with the wound being highly visible. However as we have just seen the MO (138) was unable to see the wound or even any blood which meant that the body must have been turned to its left. As Lord Saville observed: "when the bomb disposal expert turns up his evidence is that the body is lying on its back and the wound or the blood therefore would be visible. If those two pieces of evidence are correct, (stated Lord Saville) someone has moved the body".

19.19.2.6.37 At **B1859.006 paragraph 36** he states:

"...on the second examination I would have noticed something bulky sticking out of the trouser pocket had there been anything there, but I do not recall seeing anything there, but I do not recall seeing anything. I would have noticed something in his trousers, but I can be less certain regarding the jacket as that area was not the focus of my examination. I t, however would have been *extraordinary* if I had not seen nail bombs."

19.19.2.6.38 At **B1848 paragraph 7**, he states:

"About five minutes after I had finished the second examination I heard someone say that a nail bomb had been found either on the man's person or in the car, I cannot remember which. As a result there was a delay in the time before the body left for the Mortuary, because a bomb disposal officer was sent for".

19.19.2.6.39 Compare **B1859.007 paragraph 37** of his Eversheds statement where he states:

"In paragraph 7 of Appendix C, I state that approximately '... five minutes after I had finished the second examination I heard someone say that a nail bomb had been found either on the man's person or in the car'. As *I stated earlier*, my memory now tells me that I think I stopped the second examination because someone told me that there was possibly a nail bomb on the man. I did not hear this five minutes later. I was not told that a nail bomb had been found; I was told that it was possible that the dead man had a nail bomb on his body". (He did not state this earlier))

138's Eversheds Statement - TIME LINE

19.19.2.6.40

1st Examination of Gerard Donaghey	5 to 7 minutes
Examinations of Friel and Campbell	6 to 10 minutes
2nd Examination of Donaghey	5 to 8 minutes
Total time of Examinations	16 to 25 minutes without finding a nail bomb

138's Evidence in 1972

19.19.2.6.41

1st Examination of Donaghey	No timing but 138 indicated in his evidence that it was a cursory examination which did not last very long
Examination of Friel and Campbell	12 minutes (6 for each)
2nd Examination of Donaghey	8 to 10 minutes
Total time of examinations	About 22 minutes

19.19.2.6.42 Mr Clarke QC commented in his opening with reference to the timing of Captain 138's Medical Examinations:

"The timing given in his evidence to Widgery is somewhat different, but it adds up to about 22 minutes, so it comes to much the same thing in the end. That is a 16 to 25 minute period over which no bomb is found, either by the medical officer or by somebody who tells the medical officer about it. It seems *inconceivable* that if somebody had found what might be a nail bomb on Gerard Donaghey and knew that someone else was about to examine the body, that they would have not have said so."

19.19.2.7 **Police Evidence – Planting of Nail Bombs**

"I was immediately aware that it might be alleged that the nail bombs had been planted ..."
Inspector Dickson – **Day 212/71/12 to Day 212/71/15**

Inspector Dickson

19.19.2.7.1 Inspector Dickson agreed that to get from Barrack Street to the Detention Centre is a short distance which one could probably travel by car within a minute or so **Day 212/65/11 to Day 212/65/15**

19.19.2.7.2 Inspector Dickson agreed that "the standard practice" was that if a police officer or a soldier had discovered nail bombs on a person's body that the first thing that they would be to isolate the body at the area and call the ATO **Day 212/60/12 to Day 212/60/16**.

19.19.2.7.3 Inspector Dickson agreed that a police officer, aware that a nail bomb had been discovered and in radio contact, would have raised the alarm immediately **Day 212/61/13 to Day 212/61/19**.

19.19.2.7.4 Sergeant Carson was in radio contact via pocket phone **Day 212/61/20 to 24.** Inspector Dickson was then shown the RUC log at **W161** and his attention was directed to the entry in the log for 16.44 at which time it appeared that Sergeant Carson had made a radio communication. Dickson agreed that when Sgt Carson made this radio communication it was correct to say that he made no reference whatsoever to any nail bomb and made no request for any ATO. This is to be contrasted with the Widgery evidence of Sergeant Carson who claimed to have discovered the nail bomb within half a minute of the arrival of the car **WT16.63D-E**.

19.19.2.7.5 It appears that the ATO was not tasked until in or about 1650. See entry for that time on **W49**. Inspector Dickson agreed that the log entry would have been more or less contemporaneous with the discovery of any nail bomb **Day 212/61/9 to Day 212/61/12**.

19.19.2.7.6 Inspector Dickson also agreed that Mr Rogan and Mr Young were being interviewed by Detective Sergeant McTeggart and DC Neely after the discovery of nail bombs on the body of Gerard Donaghey.

19.19.2.7.7 It was put to the Inspector that if the police believed that these nail bombs had been on his body at the time he was taken into the Detention Centre it is inconceivable that experienced CID officers would not have investigated that with the two persons who travelled with Gerard Donaghey in the car. To this he said "I would expect that yes" **Day 212/67/5 to Day 212/67/11**

19.19.2.7.8 In fact we know, for example, from the evidence of Mr Rogan, which was put to Inspector Dickson in cross-examination, that he was not questioned about any nail bomb at the time when Detective Sergeant McTeggart was taking the statement from Mr Rogan **Day 212/67/12 to Day 212/68/18**

19.19.2.7.9 It was then suggested to Dickson that it must come as a very considerable surprise to him that notwithstanding the claim that these nail bombs were found at the time, these two individuals, the driver and the man who traveled with Gerard Donaghey were never ever questioned about it at all. In reply the Inspector said "I find that very strange" **Day 212/68/19 to Day 212/69/2**

19.19.2.7.10 Inspector Dickson agreed that there was almost an entire page of his original Eversheds statement that he wasn't happy with ie paras.15, 16, 17 and 18. He agreed that these were his words, that he had signed the statement and that unlike many civilians he would be more than familiar with the making and taking of statements. He had also read the statement over three or four times before he decided to take these paragraphs out **Day 212/69/23 to Day 212/71/3**

19.19.2.7.11 In the deleted para.16 of his original statement he had stated in respect of the nail bomb that he was "... immediately aware that it might be alleged that the nail bombs had been planted by the army and considered the possibility at the time" **Day 212/71/12 to Day 212/71/15**.

19.19.2.7.12 Although he sought to qualify this in his evidence it is apparent on either account that he was alert at an early stage to the possibility of it being alleged that the nail bombs had been planted **Day 212/72/1 to Day 212/72/5**.

19.19.2.7.13 He also told the Tribunal that he had **never** been involved in an incident prior to January 1972 where it had occurred to him as a possibility that it might be alleged against the police or the army that materials had been planted on someone **Day 212/72/6 to Day 212/72/11**.

19.19.2.7.14 Chief Superintendent **Lagan** stated at **JL1.19 paragraph 114**:

"I think I was first told about it on the evening of Bloody Sunday. During the conversation that I had about it someone told me *within the RUC* that there was a rumour that the bombs had been *planted.* I was also told that a doctor had examined Mr Donaghey and that he had not discovered the bomb, but that when Mr Donaghey arrived at an Army location the bombs were found on him."

19.19.2.7.15 These accounts demonstrate that at an early stage and prior to the obtaining of any evidence from civilian sources, that rumours were circulating within the RUC, even at the highest levels, that the nail bombs had been planted.

19.19.2.7.16 Inspector Dickson acknowledged that it would be possible to plant devices for example, by someone who had access to explosives **Day 212/73/6 to Day 212/73/8**. Victor Carson gave evidence before Lord Widgery that he was the person who discovered a nail bomb. Dickson agreed that Carson was an explosives officer who would have had access to explosive such as quarry explosives. Three of the four nail bombs recovered from Gerard Donaghey's body and were made of quarex which was uncommon **Intsum 102 dated February 1972 at G108.654 paragraph 8**.

19.19.2.7.17 Then the following exchange appears at **Day 212/75/11 to Day 212/76/2**

Q. What I want to know from you, is this: even on that account, what was it you had learnt from fellow officers that led you to suppose there might be an allegation that this device or devices could have been planted on the body of Gerry Donaghey?
A. The opinion was widely held and was being bandied in the media that the Army had opened fire without justification and that is what led me to believe that

somewhere in there, that something like that could happen.

Q. Why?

A. Well, the military -- would it not be obvious that the military would try to protect themselves?

Q. By how?

A. By whatever means.

Q. By planting nail bombs?

A. Well, that thought arises in your mind.

19.19.2.7.18 He also agreed that the nail bombs could have been "put together", inter alia, by the army and that the nail bombs did not bear any relationship to his previous experience of nail bombs at the time. The following exchange appears **Day 212/79/14 to Day 212/79/20**:

Q. Which did not bear any relationship to your previous experience of nail bombs at the time?

A. Yes, this is the recollection I have.

Q. And that is what struck you?

A. Yes.

Q. Apparently at the time?

A. Yes.

19.19.2.7.19 Inspector Dickson was questioned about the differences between the accounts contained at **JD3.1**, **JD3.2** (14 February 1972) and **JD3.3**, **JD3.4** (March 1972).

19.19.2.7.20 It was suggested to the witness that by the time he had made his second statement it would have been obvious to those taking the statement from him that there was a problem in relation to the evidence that the medical officer had given and would give because by that stage it would have been known, inter alia, that the medical officer had examined the body of Gerard Donaghey and had made no mention of nail bombs. So instead of having, as in the first account, a

nail bomb which was "obvious and protruding" – in his second statement he had a nail bomb that was not so obvious so much so that in order to be able to see it, it was now being maintained that he had to lean into the car to look at it and that when he leaned into the car all he could see was the bulge in the pocket.

19.19.2.7.21 He appeared to agree that these accounts were "hopelessly and irreconcilably in conflict" **Day 212/92/19 to Day 212/93/8**. When asked to explain how it could be that between February and March 1972 he could end up writing two accounts which are so at variance one with the other he said "I have no idea how I could make that error.

19.19.2.7.22 Inspector Dickson indicated that he was aware that the only police officer save photographers who were at the Detention Centre and who were called to give evidence was Sgt Victor Carson. He agreed that Carson's account and his were "completely at variance" and said that he did not know who made the decision to call Carson and not him and when asked whether he was surprised at the time that he hadn't been called he stated "I have always wondered why I was not called" **Day 212/100/9 to Day 212/101/5**

19.19.2.7.23 He agreed that any officer discovering a nail bomb would immediately take precautions for himself and others around and that it would be highly unlikely that the medical officer could have examined the body of Gerard Donaghey, gone away and come back and been allowed to examine the body again if, by that stage, a nail bomb had been discovered **Day 212/102/11 to Day 212/102/17** and **Day 212/103/1 to Day 212/103/13**

19.19.2.7.24 He also told the Tribunal that he did not take any steps in relation to those officers who had been under him on the day in question to ascertain from them what their accounts were or anyone's account

was as to the finding of the bomb or bombs **Day 212/110/3 to Day 212/110/11**

19.19.2.7.25 Having had the accounts put to him of McTeggart, Carson and Hamilton he agreed that not only can they not all be right but that it would be "incredible" if within 6 weeks of the day memories had so failed as to an officer believing that he or she had discovered a bomb when that was not the case **Day 212/110/12 to Day 212/110/18**.

19.19.2.7.26 He agreed that if one officer had put a hand in the pocket and discovered the bomb that it would be extraordinary for another officer to go into the car and put a hand into the same or another pocket and find another bomb. And that for a third officer to do it would be more extraordinary **Day 212/110/25 to Day 212/111/8**.

19.19.2.7.27 Inspector Dickson told the Tribunal that he did not discuss with any of the three officers named above the circumstances in which they came to find the bomb – at any time **Day 212/111/9 to Day 212/111/14**.

19.19.2.7.28 Inspector Dickson agreed that his report dated 14 February was the last report and that in none of his fellow officers' reports was there any reference to a blanket or anything of that kind over any part of the body but that there was a reference in his report of 14 February **Day 212/111/15 to Day 212/112/3**.

19.19.2.7.29 In stark contrast, in the statements made for the purposes of Widgery in March the three officers referred to above made reference to a blanket or a bed-cover. When asked whether he had spoken to any of these officers about a bedspread, rug, blanket or anything of that kind between February and March when the Widgery statements were taken he maintained that there was never any discussion whatsoever about anything like that at all **Day 212/112/7 to Day 212/112/17**

19.19.2.7.30 Notwithstanding his evidence that it was possible for a member of the security forces to plant a device if, for example, they had access to explosives and that Carson was one of those individuals who claimed to have discovered the nail bomb and who was an explosives officer with access to explosives he did not consider the possibility that nail bombs may have been planted by an officer or officers of the RUC **Day 212/114/23 to Day 212/115/3.** Sergeant Carson was "reticent" about signing his Eversheds statement and in fact never signed it **JC6.11.1**.

19.19.2.7.31 When asked by Christopher Clarke QC if he had any idea why the evidence of the police officers concerned is all so internally inconsistent he said "I wish I knew. I have not a clue why it should be like that" **Day 212/118/2 to Day 212/118/6**.

WPC Hamilton

19.19.2.7.32 WPC Hamilton, in her original account, at **JH3.1** did not make any mention of *a soldier* having firstly indicated to her that there was something in the deceased's pocket. In that statement she had claimed that she had looked into the car and saw an object protruding from his right hip pocket. Before Counsel could complete his question she stated "Yes I can see where you are going with this. There are **complete** differences in the way I have made out both statements ..." It was then put to her that the two accounts are completely different, that in the first account she has an object which is obviously visible because it is protruding from the pocket and in the second account she had to lean in to the car and take the steps she had therein described in order to get a look at it. In answer to this suggestion she said "That is correct, I agree with what you say" **Day 212/146/12 to Day 212/146/25**

19.19.2.7.33 She was then asked whether if it happens that the shift (as Counsel described it) between the accounts is similar as between Dickson and

herself that that was just a coincidence. She said "I would describe it as a coincidence" **Day 212/147/20 to Day 212/147/23**

19.19.2.7.34 She also stated that she was more than surprised when she discovered that more than one nail bomb had been found because "up until recently I thought there was only the one that I had encountered. I was not aware that there was more than one". When asked when she found out that there were others she said "I think it was when I was making the statement to the Inquiry team two years ago" **Day 212/153/22 to Day 212/154/3**

19.19.2.7.35 Sergeant Carson's account was put to her and she was asked "Of course that is what you did?" to which she replied "Yes. I do not know why, this seems to be a repeat of my actions, I cannot explain that" **Day 212/164/11 to Day 212/164/13**

19.19.2.7.36 When asked to assist the Tribunal as to how her account and Carson's account are put forward side by side for the same incident she said "I cannot explain it". She was asked whether or not she agreed that both Carson and her cannot have done what is set out in the statements and she said "It would seem very unlikely that we could have both done the same thing and one not having seen the other ..." She also said that she couldn't remember Carson's actions because she does not remember seeing him. **Day 212/166/17 to Day 212/166/25**

Constable Hogg

19.19.2.7.37 Constable Hogg in his original statement at **JH9.1** states that Gerard Donaghey was looked at by WPC Hamilton who noticed that there was a nail bomb "hanging out of his pocket". When he was asked whether he had been told this by WPC Hamilton or whether he had seen it himself he stated "I saw a nail bomb in the gentleman's pocket. It was approximately an inch or so out of his pocket ..." **Day 213/161/23 to Day 213/162/2** [Later in his testimony he said

"possibly 'hanging' is not the right expression" **Day 213/164/3 to Day 213/164/4**.

19.19.2.7.38 When questioned about the natural reading of what he had written in his contemporary account he said "I am saying that she [Hamilton] noticed the nail bomb and clearly at the same time I noticed it" **Day 213/163/12 to Day 213/163/13**

19.19.2.7.39 According to the evidence of Sergeant Carson before Widgery he claimed that he got to the car containing Gerard Donaghey within half a minute of its arrival in the Detention Centre and that it was not visible at all when he saw it. He further stated that he didn't notice that the pocket bulged until he put his hand into Gerard Donaghey's pocket. When it was suggested to Hogg that his contemporary account and Carson's evidence were, on the face of it, completely different Hogg said "I am happy enough with my account" **Day 213/166/91**.

19.19.2.7.40 Although the witness denied that in his original account he was recording something that he was told rather than something that he himself had seen he did accept that the first time that he personally claimed to have seen anything himself not only in respect of the nail bomb but also in respect of his claim to have heard shooting was when his statement on 17 July 2000 was made **Day 213/167/1 to Day 213/167/11**

19.19.2.7.41 This witness also claimed at **JH9.5 paragraph 12** of his statement that after Hamilton had pulled the nail bomb far enough out of the pocket so that she was able to confirm that it was a nail bomb that she then pushed it back into the pocket. Even when it was pointed out that Hamilton had never claimed either at the time or in her evidence to have pushed it back into the pocket he insisted "Well I certainly remember it happening" **Day 213/167/1 to Day 213/168/7**

Sergeant Penney – Missing Photographs

19.19.2.7.42 Sergeant Penney was shown **CW1.6 paragraph 37** of the statement of Warrant Officer Woods in which Woods had stated that the body was upright on the back seat of the car. Sergeant Penney stated that at no stage did he ever see the body in that position **Day 219/105/19 to Day 219/105/21** and **Day 219/106/7 to Day 219/106/14**.

19.19.2.7.43 When asked whether apart from the photographs that he had directed Constable Simpson to take, was he aware of any other photographs being taken he stated that he wasn't aware of other photographs being taken at all. He did say that it was possible that they could have been taken because sometimes the army took their own photographs.

19.19.2.7.44 He was then referred to **CW1.7 paragraph 42** in which WO Woods told the Tribunal that he took Polaroid photographs of the body. WO Woods said "I also took some photographs when the bombs were in the top pockets of his jacket. I do not think I took any photos of the bombs in the bottom pockets as there was nothing to see" **Day 219/107/3 to Day 219/107/16**

19.19.2.7.45 When asked whether he had ever seen any of the photographs that were taken by WO Woods he stated no **Day 219/107/16**.

19.19.2.7.46 It is to be noted that Captain 127 also refers to these photographs in his RMP statement at **B1783**. So far as we are aware no such photographs have been furnished to the Inquiry nor has any explanation been forthcoming for their absence.

19.19.2.7.47 At **JP7.8 paragraph 29** he indicated that he had a very clear recollection that day of seeing four nail bombs and he also told the Tribunal that he had a recollection of having seen a photograph in which four nail bombs were visible on the body of the deceased **Day**

219/107/17 to Day 219/107/25 He believed that this was a black and white police photograph **Day 219/108/1 to Day 219/108/11**

19.19.2.7.48 This witness also told the Tribunal that there was a nail bomb "clearly visible" in the deceased's right trouser pocket, for example see **Day 219/108/16 to Day 219/108/17**

Detective Sergeant McTeggart

19.19.2.7.49 It was put to Detective Sergeant McTeggart that the security forces would have had an opportunity to plant bombs on Gerard Donaghey. He agreed that they "certainly would" **Day 223/125/6 to Day 223/125/13**.

19.19.2.7.50 It was also put to him that if you were planting bombs on somebody one of the things you would seek to do is to try and prevent the source or origins of the explosive material being disclosed. It was put to him that one of the precautions that the army or police would take in such a scenario to prevent discovery would be to try and disguise where the explosives actually come from to which he replied "You would think so". **Day 223/126/5 to Day 223/126/14**

19.19.2.7.51 It was pointed out to this witness that the package containing the explosives and the package containing the detonators did not find their way to the Forensic Science Laboratory. It was put to him that that would be "wholesale departure" from contemporary good practice to which he said "I would believe so, sir, because everything like that is of evidential value and should go to the Forensic Science Laboratory for examination but I did not see explosives, detonators" **Day 223/129/1 to Day 223/191/12**

Constable Montgomery

19.19.2.7.52 Constable Montgomery of SOCO at **D0721 paragraph 6** said that he recalled having been given a piece of explosive in a plastic bag presumably for tests but that he did not now remember what tests

were carried out on it. He knew nothing about this and was unable to help the Tribunal **Day 223/130/1 to Day 223/130/16**

19.19.2.7.53 In Alan Hall's Evershed's statement at **D0624 paragraph 44** he confirms that samples from the explosive cores of the devices were not forwarded to DIFS for examination. He comments that in normal circumstances the army would send samples for DIFS to attempt to identify and trace the source or origin of the various elements in bombs that were found by the security forces.

19.19.2.7.54 Constable Montgomery was then reminded that Inspector Dickson had told the Tribunal that if there had been a real belief that nail bombs had been on the body of Gerard Donaghey when he arrived in the Regimental Aid Post that it would have been "inconceivable" that the police officers who were involved in questioning the driver and passenger of the car would not have discussed the subject of the nail bombs with those two individuals. When asked whether he agreed with Inspector Dickson's evidence he said no.

19.19.2.7.55 He did agree that he was involved in the questioning of Mr Young and Mr Rogan and that he never mentioned the nail bombs to them. His explanation for that was that he was "very happy" with the statements he had taken from them. He agreed that he had never mentioned nail bombs at all to them "because they were not involved in anything that day" **Day 223/132/8 to Day 223/132/9**

19.19.2.7.56 It is interesting to observe that in attempting to explain why no questions had been put about the nail bombs he said "Mr Rogan and Mr Young gave me **very**, truthful and accurate statements. I had no reason to question them about explosives" **Day 223/135/1 to Day 223/135/4**

19.19.2.7.57 The witness was later reminded that one of the reasons he had given for not discussing the nail bomb with Mr Rogan and Mr Young was

because he was "completely happy" – a proposition from which the witness did not dissent. However, it was pointed out to him that in his contemporary report which he signed on 1 February 1972 the following paragraph appeared:

> **"It will be noticed that there are some slight discrepancies between the stories of both witnesses. This could be as the result of the excited state of the witnesses at the time or *that they were both only prepared to state what suited them*" [Emphasis Added]** **Day 223/137/7 to Day 223/138/2**

19.19.2.7.58 This witness saw only one nail bomb **Day 223/136/3 to Day 223/136/4.**

19.19.2.7.59 The witness also agreed that the first time he made any mention of covering over the body or anything to prevent one from seeing it was in his statement to Mr Hall on 9 March 1972 (it was also the first occasion on which he mentioned WPC Hamilton). When asked if he could tell the Tribunal whether there was any particular reason why he had left out from his previous statements any reference to the bed-cover or WPC Hamilton he said no.

19.19.2.8 **INQ 2584**

19.19.2.8.1 INQ 2584 has made a statement to the Tribunal **C2584.1 to C2584.31** in which he has stated that nail bombs are "easy to make and could be made in a few minutes" **C2584.3 paragraph 16.**

19.19.2.8.2 At **C2584.7 paragraph 41** he states that he has been asked whether it would be possible for the RUC or the army to get hold of materials necessary to make the nail bombs which are shown in Gerard Donaghey's pocket to which he said "I would have to say yes".

19.19.2.8.3 At **C2584.7 paragraph 40** referring to **EP5/26** and **EP5/27** he states "this looks like a dangerous situation to me ... use of such a short length of safety fuse is dangerous due to the possibility of 'flash-through'. I have investigated *fatal* incidents following the flash-through of short lengths of safety fuse. I would always try to use at least 18 inches of safety fuse".

19.19.2.9 Captain Conder

19.19.2.9 Captain Conder gave evidence on **Day 313**. In his Evershed's statement **CC1.1 paragraph 1** he was describing his role in the Royal Anglian Regiment in which he indicated that he was the Batallion's Public Relations Officer. He told the Tribunal that his explanation for describing himself in this way was that his principal role, on that day, was as a Press Officer **Day 313/128/17 to Day 313/129/4**

19.19.2.10 In fact Captain Conder had made two statements, one of which was made in 1998 and which is Attachment 4 to his statement and can be found at **CC1.19**. That was a statement prepared by him and submitted to the Tribunal. He did not make any reference in that statement nor in his Evershed's statement to being an Intelligence Officer. His explanation for that was the same namely that his principal role, on that day, was press relations **Day 313/129/5 to Day 313/129/15**

19.19.2.11 It was pointed out to him that in the opening paragraph of his statement that he volunteered in 1998 he described his role within the First Batallion of the Royal Anglian Regiment and that he was not seeking to confine his role on 30 January. It was pointed out that that was apparent from the first sentence of the first paragraph of that statement. He appeared to agree with these propositions **Day 313/129/18 to Day 313/130/1**

19.19.2.12 Accordingly, neither in his 1998 statement nor in his Evershed's statement had he ever disclosed the fact that he had any role as an Intelligence Officer. His explanation for this was "I was not asked" **Day 313/130/19**

19.19.2.13 When asked did he not think that Eversheds would have been interested to know his role as an Intelligence Officer he said "I was not asked it" **Day 313/130/22**

19.19.2.14 He was asked was it not the case on 30 January that he was in fact deployed as an Intelligence Officer to which he said no **Day 313/130/25**

19.19.2.15 Captain Conder was in fact Col Jackson's Intelligence Officer. In Col Jackson's statement **CJ2.7 paragraph 31** he says "my Intelligence Officer at the time was Captain Conder, who was able to gather information from all sides of the community".

19.19.2.16 Captain Conder was also referred to the statement of INQ 1199 which appears at **C1199.1 paragraph 3** in which he says "one of my main duties was as public relations/military intelligence photographer and I reported to both the PR Officer (I believe his name was UNK 14) and also to the Intelligence Officer whose name was INQ 8" (INQ 8 being Captain Conder).

19.19.2.17 It was therefore clear that in neither the statement from his Commanding Officer or from his photographer was he referred to as anything other than the Intelligence Officer.

19.19.2.18 At **CJ2.45** the written orders from Captain Conder's Commanding Officer appear. Captain Conder's attention was drawn to **CJ2.45 paragraph 9** which stated "All company cameras are to be deployed forward. Films of marchers will be required soon after the event. IO [ie Captain Conder the Intelligence Officer] is to arrange collection

and dispatch to Brigade Headquarters". In light of the contents of that document it was suggested to Captain Conder that he had actually been deployed in his role as Intelligence Officer. He denied this. **Day 313/132/19 to Day 313/133/13**

19.19.2.19 He agreed that one of the principle functions that day was to arrange for collection of any films from the company cameras that were deployed and that this role was not confined to photographer INQ 1199. When asked how many cameras he stated "As far as I know there was probably one per company but I cannot confirm that". When asked if he had in fact arranged for the collection of the films from the cameras that were deployed he stated "I cannot recall **any** films being collected" **Day 313/134/5 to Day 313/134/25**

19.19.2.20 John Chartres was a journalist with a military background of which Captain Conder professed to be unaware **Day 313/136/21 to Day 313/136/22**. According to Chartres' evidence before Widgery Captain Conder had told him his location earlier in the day and invited him to call there if he required information on what happened **Day 313/135/17 to Day 313/136/13**

19.19.2.21 Captain Conder at **CC1.5 paragraph 27** stated that he suggested to Mr Chartres that he might want to see the body in the back of the car and the reason he gave for this was because he was, as Captain Conder put it, an independent witness.

19.19.2.22 Captain Conder was then asked whether or not it had struck him as being wholly inappropriate and indeed disrespectful to the body of the dead boy in the back of the car for him to have brought a reporter over to put the body on display to the press. In answer to that suggestion he said "he was acting as an independent witness". When asked why did he need an independent witness he stated "It was not necessary to have one but I felt it would prove helpful to dispel any

question that anything might have been planted on the body at any stage" **Day 313/136/25 to Day 313/137/10**

19.19.2.23 It was then pointed out to the witness that he had never mentioned planting of nail bombs as being the explanation as to why it was necessary to have an independent witness.

19.19.2.24 He was then asked **Day 313/138/14 to Day 313/138 21**:

> **Q. What was it made you think at that time, contemporaneously with the events that you have described, that that is a suggestion that might be made?**
> **A. Because I was fairly certain that that is what would happen.**
> **Q. Because it was so obvious, was it not, that that is exactly what happened?**
> **A. What?**

19.19.2.25 Captain Conder also said that his "immediate reaction" was that it would be "helpful" if they had an independent witness. He was then asked "Helpful to the army?" and he replied "Helpful to the truth" **Day 313/139/8 to Day 313/139/11**

19.19.2.26 Captain Conder was then shown part of the statement of Mr Chartres **M14.2 paragraph 8** where he had indicated that Captain Conder had told him that "here was a corpse lying on the back seat of a civilian car". The transcript records the following exchange **Day 313/142/13 to Day 313/143/6**

> **Pausing there for the moment, his statement indicates that all you told him was that there was a corpse in the back of the car, not that there was a corpse there with nail bombs. He then goes on to say: "He told me that this car had been stopped at a road**

barricade. I examined the corpse, which was in a car in the HQ car park, and I saw a nail bomb projecting from the jacket pocket of the corpse. I am quite familiar with the appearance of nail bombs. I then saw the car driven away by a bomb disposal officer ..."
I do not think I need to read the rest of that.
According to him you merely told him that there was a body in the back of the car, and that he then went

over and examined the corpse, and he discovered the nail bombs. Whereas what you have indicated to the Inquiry is that you, having discovered the nail bombs and wanting an independent witness there, asked Mr Chartres to come over and verify that. Can you explain that?
A. No.

19.19.2.27 Captain Conder had also told the Tribunal that he was very anxious to get across the point that an no stage did he touch the body except on the neck because he wanted to preserve the scene and didn't want to damage anything which might interfere with the forensics. It was suggested to him that this was not what was really going through his mind at the time and that it was hard to square with what the reporter had been allowed to do. To this suggestion he responded that the reporter, as far as he was aware, did not touch the body in any way or get into the car. **Day 313/143/7 to Day 313/143/19**.

19.19.2.28 Captain Conder agreed that what he had seen that day was of considerable significance and that if his account was right, that he was the first person to discover the nail bombs in the car **Day 313/145/4 to Day 313/145/12**.

19.19.2.29 He also confirmed that he was not called to give evidence before Lord Widgery and when questioned as to whether or not he had been asked to make a statement in 1972 about what he had seen he

said "No not that I recall". Nor was he able to shed any light on why he was not asked to make a statement even though according to his Evershed's statement he had reported this to his Batallion Adjutant **Day 313/145/12 to Day 313/146/14**

19.19.2.30 This witness, who had professed only an interest in establishing the truth and tried to create the impression that he was a neutral or disinterested witness, was then confronted with a letter which he had written to his MP, Sir George Young, on 30 January 1998, in which he stated **Day 313/141/6 to Day 313/141/18**

"There were two nail bombs in the man's jacket pockets. I reported this, but I was never called on to give evidence of it. I now feel that this should also be made known to the new Inquiry: not everyone killed was totally innocent."

You then go on to say:

"Special Branch of the RUC informed me that there had been several -- I think the number was seven -- IRA men also killed that day. But, to hide the fact that they had been involved, had taken their bodies to Bunerana in County Donegal.

"Of course I had no way of confirming this, but perhaps others can."

19.19.2.31 It was then pointed out to him that there was no suggestion in any Special Branch document that had been made available to the Inquiry that there were either seven or any dead people who were spirited away over the border. He was asked did he wish to comment on the fact that there wasn't a shred of evidence in the contemporaneous documentation from Special Branch to support the suggestion he had made in his letter to his MP and then repeated in his two statements. It was then put to him that either he had been lied to or that he was being less than frank to the Inquiry to which

he said "All I can tell you is what I was told at the time". **Day 313/148/2 to Day 313/148/20**

19.19.2.32 At no stage did he ever identify the member or members of Special Branch who allegedly provided him with this information and there is no contemporary account from the witness regarding this information. During his evidence he was unable to provide any assistance to the Inquiry as to who gave him this information.[26]

19.19.2.10 Evidence of Victor Carson

19.19.2.10.1 Before Lord Widgery Sergeant Victor Carson alone testified on oath that he was the first person to discover the nail bomb and that he had done so within half a minute of the arrival at the RAP of the car containing Gerard Donaghey **WT16.63D-E**. Inspector Dickson agreed that a police officer, aware that a nail bomb had been discovered, and in radio contact would have raised the alarm. Sergeant Carson was in radio contact via pocket phone and there is an entry in the RUC log for 16.44 at **W161** at which time Sergeant Carson made a radio communication during which he made no reference whatsoever to any nail bomb and made no request for any ATO – this at a time when, according to his Widgery evidence, he would have already discovered the nail bomb.

19.19.2.10.2 In his statement dated 9 March 1972 **JC6.27** (but not in his statement dated 7 February 1972 **JC6.26**) he claimed that the upper half of his body, including his head, was covered by a blanket and that he opened the rear passenger door behind his head and removed the blanket. He claimed that as he began to search the body looking for identification starting with his left-hand trouser pocket. As soon as he opened the pocket he saw the fuse of the nail bomb and claimed to have said to the soldier who brought the car "Do you see what you have been driving?" to which he alleged the soldier said

"F... me". He claimed that he asked a soldier standing nearby to contact the ATO. He claimed in both of his statements that he remained with the car until the ATO arrived.

19.19.2.10.3 This account given by Sergeant Carson in his statement dated 9 March 1972 and portions of his Widgery evidence were put to Corporal 150 on **Day 380/37/2 to Day 380/41/5**. The entirety of the accounts given by Sergeant Carson were effectively repudiated by Corporal 150 when he gave evidence. Corporal 150said that the body was **not** covered **Day 380/38/1 to Day 380/38/5**. Summarising Sergeant Carson's accounts, Counsel to the Tribunal said:

"Mr Carson's 1972 evidence was that you were present while he inspected the body in the back of the car; he found a nail bomb and he showed it you and it caused you considerable surprise. Did anything like that occur?
A. No." [Emphasis added]

19.19.2.10.4 When asked if he had been presented in a situation with a police officer showing him a nail bomb whether he thought it would stay in his mind he said "Oh yes" **Day 380/41/2 to Day 380/41/5**.

19.19.2.10.5 Contrary to the evidence of Sergeant Carson, Corporal 150 had no recollection of an RUC Officer arriving just after the Medical Officer. **Day 380/41/4 to Day 380/41/23**

19.19.2.10.6 The account of Woman Constable Hamilton made for the Widgery Inquiry at **JH3.2** was also shown to Corporal 150. Woman Constable Hamilton had likewise claimed in this statement that the head and shoulders were covered with a blanket, that she had pulled down and off the body. In her account she stated "a soldier on the other side of

[26] After the ATO, Captain 127, had dealt with the nail bombs Gerard Donaghey's body was removed in an

the car, looking through the offside windows said 'there is something in his pocket'" and that she "could see that there was a bulge in the right pocket of his denim jeans [and she] leaned over him, felt with [her left hand] what was in the pocket ... tried to pull it out but it was difficult ... could feel that it was a round object covered with insulating tape ... leaned further over to see what it was ..." and she then went on to say "the soldier then shouted 'Get out, it is a bomb'. I covered the man again and closed the door gently". Corporal 150 was asked whether anything like that had happened and he said "No". He was also asked did he recall a soldier shouting a warning like "Get out, it is a bomb" to which he said "No".

19.19.2.10.7 In his statement and his evidence Corporal 150 described parking the car, getting out, opening the back door on the driver's side and leaning over the body to take the pulse of Gerard Donaghey. He told the Tribunal that it would have taken him a minute to feel for a pulse **Day 380/27/18 to Day 380/28/3**. He agreed that he would have leant over the head and shoulders of Gerard Donaghey to check his pulse **Day 380/46/16 to Day 380/46/21**. He was also shown **EP5.26** which is a photograph which showed more closely the kind of view Corporal 150 would have had. The photograph shows an object in the right hand pocket. He was then shown **EP5.27A** which was a closer view of the object shown in the previous photograph. He was then asked if he recalled seeing anything in Gerard Donaghey's pockets to which he replied "No" and he was asked:

Q. Gerard Donaghey was wearing a blue denim jacket and blue denim trousers. Do you recall seeing any kind of bulky objects in his pockets?

A. No.

---

ambulance manned by Samuel Hamilton **ED47.24** and Alan Cahill **ED47.25**, **AC2.2** to Altnagelvin hospital.

Day 380/47/23 to Day 380/48/1

19.19.2.10.8 Corporal 150 also told the Tribunal that the first he knew that there were nail bombs on the body was at the Widgery Tribunal.

19.19.2.10.9 In his Widgery evidence Sergeant Carson was described as someone who was normally employed as an explosives inspector **WT16.58B-C** whose role was checking with quarries etc. He confirmed that he had access to explosives and that he would have gelignite at times **WT16.62A-B**. (It is to be noted that three of the four nail bombs were composed of quarex which is a quarry-based explosive of a type not used by the PIRA in 1972 **Intsum 102 dated February 1972 at G108.654 paragraph 8**.

19.19.2.10.10 In his Widgery evidence he stated "I put my hands in his trouser pocket and found what appeared to be a nail bomb". He stated that he could not see the nail bomb before he searched the pocket **WT16.59A-B**.

19.19.2.10.11 His explanation for approaching the body and searching it was that he was looking for "identification" **WT16.62B-C**.

19.19.2.10.12 When asked what sort of thing he was looking for when he was making an identification he said "Driving licence, national insurance card, unemployment benefit card ..." **WT16.63A-B**. The following exchange took place:

"Q. You first looked in a man's trouser pocket in order to see if you could find a driving license, a National Insurance car, a letter or something of that sort? A. That is correct.
Q. Would your ordinary experience not teach you that you might have found a better chance of finding any of those items in one of his top pockets, an inside pocket or breast pocket?

A. This is quite possible; it just happened to be the pocket I went to first.

WT16.63C-D

19.19.2.10.13 Sergeant Carson was interviewed in May 1999 by Eversheds and a full note of the information given by Sergeant Carson was taken. A typed draft statement was sent to Sergeant Carson for his approval. Christopher Clarke QC indicated that Sergeant Carson was "reticent" about signing the statement **JC6.11.1**. In fact Sergeant Carson died without signing the statement.

19.19.2.10.14 The draft statement at **JC6.17 paragraph 31** states:

"Unfortunately I disposed of my entire box of police notes six months ago when I was clearing out my house to renovate it. Everything was put in a shredder. I am not now able to remember what was in my notebook".

19.19.2.10.15 **JC6.18 paragraph 37** states:

"At page 58 of the transcript at letter F, I state that the upper part of the body was covered by a blanket and I started to search it to see if there was any means of identification. Again, I cannot now recall the blanket or searching the body. I cannot recall whether the medical officer had seen the body, but this would be standard procedure. On page 59 at letter A I say that I put my hand into the man's trouser pocket and found what appeared to be a nail bomb. Today I am surprised by my statement as I am convinced that I noticed nail bombs in his two breast pockets only. However, I am now speaking of events that occurred 27 years ago". (Emphasis added)

19.19.2.10.16 At **JC6.19 paragraph 46** he said that he assumed that somebody would have fingerprinted Gerard Donaghey and the nail bombs but that he did not know if they did that in 1972.

19.19.2.10.17 He confirmed in **JC6.18 paragraph 41** that he had access to quarries.

19.19.2.11 David Mills[27]

19.19.2.11.1 David Mills who worked as a Producer for BBC on a current affairs programme made an Eversheds statement which is to be found at **M108.1**. In answer to questions by Counsel to the Inquiry this witness stated:

> **"What I am fairly certain happened is that in my many discussions with Colin Wallace, Colin Overbury, it was accepted that those nail bombs were planted on Donaghy"**
> **Day 235/29/1 to Day 235/29/3**

19.19.2.11.2 He also went on to say:

> **"When I discussed these nail bombs with them I am fairly certain that we all sort of laughed about it. But they would not have tried -- they did not try to convince me that this was anything else but a plant ..."**
> **Day 235/31/10 to Day 235/31/13**

19.19.2.11.3 He further said:

> **"... I am quite clear, overwhelmingly, it is overwhelmingly probable that they made no attempt to suggest that these bombs had actually been found on him and that we all took a similar attitude, that they had almost certainly been planted ..."**

Day 235/32/4 to Day 235/32/8

19.19.2.12 **Paddy Ward, Kathryn Johnston & Liam Clarke**

19.19.2.12.1 On **Day 165/1/1 to Day 165/5/7** Counsel for Gerard Donaghey's next of kin drew to the Tribunal's attention to an article appearing on the front page of the Sunday Times on 18 November 2001 discussing allegations which appeared in a recently published book by Liam Clarke and Kathryn Johnson. Counsel requested the Tribunal to confirm that steps would be taken, inter alia, to interview the authors, their sources and obtain their notes.

19.19.2.12.2 The book was an unauthorised biography of Martin McGuinness by Liam Clarke and his wife Kathryn Johnson entitled "*Martin McGuinness: From Guns to Government*".

19.19.2.12.3 Liam Clarke carried out an interview with a former member of the INLA and self-confessed RUC Special Branch informer called Paddy Ward on 8 April 2001 **AW8.42**. Ward claimed to be the Officer Commanding the Provisional Fianna on Bloody Sunday. He alleged that on the evening of 29 January Martin McGuinness told Ward to bring the Fianna to a garage prior to the march and gave him a list of premises that were to be attacked by nail bombs **T487**; that at lunchtime on Bloody Sunday Martin McGuinness and two IRA men gave Ward and seven other members of the Fianna two nail bombs each in the garage with the instructions that when the march got to the Guildhall "McGuinness told us to pick our target and throw the nail bombs at it. He told us that this was to cause havoc once we got into the city centre" **T487**; The plan was called off due to the fact that the Army had created a barricade, the Fianna was informed of this by Gerry Doherty and were instructed to bring the gear back to behind the Bogside Inn. "We rounded up everybody

---

[27] cf the evidence of Col Tugwell **Day 240/162/1 to Day 240/165/25** and the evidence of Col Overbury **Day 243/63/1 to Day 243/65/25**

except for one, Gerry Donaghey. He was just out of jail after doing six months for rioting" **T488**.

Paddy Ward

19.19.2.12.4 Ward provided a statement to Eversheds. It can found at **AW8** and gave screened oral evidence on **Day 385** and **Day 386**.

19.19.2.12.5 Ward's first account as given to Liam Clarke in the interview dated 8 April 2001 was inherently implausible and unreliable. Contrary to this account and his evidence it is clear that nail bombs were not suitable for attacks on buildings and were in fact anti-personnel devices (see later section on the PIRA Evidence). Ward also claimed in the course of the interview that:

- He claimed not to know until he reached William Street that the march would not get into the City Centre **AW8.46**. There is an abundance of evidence to show that it was widely known at an early stage that the march was to prevented from getting to the Guilhall.
- He claimed to have seen a Major fire the first shot from a barricade at Sackville Street. According to Ward, the Major shot both Damien Donaghey and John Johnston **AW8.46**. This is a completely uncorroborated account. There is an abundance of evidence that Damien Donaghey was shot in Rossville Street at approximately 3.55pm by Soldiers A or B of the machine gun platoon who were positioned the Abbey Taxis building in William Street see **P198**.
- This shooting caused a mad rush up Rossville Street in panic. **AW8.46**. This did not cause any panic in Rossville Street. The only panic in Rossville Street occurred at 4.10pm approximately when Support Company entered the Bogside.
- He got a Mark2 Cortina estate VRM: RAT141G parked in St Columbs Wells and the Army fired a shot through the roof of the car **AW8.7**. This vehicle was traced by the Inquiry who confirmed

in correspondence that it was in fact a commercial vehicle registered in the north of England.

Liam Clarke accepted in oral evidence that none of the claims that Ward made were independently checked by himself or Ms Johnson when the chapter concerning Bloody Sunday was written. **Day 387/198/15 to Day 387/199/24**; **Day 387/199/2 to Day 387/199/21**; **Day 387/200/2 to Day 387/200/4** and **Day 387/202/10 to Day 387/205/11**.

19.19.2.12.6 Ward's statement to Eversheds was 215 paragraphs long and was dated 20th August 2003. It was an even more dramatic and implausible account which contains many discrepancies with respect to the interview that he gave Liam Clarke. Some, but by no means all, of the examples of this are that:

- Gerard Donaghey was at a meeting with Ward and Martin McGuinness on the Thursday before Bloody Sunday when an agreement was made to attack targets in the City Centre after the march **AW8.8 paragraph 41 to AW8.9 paragraph 46**.
- He now claimed to have made up the nail bombs himself the night before Bloody Sunday **AW8.10 paragraph 50**
- On Bloody Sunday Gerard Donaghey was waiting at the corner of Westland Street and Ebrington Terrace just before 12.30pm. Everyone wore parka jackets and Gerard Donaghey was given two nail bombs **AW8.11 paragraph 55**. He claimed that he was "sure" Gerard Donaghey was wearing a Parka on Bloody Sunday **AW8.18 paragraph 84**
- He now claimed that he called off the nail bombing operation himself and did not speak to Gerry Doherty on Bloody Sunday at all **AW8.24 paragraph 119**
- He maintained that he saw the Major fire the short arm but now denied seeing Damien Donaghey and John Johnston shot and blamed Liam Clarke for making a inaccurate presumption

that he witnessed Donaghey and Johnson shot. **AW8.13 paragraph62; AW8.24 paragraph 121**

- He maintained the Major's shots started a "stampede" up Rossville Street and that he saw two people fall on the Barricade who may have been Michael Kelly and William Nash AW8.14 paragraph 65
- He now claimed to have seen Barney McGuigan shot dead which was never mentioned previously **AW8.14 paragraphs 65 to 66**
- Presumably alive to the difficulty he changed the number plate of the car to VRM RAT142G in his statement **AW8.24 paragraph 122**. He confirmed this was a proper plate. The Inquiry confirmed that this was registered to a different commercial vehicle in England
- He now mentioned for the first time that he fired on and possibly hit a helicopter from his girlfriend's parent's garden at Rinmore Drive in Creggan with a .303 rifle **AW8.15 paragraphs 71 to 73**. This was denied by Daniel and Vera McGilloway in their statements to the Inquiry and also by Eddie Dobbins who lived in this area **Day 399/148/2 to Day 399/148/5**
- He claimed that all but two of the nail bombs that were apparently deployed came back except the two given to Gerard Donaghey **AW8.16 paragraphs 72 to 73.** But when shown the nail bombs found on Gerard Donaghey he confirmed they were not those in the photographs as their nail bombs were always in cans **EP5.25; EP5.26; EP5.27 AW8.16 paragraph 73; AW8.18 paragraphs 89 to 90**
- "What is photographed is not what he was given earlier in the day" **AW8.18 paragraph 90**

19.19.2.12.7 It emerged by the time Ward gave evidence that there was a large body of other evidence from prominent Republicans in Derry

including Martin McGuiness, Eddie Dobbins, Gerry O'Hara, Gerry Doherty, Sean Keenan and a large number of the ciphered PIRA witnesses which all contradicted Ward's assertion that there was any such operation as claimed by Ward that involved the Fianna on Bloody Sunday.

19.19.2.12.8 It also emerged from the evidence of Gerry O'Hara that if anyone was considered as "OC" of the Fianna on Bloody Sunday, it would have been he and that Paddy Ward was someone who was on the periphery of the Fianna at the time of Bloody Sunday. He was certainly not the OC and was not a member of the Fianna during the time that Mr O'Hara was involved with that organisation **Day 406/122/24 to Day 406/24/10; AO79.10 paragraph 7**.

19.19.2.12.9 It emerged in the course of cross examination that Chadas shop, which was one of Ward's targets that he claimed to have "recced" during the week prior to Bloody Sunday was already burnt to the ground the previous month **Day 386/61/9 to Day 386/63/16**

19.19.2.12.10 It further emerged that in an intelligence interview carried out by the RUC on 3 January 1974 with Mr Ward he admitted a number of offences including riotous behaviour. Whilst he provided the RUC with information concerning the PIRA **INT2.1471, INT2.1472**, he provided **no** information concerning Bloody Sunday or Gerard Donaghey.

19.19.2.12.11 Counsel put to him that he had ample opportunity over a period of 30 years through his dealings with the police to explain to them precisely what occurred on Bloody Sunday. The witness confirmed that he never took that opportunity because he did not want to implicate himself notwithstanding the fact that he did implicate himself in the course of his 3rd January 1974 interview with the RUC in relation to other offences **Day 386/79/18 to Day 386/80/8**.

19.19.2.12.12 It also emerged that he was not charged with or convicted of any criminal offence in the early 1970s **Day 386/33/19 to Day 386/34/4**.

19.19.2.12.13 Ward also admitted that he was considering writing a book about this life as an undercover agent and as an IRA and INLA member **Day 386/35/15 to Day 385/36/20**.

19.19.2.12.14 He confirmed that no-one should place any reliance on anything that he said to Johnston and Clarke. The witness said "It was an unthought of, unresearched statement" (sic) **Day 386/75/3 to Day 386/75/8**

19.19.2.12.15 He claimed during his evidence that around the same time as the Major fired the two shots from the Sackville Street barrier that the soldiers came out of Sackville Street carrying their shields **Day 386/91/2 to Day 386/92/19**. This simply did not happen. Nonetheless Ward confirmed that he had "a mental picture" of the soldier firing **Day 386/95/6 to Day 386/95/8**. The Inquiry is well aware that Support Company entered the Bogside in the convoy of vehicles through Little James Street.

19.19.2.12.16 Ward claimed that he simply ran straight up Rossville Street, over the Rubble Barricade and along past Block1. Ward said that he did not stop running and that he actually saw Barney McGuigan being shot whilst waving his white hanky **Day 386/92/2 to Day 386/94/23**. The Inquiry knows that Barney McGuigan was the last person shot and that happened not before 4.20pm. Ward agreed that this terrible image had stayed with him to a certain extent for 30 years but could not explain why he did not tell Clarke and Johnston about it. His explanation was that he had seen a lot of terrible images over the last 30 years **Day 386/98/9 to Day 386/98/23**

19.19.2.12.17 Counsel put to him that if his story of what occurred on Bloody Sunday was to be believed the Tribunal would have to discount a

very substantial if not 99 per cent of the evidence that has been given to it about what happened on Bloody Sunday:

Q. I suggest to you if your story is to be believed, we would have to discount a very substantial if not almost 99 per cent of the evidence that has been given to this Tribunal about what happened on Bloody Sunday; your account of how it started, an officer coming out on to the wasteground at Little James Street, I suggest to you is a figment of your imagination; do you understand that? Do you understand that?

A. I understand what you are saying, but I seen what I seen and that is all there is to it.

Q. No civilian, no Army officer, no journalist, no photographer, no priest ever claims such a thing as having happened except you; could you account for that?

A. No, not in particular, because there was a lot of things seen that day --

Q. No Army officer --

A. -- that no other people have mentioned.

Q. What I suggest to you is: you could not have seen Barney McGuigan being shot if the rest of your story is true.

A. Well, it is a fact.

Q. And I suggest to you, you could not have seen two young men fall and die at the barricade quite literally seconds before you saw Barney McGuigan being shot; do you understand?

A. I seen what I seen."

Day 386/123/4 to Day 386/124/4

19.19.2.12.18 It is clear that Ward is a fantasist and a liar. He claimed to see things that he could not have seen. He was in reality an insignificant figure

and what he did in terms of the issues of Bloody Sunday was to weave himself into a picture which places him not on the periphery but in the in the centre of all the action.

19.19.2.12.19 In the preface to the second Edition of the book published in 2003 the authors published further allegations in relation to Gerard Donaghey. They can be found at **T477**

The following is recorded:

"Another eye witness claims that he saw Gerard Donaghey outside the bookies, where rioters wanted to throw nail bombs over the roof onto the army barricade. Because of the shortage of nail bombs after McGuinness had issued orders for their recall, at least one person at the scene argued with Donaghey, trying to get the nail bombs off him to throw himself."

19.19.2.12.20 This paragraph from the preface to the second edition comes from Kathryn Johnston's notes which are found at **M112.44 to M112.47** and the typed version at **M112.50** and **M112.51**:

(i) These notes record on page 1:

"High Street full of people

Gerard Donaghey had several nail bombs, S McCallion wanted them.

Throw nail bombs over roof

Knows nothing about bomb." **M112.44**, **M112.50;** and

(ii) On page 4 it is recorded:

"G Donaghey + McG standing beside each other + Eddie Daly standing against wall when arg with McCallion was going on" **M112.47**, **M112.51**.

Kathyrn Johnson

19.19.2.12.21 This witness was examined on **Day 387**. It emerged that she was a member of the Official Republican Movement – Republican clubs since 1976 and then the Workers Party until 1986.

19.19.2.12.22 In relation to Paddy Ward, she claimed she believed what he had said. **Day 387/122/16 to Day 387/122/20**

19.19.2.12.23 She dated her handwritten notes from approximately 8/2/02. She said that she thought that the notes related to several people, though she could not be sure **Day 387/43/16 to Day 387/43/17, Day 387/48/2 to Day 387/48/9**

19.19.2.12.24 Ms Johnston confirmed that she knew the source for the information in relation to Gerard Donaghey in High Street but she would not identify him/her **Day 387/130/8 to Day 387/130/13** and **Day 387/138/20 to Day 387/140/5**.

19.19.2.12.25 In her evidence she said that her source was "speculating" that McCallion[28] wanted the nail bombs to throw over the roofs of the houses in High Street **Day 387/43/20 to Day 387/43/22**. However when she came to write the Preface for the second edition she sexed up the allegation so that it read as follows:

"Another eye witness claims that he saw Gerard Donaghey outside the bookies, where rioters wanted to throw nail bombs over the roof onto the army barricade. Because of the shortage of nail bombs after McGuinness had issued orders for their recall, at least one person at the scene argued with Donaghey, trying to get the nail bombs off him to throw himself." T477

19.19.2.12.26 She excluded the note however that appears at **M112.47**, **M112.51** referring to Bishop Daly because (a) It would mean that Bishop Daly had perjured himself before this Inquiry; (b) Bishop Daly could contradict what the source said; (c) Johnston knew the source was

[28] McCallion has made a supplementary statement **AM492.7** in which he has denied the allegation made against him in the book.

providing obviously unreliable and uncorroborated evidence and chose not to print this part of it.

19.19.2.12.27 Counsel pointed out the inherently implausible nature of the "plan" to throw the nail bombs from High Street over the three storey houses and into William Street by demonstrating to the witness in terms of the height and distance that the nail bombs would have to be thrown **Day 386/136/3 to Day 386/137/6**

19.19.2.12.28 As a result of her failure to identify her sources the Donaghey family has had to face un-attributed comments and allegations. They have been unable to identify their accuser and have not had material made available to them where they can challenge that accuser.

19.19.2.12.29 Patrick Ward is the only Clarke and Johnston source that the Donaghey family have been able to challenge. He was exposed as being an individual who did not give accurate, reliable, dependable or truthful information. Counsel asked Johnston:

"Q. You do appreciate in fact he was basically exposed –
A.I appreciate your point."
Day 387/138/2 to Day 387/138/11

19.19.2.12.30 Paddy Ward's evidence was tested in cross-examination. He was exposed as a fantasist and a liar. In light of his exposure no weight should be attached to his evidence. The provider(s) of the information concerning "events" in High Street has not been identified, did not make a statement to the Inquiry, did not give evidence on oath and has not had his/her account tested. Had s/he done so s/he would have been similarly exposed. That opportunity has been denied to the Donaghey family. Accordingly no weight should be attached to an untested account from an unidentified accuser.

19.19.2.13 PIRA Evidence

Non-access of Fianna to nail bombs

19.19.2.13.1 The Tribunal is aware that Gerard Donaghey's name was included on a roll of honour of local Republican dead that was read at the Easter commemoration ceremony in Derry in 1972 (see, for example, **L202**).

19.19.2.13.2 In response to a letter from the Inquiry enclosing an extract from 'Tírghra' Gerard Donaghey's sister, Mary Doherty, stated that she had no direct knowledge of him having joined the Fianna but was not in a position to dispute the suggestion that he was a member at the time of Bloody Sunday **T472 to T473**.

19.19.2.13.3 On **Day 391/42/12 to Day 391/42/19** Martin McGuinness in answer to a question about whether the Republican Movement would let 16 year olds be involved in guns or bombs stated that he was saying "very clearly" that "those people who were associated with the Fianna would not under any circumstances have been allowed to be involved in any military activity which would have endangered them or others in any fashion.

19.19.2.13.4 On **Day 399/88/12 to Day 399/88/14** when asked whether Fianna members ever handled nail bombs Edward Dobbins responded "Not to my knowledge, they, they would not be privy to that kind of weaponry, they would be too young".

19.19.2.13.5 On **Day 402/60/21 to Day 402/60/25** Michael Clarke, confirmed that the Fianna had no access to explosives. When asked why he said "Because I was the explosives officer".

19.19.2.13.6 On **Day 406/92/13 to Day 406/92/19** Gerard O'Hara stated that when he was a member of the Official Fianna no members, to his

knowledge, never had access to weapons or explosives, including nail bombs.

19.19.2.13.7 On **Day 406/132/19 to Day 406/133/15** the following exchange takes place between Gerry O'Hara and Christopher Clarke QC:

Q. As the OC of the Fianna would you have known if any Fianna member had been carrying a nail bomb?
A. Yes, unless they had, unless, as you say they might have found one or something, but, in an organised way they should not have had them and I would have known.
Q. Did you ever come across an incident in which a member of the Fianna was in possession of a nail bomb?
A. No.
Q. As the OC would you have had to authorise Gerry Donaghey to carry nail bombs on the day, had he wished to do that?
A. I suppose I would have had to have been involved in the decision that Fianna were going to be involved in carrying nail bombs, not just in the specific case, and that did not happen, so it does not arise.
Q. Can you think of any reason at all which Gerry Donaghey might have been carrying nail bombs on that day?
A. Well, I am actually 100 per cent certain that he was not, so ...
Q. Are you aware from anywhere from which he could have obtained nail bombs?
A. No.

19.19.2.13.8 At **Day 406/129/19 to Day 406/130/5** Gerry O'Hara states in response to Christopher Clarke QC:

Q. Could we go on in your statement, please, over the page to paragraphs 23 and 24. You are dealing there with evidence that has been given about the use of explosives and in particular nail

bombs. You say:

"It was not part of our role in the Fianna to throw nail bombs. If nail bombs were thrown, they were only thrown by IRA volunteers involved in the military side."

Did you at any time between August 1971 and 30th January 1972 ever throw a nail bomb?

A. No.

Q. Are you aware of any Fianna member ever doing that?

A. No.

19.19.2.13.9 On **Day 408/87/20 to Day 408/88/4** PIRA 18 was asked by Christopher Clarke QC whether in January 1972 members of the Fianna ever had access to nail bombs. PIRA 18, in answer, confirmed that members of the Fianna were not trained in the use of weapons or explosives.

PIRA evidence re the make-up of the bomb (and contrary to the evidence of Paddy Ward they are not suitable for attacks on buildings but are anti-personnel devices)

19.19.2.13.10 On **Day 402/28/6 to Day 402/30/2** Michael Clarke is questioned by Christopher Clarke QC in relation to a number of photographs of nail bombs. When shown **EP5.26** the witness states that the nail bomb shown does not look like one of his. He says that he would have allowed seven seconds on any fuse he would have made, that it would have been approximately three and a half inches long and that he would never have used that amount of tape to make up a nail bomb.

19.19.2.13.11 When shown **EP5.27** the witness stated that the match was not touching the fuse and therefore he did not think that it could have ignited and that it was not the way [we] would have made it. He stated that the match head would have been in the 45-degree angle, cut and taped around the fuse.

19.19.2.13.12 The witness was shown **EP5.28** which was said to be a photograph of what was taken from Gerard Donaghey's body and the following exchange takes place **Day 402/29/17 to Day 402/30/1**:

> Q. Could we have on the screen EP5.28. This is said to be a photograph of what was taken from Gerard Donaghey's body. As I understand it, each of these four sachets is said to contain the wrapping and the nails. This sachet has sticks of gelignite, one of which has the words "Gelamex" on it. Is that the sort of size of gelignite that you would use?
>
> A. No.
>
> Q. What size would you use?
>
> A. Half that size.

19.19.2.13.13 On **Day 426/60/5 to Day 426/65/12** Christopher Clarke QC asked PIRA 24 about paragraph 22 of his statement in which he deals with nail bombs and the photographs that he had been shown of the nail bombs said to have been found on the body of Gerard Donaghey. In his statement he said that he had never seen nail bombs made up like the ones in the photographs and that they did not look familiar to him as PIRA nail bombs. When asked the reason why they did not look familiar he stated that "the whole structure of the thing does not seem right". An elaborate exchange as to what this meant then took place[29].

[29] Furthermore there are other unusual features thus, for example, at **INTSUM 102 dated February 1972 G108.654 paragraph 8** it is stated that three of the four nail bombs found (on Donaghey) were made with Quarex which, it is stated, "is not common here and not an efficient type of explosive for such a purpose".

19.19.2.14 Forensic Evidence[30]

19.19.2.14.1 Vital scientific evidence which points in the direction of the nail bombs having been planted was not put before Widgery by Dr Martin or by Mr Hall. This has emerged from the comprehensive and helpful expert report obtained by the Inquiry from Dr JFP Lloyd.

19.19.2.14.2 According to Dr. Martin's notes, considered by Lloyd at **E1.0055 paragraph E** 'the bullet that struck Donaghey passed through the lower left pocket of the jacket.' This is one of the pockets that allegedly held a nail bomb. Yet, in the course of Dr. Martin's evidence to Widgery (Days 9 & 17) "no reference is made to the pocket; only a hole in the left front of the jacket is mentioned (9/15F)." **E1.0055 paragraph E**

19.19.2.14.3 Moreover in relation to Mr. Hall's report which was prepared for the Widgery Tribunal:

"Mr. Hall's notes record that both side pockets of the jacket and one of the trousers pockets were slit open, but no reference is made to a bullet hole." **E1.0055 paragraph E**

19.19.2.14.4 Accordingly in the evidence placed before the Widgery Tribunal by Dr. Martin and Mr Hall no attempt was made to alert the Tribunal or the representatives of the families to the fact that the shot which killed Gerard Donaghey had passed through the pocket at the left front of the denim jacket he was wearing which pocket purportedly contained a nail bomb at the time he was shot. The significance of this omission cannot be lost on anyone and it is Lloyd's conclusion on this issue that **E1.0059 paragraph B**:

---

[30] Lead particle density on the front and right arm of the jacket was much higher than normal. Lead particles were detected on the swabs from the back and palm of the right hand. No lead was detected on the swabs from the left hand **D0354**.
The nature and distribution of lead particles on the swabs and jacket are not fully consistent with exposure to discharge gases from firearms; the levels on the jacket are too high. It is possible that lead particles from the bullet which entered the deceased's stomach were the main cause of the contamination **D0355**.

"A bullet had passed through the jacket's left lower pocket, from which a nail bomb was recovered. The bomb could have been at least damaged if not exploded by the bullet, if the bomb was present in the pocket at the time. On the evidence available, the bomb was undamaged."

19.19.2.14.5 In his report entitled "Initial Report on Firearms & Explosives Residues" dated June 1999 JPF Lloyd stated as follows **E1.0056**

"...The condition of the bomb is not stated in Mr Hall's notes, but from photographs of the reconstructed bombs, there appears to be no damage to any of them that might have been caused by the bullet that passed through the pocket. It is expected that some damage to the bomb, caused by the bullet, would have been evident both to Mr Hall and to Soldier 127 who retrieved the bomb the bomb was in place when Donaghey was shot.

There is a significant chance that the bullet could have exploded the bomb, particularly in view of the presence of a detonator. Soldier 127 testified that it was extremely unlikely that the bomb would be exploded by a bullet unless the bullet struck the detonator (9/64F). However, gelignites, such as Gelamex compositions, are amongst the *more impact-sensitive* of the explosives manufactured for commercial and militarv use. Militarv explosives are designed to withstand bullet impact. Under the circumstances of laboratory test procedures, an explosive probably comparable to Gelamex was reported to be sensitive to projectile impact velocities lower than bullet velocities generally, but the relevance of the laboratory results to actual events is uncertain, as is the velocity of the apparently deflected bullet that struck Donaghey".

While he does not accept Dr Martin's suggested explanation for the particles detected, Dr Lloyd agrees that

19.19.2.14.6 In his statement to this Tribunal Mr Hall states that he recalls 'placing, item 12, the nail bomb taken from the left hand jacket pocket of Gerard Donaghey into that pocket to test whether or not a bullet could have passed by without striking the nail bomb. I concluded that this was possible, although this was not necessarily easy to do. I think I concluded that it could only have occurred of the nail bomb was placed deep into the pocket . . . I think I also discussed this issue with Dr Martin at the time, although I do not remember what Dr **Martin's** view was at the time.' Mr Hall's statement **D0625 paragraph 48**. Significantly, Lloyd notes that **E1.0057 paragraph K**

"There are no relevant observations or comments in the notes or his report. If the dimensions of the pocket, relative to the nail bomb were thought to be important, they should have been recorded."

19.19.2.14.7 In Shepherd & O'Callaghan's report (on the pathology and ballistic evidence) they stated **E2.0023**

"These tests do not appear to have been documented nor does it appear that notes were made of any discussions between Dr Martin and Dr Hall on the matter. Neither Dr Martin nor Dr Hall dealt with the issue in their reports or testimony".

19.19.2.14.8 Lloyd also stated **E1.0057 to E1.0058**

According to Mr Hall's notes, the bombs were 4½ " long, and 1¾"-2" in diameter. Presumably this referred to the reconstructions shown in photographs in the laboratory file. According to the testimony of Soldier 127, the actual bombs had been 1/4"-1/2" fatter (9/63B). Mr Hall states that he placed relevant nail bombs in

---

the **"distribution is not attributable to the use of a firearm, as Dr Martin accepted."** **E1.0043**

Donaghey's jeans in order to satisfy himself that the bombs would fit into the jeans (07/04/99, §49). I agree that a typical unworn pair of jeans might readily accommodate items of these dimensions. However, such items are much less readily accommodated when the jeans are worn. According to PC Montgomery's statement (20/05/99, §7), the jeans were tight fitting.

19.19.2.14.9 And of course there was a substantial body of civilian and other evidence relating to the tightness of the jeans worn by Gerard Donaghey.

19.19.2.15 Conclusion

19.19.2.15.1 This is an inescapable inference from the evidence of the numerous witnesses who saw Gerard Donaghey:

i) before he left the house that day;
ii) who accompanied him on the march;
iii) who saw him being shot;
iv) who tended to him after he had been shot;
v) who carried him to 10 Abbey Park;
vi) who examined and searched him there;
vii) who carried him out to Raymond Rogan's car;
viii) who travelled with him in the car;
ix) who saw him at Barrier 20; and
x) who examined him at the Regimental Aid Post (like Corporal 150 and Captain 138)

that the nail bombs must have been placed on his body after their contact and examinations.

19.19.2.15.2 As far as the planting of nail bombs is concerned it is in the nature of things that there will be no direct evidence. There is however a substantial body of other circumstantial evidence which

demonstrates that the police and/or army had motive, opportunity and access to the relevant materials to enable them to plant nail bombs. Moreover, the nail bombs themselves were of a highly unusual composition and construction.

Motive

(i) There can be no doubt that the security forces had a powerful motivation for planting nail bombs on the body of Gerard Donaghey who had been murdered by the army. We know that the army case at the time was that all those who were shot and wounded were either gunmen or bombers and being able to point to at least one of the deceased being in possession of a nail bomb would help to support their false case. At the very least it would provide convenient propaganda – see, for example, statement of the Irish Government at **U325 paragraph 260 to 261** and Inspector Dickson at **Day 212/75/11 to Day 212/76/2**.

Opportunity

(ii) Nail bombs were not discovered until after the body of Gerard Donaghey and the car in which he was traveling had been seized and removed to premises jointly occupied by the RUC and the army. Clearly this would have provided an opportunity for nail bombs to be placed on the body of Gerard Donaghey. It was put to Detective Sergeant McTeggart that the security forces would have had an opportunity to plant bombs on Gerard Donaghey. He agreed that they "certainly would" **Day 223/125/6 to Day 223/125/13**. Nail bombs are "easy to make and could be made in a few minutes" **C2584.3 paragraph 16**.

Access

(iii) There is no doubt that it would have been possible for the RUC/army to get hold of the materials necessary to make the nail bombs found on Gerard Donaghey. This emerges from a number of sources including the recent statement of INQ 2584 **C2584.3 paragraph 16** and Inspector Dickson **Day 212/73/6 to Day 212/73/8**.

Composition

(iv) The nail bombs were of an unusual composition and did not, for example, bear any relationship to Inspector Dickson's previous experience of nail bombs **Day 212/79/14 to Day 212/79/20.** The PIRA witnesses also confirmed that the nail bombs were not constructed in the way in which PIRA would have made them – see section on PIRA evidence at 19.19.2.13. Moreover they were of a potentially lethal construction so far as risk to the user was concerned **C2584.7 paragraph 40**. Three of them were made with quarex (a quarry-based explosive) which was "not common here" **Intsum 102 dated February 1972 at G108.654 paragraph 8**.

19.19.2.15.3 Furthermore, the "crime-scene" was not preserved properly or at all. Photographs of only one of the devices in situ have been provided to the Tribunal. Other photographs which may have been taken have not survived. No samples of the explosives were forwarded to the Northern Ireland Forensic Science Laboratory. There is no evidence of any attempt to carry out a fingerprint examination and those who travelled in the car with Gerard Donaghey were not questioned about the alleged presence of nail bombs.

19.19.2.15.4 In short the evidence establishes that the nail bombs were planted on Gerard Donaghey at some time after he transferred from civilian custody to the custody of the security forces.

19.20 **Nature and Character of the Anti-Tank Platoon**

19.20.1. The nature of the anti-tank platoon that formed part of the Support Company convoy that entered the Bogside on Bloody Sunday is best illustrated by reference to a horrific incident that took place just a few days after Bloody Sunday in Belfast. Two innocent Catholics who were on their way home after attending a prayer meeting at the hostel where they were volunteers were set upon by soldiers, who savagely beat and otherwise assaulted them. They were then abducted and dumped in an area where the soldiers knew that their lives were in danger.

19.20.2. It is submitted that this incident is relevant to the events of Bloody Sunday for a number of reasons

i) its proximity in time to Bloody Sunday;

ii) the fact that many of the same individuals are involved;

iii) it demonstrates the lack of control exerted over his troops by Lt 119 and;

iv) it demonstrates that members of the Anti-Tank Platoon were prepared to engage in abduction, robbery and serious assault.

19.20.3. The incident is described in detail in the various statements and evidence of Soldier 027. In the section of his "1975 statement" entitled "February 1972" he describes the incident as follows

"In two pig loads, we the anti-tanks moved to Albert Street Mil.. After a wait we were briefed by Lt. 119 for an operation at Divis Flats on the Falls Road....From the base of Divis Flats complex we saw a barricade of fiercely burning lorries and cars. In our usual manner we drove straight at them but before impact came

under fire from the Flats....036 meanwhile continued to ram the barricade with the pig writing it off in the process. Hoards of crap-hats moved into and all around the flats.

"Meanwhile several blokes had been beasted severely. I was with 119, in a pig parked between the main tower and the annex 30 or 40 metres away was E's pig on waste ground among some derelict buildings. Beyond that could be seen the glow of the fires. Then I noticed G and F running towards the pig with a bloke bent double between them. They kept him going head first into the armour plating. The bang was quite audible where I was. He was temporarily knocked out but was revived and thrown into the back of the pig....Lt 119 was also aware of what was going on but the bloke was in no fit condition to be taken to Musgrave for vetting as was the normal practice. So he had no other choice than to turn his back on the situation while the body was taken to the Shankill to be dumped – a fate worse than death for a Catholic to be placed in the middle of a Protestant area if his identity is known or vice versa. He was dropped outside the Horseshoe Bar and Provs [should be Prots] were informed (at this time, a few weeks after Bloody Sunday we were angels in their eyes and could do no wrong)....We had a man in the back of the vehicle who was crying hysterically and uncontrollably thinking that we were going to shoot him....As it was H took all his money and we let him go." **B1565.014.11**, **B1565.014.12**, **B1565.014.13**

19.20.4. When he gave evidence Soldier 027 said, "I have a vague memory of an event which has some correspondence with what occurred here, but I cannot recognise a good deal of the detail which you have just read out." **Day 247/63/3 to Day 247/63/6**. He also accepted that while he "was present during the incident" he was not "witness to

the physical abuse which these characters suffered" **Day 247/64/3 to Day 247/64/5**. He indicated that he may have got the detail of what appears in the account from soldiers talk or talk within the vehicle **Day 247/64/6 to Day 247/64/14**.

19.20.5. A similar incident is described by another member of the anti-tank platoon in the notes of his "Praxis" interview where he appears to have said

"...I took two Roman Catholics what we caught with weapons. I dropped them outside the Horseshoe bar up Shankill, went inside and said 'I've got two blokes out here' because then if you got caught with a weapon you got five year, which I thought was ridiculous. I mean these blokes were going out to kill somebody. I went inside Horseshoe bar....

Q. Is that the Horseshoe bar?

Z: Horseshoe bar up Shankill, Shanklin Road. I went inside the bar, I said 'I've got two blokes outside here for you', and them blokes turned up about five days later.

Q. Dead?

Z: Nowt to do with me.

Q: So the Prots got them?

Z: Nothing to do with me. You know what I mean?" **C1243.63 to C1243.64**

19.20.6. INQ 1243 now denies that this incident ever happened and in oral evidence indicated that he had a drink problem at the time and that the interviewer got him drunk and got him "waffling" trying to make his story all the more interesting **C1243.3 paragraph 16, Day 309/136/10 to Day 309/138/7**. John Goddard from the Praxis

team indicated that the transcript of the interview supplied to the Tribunal must be an accurate reflection of the interview as he was using a cassette recorder **Day 234/127/12 to Day 234/127/13**. He denied that he would have got INQ 1243 drunk, that he would have put things into his mind and that the transcript would contain any material that has been invented or exaggerated **Day 234/127/14 to Day 234/128/14**.

19.20.7. Quite apart from the independent recollections of these two soldiers who were members of the anti-tank platoon, the Tribunal also has the statements of Francis Creagh **AC146.1 to AC146.17** and Raymond Muldoon **AM496.1 to AM496.4** whose evidence about an attack on them by soldiers is reported in the Irish News Report dated 4th February 1972 at **L152** and appears very similar to the incidents described by soldier 027 and INQ 1243.

19.20.8. Mr Creagh and Mr Muldoon describe how they were walking home from a prayer meeting using a short cut through Divis Flats when they were confronted by soldiers. Mr Creagh then describes a horrific attack carried out on the two men by those soldiers. He remembers being forced on to the ground and then says

"They spread my legs apart and for some reason removed my shoes and emptied my pockets. I had no cash with me but I can remember that I had three or four pounds in bus tokens that were taken.

"I can then remember three things happening to me while I was on the ground. Firstly, I was kicked a large number of times on the side of my body and chest, on my legs and on my shoulders. I was not kicked in the head. I can remember crying out at this

point and saying that I was a member of a religious organisation and that I believed in God..." **AC146.2 paragraphs 7 to 8**.

19.20.9. Mr Creagh then describes how a gun was put to his head, he was thrown into the back of a Saracen on top of someone else and how he heard the soldiers say "we'll throw them in Sandy Row or Shankill Road" **AC146.2 paragraphs 9 to 10**. He remembers a short journey in the Army vehicle after which he and the other person, who he discovered was Mr Muldoon, were thrown out on to the ground

"We were in a side street off the Shankill road. On the corner of the side street and the Shankill Road there was a bar, and a side door to the bar opened on to the side street where we had been dumped. As we lay there on the ground, a crowd of men came out of the bar, through the side door." **AC146.2 paragraph 12**

19.20.10. Mr Creagh then describes how one of the crowd shouted "are you the two IRA men". Despite his terror Mr Creagh was able to explain that himself and Mr Muldoon were volunteer workers in the Morning Star hostel in Divis Street and the crowd let them go **AC146.2 paragraph 13**. As they made their way home they were confronted by another crowd who attacked them. Mr Creagh managed to escape **AC146.3 paragraph 15**.

19.20.11. Mr Muldoon also describes how soldiers set upon him and Mr Creagh. Mr Muldoon then says

"They told us to lie on the ground and at that stage I was kicked in the ribs and they broke three ribs. I screamed because the pain was unimaginable – the muzzle of the rifle was put to my

head and clicked a few times so I tried to muffle my screams. I think I did go out of consciousness and when I came round barbed wire was being dragged across me. I could feel the barbed edge through my trousers." **AM496.2 paragraph 9**

19.20.12. Mr Muldoon also states that he was sexually molested during the attack **AM496.2 paragraph 10**. He also describes being thrown "head first against the side of the Saracen" at which point he lost consciousness **AM496.2 paragraph 13**. This description bears a striking resemblance to that provided by Soldier 027. Mr Muldoon also describes being thrown out on to the street he describes being set upon by the crowd that came out of the pub **AM496.2 paragraph 15**. He also describes how he was being taken to a car by a number of people and thought he was going to die when soldiers intervened and he was taken to hospital **AM496.3 paragraph 16**. He spent six or seven days there and describes the, understandably, huge emotional impact the attack had on him **AM496.3 paragraph 16**.

19.20.13. When Mr Creagh was shown the account of the incident given by Soldier 027 he said

"it is entirely possible that this diary describes the actual incident that Raymond and I were involved in, albeit that no-one was castrated. My impression at the time was that the soldiers were trying to beat us up without marking us. They were going to leave that to the people in Shankill Road. If there was no similar incident that week in Belfast, then I am pretty sure that this diary refers to what happened to us." **AC146.4 paragraph 24**.

19.20.14. Mr Muldoon commented on Soldier 027s account thus "Much of what he describes does sound similar to the attack on Francis and me

but obviously not all the incidents are the same." **AM496.3 paragraph 21**.

19.20.15. Attached to Mr Creagh's statement are papers relating to the action taken by him against the Ministry of Defence in respect of this incident **AC146.11 to AC146.17**. Mr Muldoon took a similar action. The cases were settled out of court. A document contained among the papers at **AC146.16** is clearly an internal Ministry of Defence document. It is headed "NORTHERN IRELAND LITIGATION - RAYMOND MULDOON AND FRANCIS CREAGH" and states

> "The claims arise out of an incident which occurred on 3 February 1972 when Messrs Muldoon and Creagh allege that they were assaulted by soldiers....The Army account of the incident indicates that the two men were taken away for screening by a mobile patrol after cuttings of newspapers had been found on them containing IRA literature...There is evidence that the Security Forces used more force than was necessary....Moreover it is evident that they were dumped in a hostile area with little regard to their future safety." **AC146.16**

19.20.16. From the above it is clear that there was an internal investigation of some sort into the incident to the extent that those responsible gave their version of events - "The Army account of the incident...". It should therefore be possible for the Ministry of Defence to identify with precision who were the soldiers involved. They have not done so. Given that the production of such material would establish Soldier 027's unreliability and would be crucial in showing that Soldier 027's allegations against Soldiers Lt 119, F, G, H and 036 were false it can be presumed that their legal representatives have asked for, and the Ministry of Defence has conducted, a search for any material relevant to this incident. It would appear that not all of it has been provided to this Tribunal.

19.20.17. When Lt 119 gave oral evidence he was asked about this incident. He said that he "remembered being involved in an operation in support of another unit, um, at around that time." **Day 363/181/18 to Day 363/181/19**. However he did not remember any of the elements of the incident described in Soldier 027's account. In fact he said "I do not believe it happened sir, and if it had happened I would have stopped it, put it like that" **Day 363/184/5 to Day 363/184/6**.

19.20.18. Not surprisingly Soldier F said he had no recollection of the incident and then that he was not engaged in an operation which involved dumping a Catholic who had already been beaten in the Shankill Road **Day 375/174/17 to Day 375/176/19**.

19.20.19. Soldier H said "Not only was I not present, sir, I believe that to be a lie, I just cannot imagine anybody being banged into an armoured personnel vehicle head first and living to tell the story about it." **Day 377/134/10 to Day 374/134/13**.

19.20.20. Soldier 036 lives outside the jurisdiction, has not co-operated with the Tribunal, and was not asked about the incident when questioned by Mr Tate.

19.20.21. We therefore make the following submissions

i) That the incident involving Mr Creagh and Mr Muldoon is the same incident as that described by Soldiers 027 and INQ 1243;

ii) That Mr Creagh and Mr Muldoon were savagely beaten by members of the Anti-Tank Platoon, Support Company, 1 Para on 3rd February 1972;

iii) That they were abducted and dumped in an area where they were in mortal danger;

iv) That the Ministry of Defence is aware of the background to and circumstances of this incident;

v) That they have failed to identify the individuals involved for the assistance of the Tribunal;

vi) The Tribunal should therefore be in a position to draw an inference that those involved were soldiers Lt 119, F, G, H and 036;

vii) That soldiers Lt 119, F and H lied to this Tribunal when they indicated that they knew nothing of this incident;

viii) That Soldiers Lt 119, F, G, H and 036 were at the very least present while this incident took place and that at least soldiers F, G, and H took part in the assault on Mr Creagh and Mr Muldoon;

ix) That the circumstances relating to this incident provide clear evidence of the following

a) The casual brutality of Soldiers F, G, and H;

b) The inability of Lt 119 to control his troops, or alternatively, his acquiescence in and approval of, their actions;

c) The failure of the Ministry of Defence to co-operate fully with this Inquiry by providing relevant evidence where it is clearly in their possession.

19.21 Conclusions

19.21.1. After firing at civilians behind the rubble barricade on Rossville Street some members of Anti-Tank Platoon left the low wall at Kells Walk and advanced along Rossville Street, entering Glenfada Park North by its northeastern entrance. It seems likely that Soldiers F and G entered the car park first and, immediately upon entering, opened fire on civilians some of whom were attempting to flee the area via the alleyway at the southwestern corner of Glenfada Park. The evidence shows that most of those killed and injured were in this vicinity.

19.21.2. It also seems likely that Soldiers E, H, J, David Longstaff and Lieutenant 119 entered Glenfada Park shortly after Soldiers F and G. Soldiers E and H also opened fire there. When shooting was

finished three men lay dead or wounded along the pavement, which runs along the southern side of the car park. Where they fell is clearly depicted in **P439**. The injuries sustained by these three men, Willie McKinney, Joseph Mahon and Jim Wray are consistent with the civilian evidence that they were shot from the direction of the northeastern corner of Glenfada Park North as they were running from east to west towards the exit to Abbey Park.

19.21.3. **P439**, consistently with the civilian evidence, clearly shows an absence of riot debris on the ground in Glenfada Park North. Nor is there any evidence of damage caused by nail or petrol bombs.

19.21.4. Soldier G advanced to the southwestern exit of Glenfada Park which leads to Abbey Park. From this position he discharged a number of rounds as a result of which Gerard Donaghey and Gerard McKinney were fatally wounded.

19.21.5. Soldier F advanced to the southeastern exit of Glenfada Park which leads to Rossville Street. From this position he discharged a number of rounds towards sector 5.

19.21.6. It is submitted that the evidence clearly and indisputably establishes the following:

i) William McKinney, Gerard McKinney and Gerard Donaghey were shot and killed by soldiers of Anti-Tank Platoon, Support Company, 1 Para.

ii) They were shot and killed in circumstances which were unjustified.

iii) Joseph Mahon, Joseph Friel and Patrick O'Donnell were shot and injured by soldiers of Anti-Tank Platoon, Support Company, 1 Para.

iv) They were shot and injured in circumstances which were unjustified.

v) None of the deceased or injured was armed when shot and no action taken by any of them justified the shooting by soldiers who fired in Glenfada Park and Abbey Park.

vi) No action taken by any of the deceased or injured either posed a threat, or could have been perceived as posing a threat, to the soldiers.

vii) There were no civilian gunmen, no nail bombers and no petrol bombers in Glenfada Park or Abbey Park on Bloody Sunday.

viii) There was no action by any individual in Glenfada Park or Abbey Park which either posed a threat, or could have been perceived as posing a threat such as to justify the shooting.

ix) Nobody was killed in Glenfada Park other than William McKinney and Jim Wray both of whom were murdered by soldiers from Anti-Tank Platoon

x) Nobody was shot and injured in Glenfada Park other than Joseph Mahon, Joseph Friel, Patrick O'Donnell, Michael Quinn and Danny Gillespie all of whom were shot and injured by soldiers from Anti-Tank Platoon.

xi) Nobody was killed in Abbey Park other than Gerard McKinney and Gerard Donaghey both of who were murdered by Soldier G.

19.21.7. Role and Responsibility of Individual Soldiers in Anti-Tank Platoon

19.21.7.1. Based on the foregoing examination of the evidence, the role and responsibility of individual soldiers in Anti-Tank Platoon who were involved in Sector 4 can be summarised as follows.

19.21.7.2. Lt 119

i) Was not in effective command or control of his platoon at any time on Bloody Sunday;

ii) He failed to take any or adequate steps to acquire sufficient understanding of the conditions in Derry and the Bogside in particular;

iii) He failed to take any or adequate steps to obtain clear guidance and instructions about the purpose of the operation to be undertaken by his battalion; his own role and that of his platoon; any restrictions and constraints imposed on the operation, concerning in particular the geographical limits of their deployment, the use of their firearms and their contingency plans in the event of gunfire of any kind; and the likelihood of coming under fire;

iv) He failed to give any or adequate briefing to the members of his platoon concerning these matters;

v) When his platoon debussed, he exercised no supervision or control of any kind over his men at any stage during the material events even when it was obvious that they were shooting at innocent civilians;

vi) He saw the actions of his troops in Glenfada Park and Abbey Park and failed to take any or adequate steps to prevent them from exercising, inter alia, unlawful lethal force;

vii) Ordered or allowed those sheltering at the south gable end of the eastern block of Glenfada Park North to be illegally detained and unlawfully arrested;

viii) In the foregoing circumstances and as leader of the platoon whose members shot dead William McKinney, Jim Wray, Gerard McKinney and Gerard Donaghey and wounded Joseph Mahon, Patrick O'Donnell, Joseph Friel, Michael Quinn and Danny Gillespie Lt 119 bears a personal responsibility for murdering William McKinney, Jim Wray, Gerard McKinney and Gerard Donaghey and causing grievous bodily harm to Joseph Mahon, Patrick O'Donnell, Joseph Friel, Michael Quinn and Danny Gillespie.

19.21.7.3. Corporal E

i) lied about the reason for soldiers moving into Glenfada Park;

ii) led soldiers into Glenfada Park without authorisation;

iii) led soldiers into Glenfada Park in circumstances where he was aware that there was a risk they would open fire on innocent civilians;

iv) lied about what he and the other soldiers encountered when they entered the park;

v) lied about soldiers being attacked and missiles being thrown;

vi) lied about seeing a man throwing a petrol bomb and a nail bomb;

vii) was or became aware of the circumstances in which his colleagues opened fire in Glenfada Park and Abbey Park;

viii) may have shot and wounded Patrick O'Donnell;

ix) may have fired more shots than he admitted to;

x) lied about the circumstances in which people were arrested from Glenfada Park;

xi) knowingly gave false information to police in order to ground the arrests of Fergus McAteer, Joseph McColgan, Seamus Liddy and John Liddy.

19.21.7.4. Soldier F

i) Did not come under threat in Glenfada Park;

ii) Did not see civilians acting in an aggressive or hostile manner;

iii) Was not justified in opening fire in Glenfada Park;

iv) May have fired more shots in Glenfada Park than he has admitted to;

v) May have murdered Willie McKinney;

vi) May have injured Joseph Mahon;

vii) Either saw or became aware of the circumstances in which other members of his platoon, namely E, G and H opened fire in Glenfada Park and Abbey Park;

viii) Knew or became aware that they were not justified in opening fire on Bloody Sunday;

ix) Knew that they had committed murder on that day;

x) Knowingly gave false information to police in order to ground the arrests of Terence O'Keefe, Thomas Bradley, Patrick Norris and Michael McCallion.

19.21.7.5. Soldier G

xi) Did not see civilians in possession of firearms or what looked like firearms in Glenfada Park on Bloody Sunday;

xii) Did not shoot civilian(s) who he thought was/were in possession of firearms there;

xiii) Did not come under threat in Glenfada Park;

xiv) May have shot and wounded Joseph Friel.

xv) Did not see civilians acting in an aggressive or hostile manner there;

xvi) Was not justified in opening fire in Glenfada Park;

xvii) May have fired more shots in Glenfada Park than he has admitted to;

xviii) Either saw or became aware of the circumstances in which other members of his platoon, namely E, F and H opened fire in Glenfada Park;

xix) Knew or became aware that they were not justified in opening fire on Bloody Sunday;

xx) Knew that they had committed murder on that day;

xxi) Murdered Gerard McKinney;

xxii) Murdered Gerard Donaghey;

xxiii) Failed to provide any information relating to the deaths of Gerard McKinney and Gerard Donaghey;

xxiv) Fired more rounds than he admitted to;

xxv) Knowingly gave false information to police in order to ground the arrests of Joseph Norris, Christopher Doherty and John Noel Devine.

19.21.7.6. Soldier H

i) Did not see civilians in possession of a nail bomb(s) or what looked like a nail bomb(s) in Glenfada Park on Bloody Sunday;

ii) Did not shoot civilian(s) who he thought were about to throw a nail bomb;

iii) Did not come under threat in Glenfada Park;

iv) Did not see civilians acting in an aggressive or hostile manner;

v) Was not justified in opening fire in Glenfada Park;

vi) May have murdered Willie McKinney;

vii) May have shot and injured Joseph Mahon;

viii) May have shot and injured Joseph Friel;

ix) May have shot and injured Patrick O'Donnell;

x) Did not fire his twenty two shots in the manner he has described;

xi) Witnessed or became aware of the circumstances in which his colleagues (in particular F and G) opened fire;

xii) Knew or became aware that they were not justified in opening fire on Bloody Sunday;

xiii) Knew that they had committed murder on that day.

19.21.7.7. Soldier J

i) Did not come under threat in Glenfada Park;

ii) Did not see civilians acting in an aggressive or hostile manner;

iii) Witnessed or became aware of the circumstances in which his colleagues (in particular F and G) opened fire;

iv) Knew or became aware that they were not justified in opening fire on Bloody Sunday;

v) Knew that they had committed murder on that day;

vi) Knowingly gave false information to police in order to ground the arrests of Anthony Coll and John Gormley.

19.21.7.8. David Longstaff

i) Witnessed or became aware of the circumstances in which his colleagues (in particular F and G) opened fire;

ii) Knew or became aware that they were not justified in opening fire on Bloody Sunday;

iii) Knew that they had committed murder on that day;

iv) Knowingly gave false information to police in order to ground the arrests of George Roberts and James Joseph Kelly.

19.21.7.9. INQ 635

i) Knowingly gave false information to police in order to ground the arrests of George Irwin, James McNulty and John Rogers.

19.21.7.10. INQ 1694

i) Knowingly gave false information to police in order to ground the arrests of Hugh O'Boyle and Robert Wallace.

19.21.7.11. INQ 1237

i) Knowingly gave false information to police in order to ground the arrests of George McDermott and Charles Glenn.

19.21.7.12. Soldier 229

i) Knowingly gave false information to police in order to ground the arrests of Patrick McGinley, Denis McLaughlin and Joseph Lynn.

19.21.7.13. Finally, all of the above soldiers perverted the course of justice, individually and collectively, in relation to the events of Bloody Sunday by concealing the criminal behaviour of their colleagues in Anti-Tank Platoon and ensuring that they would evade prosecution for their crimes. Those who gave untruthful evidence on oath or affirmation also committed perjury.

20. SECTOR 5

20.1 General overview and summary of submissions

20.1.1 Two people were killed and two people were wounded in the area behind block 2 of Rossville Flats on Bloody Sunday. These shootings were the last on the day following the shooting of Hugh Gilmore on the eastern side of Rossville Street. Patrick Campbell was wounded first in this sector. He was assisted by Danny McGowan. Danny McGowan was then shot and wounded. Paddy Doherty was shot dead followed by Barney McGuigan, who had gone out to assist him. Given the location of these shootings, the only realistic candidates for these killings and woundings are members of the Anti-Tank Platoon who had arrived at the entrance of Glenfada Park North. Soldier F of the Anti-Tank Platoon has admitted in oral evidence killing Patrick Doherty and Barney McGuigan. The number of killings and woundings exceeds the number of shots admitted by a single solider in this area. It is clear that the soldiers have failed to account, even now, for those woundings.

20.1.2 It is submitted the evidence supports the following conclusions:

i. All of the deceased and injured in Sector 5 were shot by soldiers.
ii. All of the deceased and injured in Sector 5 were unarmed when shot.
iii. As well as the murder of Patrick Doherty and Barney McGuigan the weight of the evidence suggests that Soldier F shot and wounded Patrick Campbell and Danny McGowan.
iv. They were shot deliberately and not accidentally and without any justification.
v. None of the deceased or injured had handled a gun or a bomb at any time on Bloody Sunday
vi. None of the deceased or injured had acted in support of any person handling or using a gun or bomb at any time on Bloody Sunday.

vii. None of the deceased or injured was doing anything at the time they were shot, which would have led the soldiers responsible for shooting them to believe that they posed a threat of any kind.

viii. None of the deceased or injured was in the vicinity of civilian gunmen or bombers when shot. Nothing was taking place in the vicinity of the deceased or injured at the time they were shot, which would have led the soldiers to believe that their lives or the lives of their colleagues were at risk.

ix. Only one solider acknowledges firing two shots into this area at a man with a pistol behind block 2 of Rossville Flats. There was therefore no gun battle and no exchange of fire.

x. There was no man with a pistol behind block 2 of Rossville Flats fired at by Soldier F.

xi. Soldier F opened fire without justification.

xii. It is an incontrovertible fact that due to the number of deceased and wounded, soldiers fired more shots into this area than they accounted for. This proposition is also supported by the civilian evidence.

xiii. There are no "missing casualties" in this sector. All of the persons killed and wounded have been accounted for.

20.2 Overview of civilian evidence Sector 5

Sequence of events.

20.2.1 In Sector 5, two people were shot and killed, Patrick Doherty and Barney McGuigan and two people were shot and wounded, Patrick Campbell and Daniel McGowan. The order of these shootings, as suggested by the civilian evidence, is that Patrick Campbell was the first to be shot, followed by Danny McGowan, then Patrick Doherty and lastly, Barney McGuigan.

20.2.2 **Geraldine McBride** was with Hugh Gilmore when he died. **AM45.4 paragraph 21**. She was still positioned at the gable end of block 1 of Rossville Flats, huddled by a telephone box with ten to twelve others, **Day**

146/30/3 to Day 146/30/16 and **AM45.5 paragraph 22**. One of this group of people was Barney McGuigan. At **AM45.5 paragraph 25** she recalled how he stepped away from the group whilst waving a white handkerchief. **Day 146/33/10 to Day 146/33/23**. He moved out slowly and had travelled ten to twelve feet when the witness heard shots similar to the shots she had heard when Hugh Gilmore was shot. She remembered hearing two distinct shots, but it was the second of the two that she recalls hitting Barney McGuigan on the head. **AM45.5 paragraph 26**. Geraldine McBride was aware of shooting from the Glenfada Park area and across Rossville Street. **Day 146/24/3 to Day 146/24/15** and **AM45.6 paragraph 28**.

20.2.3 **Donna Harkin** was located in a flat on the first floor of block 2 of Rossville Flats. **AH13.5 paragraphs 26 to 28**. She positioned herself at the kitchen window of the flat, which overlooked Joseph Place, to the south of block 2 of Rossville Flats. From there she saw a man lying on the ground, who she believed had been shot. **AH13.5 paragraph 33**. She then saw a group of five men crawling towards Joseph Place from the alleyway between block 2 and 3 of Rossville Flats. **AH13.6 paragraph 34**. The witness believed that the ongoing shooting was coming from the Glenfada Park area, **Day 171/123/8 to Day 171/124/5**, **AH13.6 paragraph 37**, and it was shortly after that she saw Paddy Doherty shot as he was lying on the ground. **AH13.6 paragraph 38**. She then could see Patrick Walsh trying to make his way out to help Patrick Doherty, this took some five minutes, as there was continuous shooting going on at this time. **Day 171/127/4 to Day 171/127/9**. Once Patrick Walsh had reached Patrick Doherty he turned him over, it was then obvious to Donna Harkin that Patrick Doherty was dead. **AH13.7 paragraphs 41 to 42**.

20.2.4 **Patrick Walsh** recalled in his statement to this Inquiry, at **AW5.2 paragraph 12** that he was running for shelter from the gunfire and heard what he described as a thud. He thought that it was the sound of a person falling or fainting. He saw a man lying on the ground. The witness could not recall exactly where the person was, but he remembered crawling out to help. Once Patrick Walsh had reached the man on the ground, he

searched him for a form of identification. The witness believed that the man was already dead by the time he reached him. **AW5.3 paragraph 14**. The witness also searched the man for a weapon, as he thought he had been shot due to being armed. He did not have a weapon of any kind. While the witness was with the man, he could hear the "whoosh" of bullets as they passed over his head. **AW5.3 paragraph 15**. Patrick Walsh also recalled seeing the body of Barney McGuigan. **AW5.3 paragraph 18**.

20.2.5 **Edmund Melaugh** described at **AM398.4 paragraphs 18 to 20** taking shelter behind the gable end of block 1 and still hearing the sound of gunfire after seeing people he thought had been shot at the Rubble Barricade. He thought there was still shooting coming from further north up Rossville Street. He could see soldiers advancing into Glenfada Park North Courtyard. He thought maybe four or five. They started to shoot across Glenfada Park South. Then one dropped to his knees near the centre of Glenfada Park North and started shooting towards the hexagonal flowerbed and the south gable end of block 1.[1] **AM398.11 paragraph 20**. He said at **Day 170/116/15 to Day 170/116/24** that he did not see him fire but that was where he was aiming the gun. At **AM398.4 paragraph 21 to 24** he described running along the back of block 2 to Joseph Place. He went into the alleyway and saw people hiding all along the alleyway. At **AM398.4 paragraph 25** he heard someone behind him call out "I'm shot". He saw two people at the entrance to the alleyway who were both wounded. He thought the shots would have come from the soldiers in Glenfada Park North. One was in his thirties and one was in his fifties. One was wounded in the ankle and the other around the hip. **Day 170/120/13 to Day 170/121/1**. At the time he assumed they had been shot by the soldiers shooting towards Joseph Place from Glenfada Park North. Another man helped drag the two wounded men about half way down the alleyway before other people took them. He then went on to describe

[1] He marked the position on **AM398.25**, which he confirmed as closer to the entrance to Glenfada Park North. **Day 170/115/14 to Day 170/115/20**.

events surrounding the shooting of Patrick Doherty. He confirmed his recollection that he saw Patrick Doherty crawling after the two people were shot. **Day 170/120/7 to Day 170/120/9**.

20.2.6 **Edward Dillon** said in his statement to this Inquiry at **AD45.1 paragraph 5** that he heard shooting begin almost as soon as he had witnessed the Army vehicles travelling along Rossville Street towards Free Derry Corner. On hearing these shots the witness ran to take shelter and moved along the rear of block 2 of Rossville Flats, towards Joseph Place. He stood at the rear of Joseph Place close to the adjoining wall of Fahan Street East. **AD45.2 paragraph 6**. A few seconds later a man arrived in the same place, who told the witness that he had been shot. The man was holding his right leg and had a bad wound below the knee. **AD45.2 paragraph 7**. This man was unknown to the witness, but he has since learned that the man was Daniel McGowan. **AD45.2 paragraph 8**. As Edward Dillon went out to assist Danny McGowan, he saw another man who was lying on the ground facing towards Joseph Place. The man shouted to the witness that he would assist him to carry Danny McGowan. As he shouted this, he was shot. **AD45.2 paragraph 9**. The witness did not know the man at the time, but learned years later that it was Patrick Doherty.

20.2.7 The witness wanted to go out and help Patrick Doherty but did not as the shooting was too intense. He described assisting Danny McGowan after he had been shot. He helped Danny McGowan along the alleyway behind Joseph Place to the south eastern end of the alleyway just facing St.Columb's Wells and into a car. **AD45.3 paragraph 10 to 11**. **Day 174/75/7 to Day 174/76/8.** Edward Dillon then returned to block 2 of Rossville Flats, where he saw the body of Barney McGuigan lying on the ground, covered with a blanket or a jacket. There was a small crowd of people standing around at this point and the witness remained there and discussed what had happened with the group. **AD45.3 paragraph 13**.

20.2.8 **John Hutton**, at **AH105.5 paragraph 7**, described crawling into a house at Joseph Place, from where he watched events. From the living room

window he could see in a northwesterly direction, across to Glenfada Park and the Rubble Barricade. His attention was caught by a soldier looking around the corner of Glenfada Park North, who stuck his head around the corner and then moved back out of sight. **AH105.5 paragraph 8**. Immediately after this, the soldier moved out from the corner and adopted a firing position, firing a shot towards the gap between block 2 of Rossville Flats and the northern end of Joseph Place. **AH105.5 paragraph 9**. The witness then saw the same soldier shoot Barney McGuigan from the same position at Glenfada Park North. **AH105.6 paragraphs 10 to 11**. A second soldier then joined the first one. **Day 185/52/21 to Day 185/53/7.**

20.2.9 **John Davies** was positioned at end of Block 1, beside the alley between block 1 and block 2 of Rossville Flats. He heard a "crack" sound whilst in that position. **AD8.2 paragraph 12**. He was beside Barney McGuigan when he was shot. **AD8.3 paragraphs 14 to 17**. He did not see any other bodies on the ground. **AD8.4 paragraph 20**

20.2.10 **James Quinn** was at the gable at the southern end of the eastern block of Glenfada Park North when three soldiers arrived and told those there to put their hands on their heads. He decided to make a run for it and ran towards the houses in Joseph Place. **AQ10.6 paragraph 32.** As he did so **three or four** shots rang out. They seemed to come from behind him. He assumed the shots had been fired at him. **Day 179/67/11 to Day 179/68/12.**

20.2.11 **Joseph Doherty** said that he saw two soldiers at the corner of Glenfada Park North (when he gave evidence to the BSI he changed this to Glenfada Park South but agreed that this might be mistaken). One soldier moved out of sight, the first stayed at the opening. The first soldier dropped to his knee, took aim and fired one shot at Bernard Mc Guigan who fell to the ground. He fired two other shots. The second soldier had retreated at the time of the firing but returned and called the first soldier back. The soldiers

went back in the direction they had come from. **Day 138/149/1 to Day 138.**

20.2.12 **Thomas Harrigan** saw a man fall, possibly injured, whilst running towards the gap between blocks 1 and 2 of Rossville Flats. **AH39.4 paragraph 20**. He also saw two men fall around the area of the telephone box at the rear of block 1 of Rossville Flats. **AB39.4 paragraphs 23 to 26**.

20.2.13 **Patrick Boyle** made a statement in 1972. He said:

> 'I was round the corner at the phone box when the shooting began.... Across the street there were 40 or 50 people with their hands above their head. Before this another man who had been shot was dragged around the corner. A soldier with the crowd of 40 or 50 turned round and fired across the street. The chap beside me, Mr Mc Guigan, fell dead.'

20.2.14 **Brian Joseph McCool** in his 1972 statement described the moving of Hugh Gilmore's body around the corner of Block 1. At that time the army opened fire from the direction of Glenfada Park at an acute angle. and saw Barney McGuigan being shot. **AM133.4 paragraphs 21 to 25**.

20.2.15 **Patrick McCrudden** saw the body of Paddy Doherty, **AM153.4 paragraphs 22 to 26**, and also saw the body of Barney McGuigan. **AM153.5 paragraph 30**. He did not see any civilian carrying weapons or bombs. **AM153.5 paragraph 32**. He remembered hearing perhaps five , eight or ten shots fired in quick sucession at Patrick Walsh as he crawled out to Patrick Doherty. He though the gunfire was coming from the general area of Glenfada Park. **Day 204/39/17 to Day 204/41/18.**

20.2.16 **Sean McDaid** witnessed the body of Hugh Gilmore. **AM174.2 paragraph 11**. He then saw soldiers running across balconies of Glenfada Park North. All of them were carrying guns, but the witness did not see any shooting. **AM174.3 paragraph 13**. He was beside Barney McGuigan when he was shot. The witness did not hear the actual shot due to the ongoing commotion around him, but believed that the shot was fired from the direction of Glenfada Park. **AM174.3 paragraphs 15 to 17**. The witness heard further intense shooting from Rossville Street towards Free Derry Corner and from Glenfada Park across Rossville Street. **AM174.4 paragraph 18**. He saw a bullet hit the wall of block 2 of Rossville Flats while two men were running across the gap between blocks 1 and 2 of Rossville Flats. **AM174.4 paragraph 19**.

20.2.17 **Thomas Bernard McDaid** witnessed the events from 11 Joseph Place. He was a cousin of Barney McGuigan, who was in the house shortly before he was shot. **AM176.1 paragraphs 1 to 2**. He heard a commotion outside the house and then a "crackling" sound, but was unsure of direction of the crackling noise. **AM176.1 paragraph 3**. He looked out of a window towards block 2 of Rossville Flats and saw a large crowd of people gathered, some of which were lying on ground. He saw Barney McGuigan take steps forward then fall over. He could still hear the crackling noise, which at this time witness had realised was gunfire. **AM176.1 paragraph 4**. He then saw three soldiers moving down Rossville Street, they were not moving very quickly. One of the soldiers saw the witness looking out of window and raised his rifle towards him. **AM176.2 paragraph 5**.

20.2.18 **Jean Marie McGeehan** was positioned in 36 Garvan Place, in block 2 of Rossville Flats. **AM228.1 paragraph 1**. From there she saw three men moving across the wall from block 2 towards Joseph Place. **AM228.3 paragraph 15 to AM228.4 paragraph 21**. None of the three men were carrying anything. **AM228.4 paragraph 24**. She also witnessed a photographer exit the gap between blocks 2 and 3 of Rossville Flats, holding up his camera and a white hanky. He was facing towards

Rossville Street. **AM228.4 paragraph 22**. She did not hear any nail bombs or shots fired from Rossville Flats. **AM228.5 paragraph 26**.

20.2.19 **Danny McGowan** saw Hugh Gilmore fall whilst walking towards the gap between block 1 and 2 of Rossville Flats. **AM255.1 paragraph 6**. The witness then saw Patrick Campbell and went to help him. **AM255.2 paragraphs 10 to 12**. The witness was then shot in the leg whilst helping Patrick Campbell. **AM255.2 paragraph 13**. He was unsure of direction of the shot that hit him. **AM255.3 paragraph 14**. He was then taken to a car by two men, who tried to take him to Altnagelvin Hospital. The route was blocked by soldiers, so the car was turned round and the witness was taken home. **AM255.3 paragraph 16**. He was then taken to hospital by ambulance. **AM255.3 paragraph 17**.

20.2.20 **Paul James McLaughlin** was a member of the Order of Malta. He heard a loud bang while crossing Rubble Barricade on Rossville Street. He believes he was shot at. **AM350.4 paragraph 22**. He did not see any soldiers at Glenfada Park North or the Rubble Barricade at this point. **AM350.4 paragraph 23**. He then tended to Hugh Gilmore. **AM350.4 paragraphs 25 to 27**. He saw shots hitting a concrete plinth and believed that these shots were fired from Glenfada Park North. **AM350.5 paragraph 30**. The witness saw Paddy Doherty, **AM350.5 paragraph 31**, and witnessed Barney McGuigan shot. **AM350.5 paragraph32 to AM350.6 paragraph 38**. He also tended to Alana Burke. **AM350.7 paragraph 40**. The witness saw no civilian with a gun and did not hear any nail bombs exploding. **AM350.7 paragraph 44**.

20.2.21 **Peter McLaughlin** saw Paddy Doherty pulling himself along the ground, then shot. He placed shots as being fired from the direction of Rossville

Street. **AM352.3 paragraphs 18 to 21**. A number of other witnesses saw firing into this area before Patrick Doherty was shot.[2]

20.2.23 **John Martin Campbell** saw Patrick Walsh behind block 2 of Rossville Flats. **AC14.4 paragraphs 18 to 19** and also saw the bodies of Hugh Gilmore and Barney McGuigan. **AC14.4 paragraph 22**.

20.2.24 **John Anthony Dunleavey** made his way to the gap between blocks 2 and 3 of Rossville Flats and pushed his way through crowds. **AD167.3 paragraphs 16 to 17**. He had heard six or seven shots fired in Rossville Street. **AD167.4 paragraph 18**. The witness saw Paddy Doherty being carried to an ambulance. **AD167.4 paragraph 19**. He also saw the body of Barney McGuigan on ground **AD167.4 paragraph 20** and saw the body of Hugh Gilmore. **AD167.4 paragraph 21**.

20.2.25 **John Gerard O'Connor** heard live shots fired while he was positioned at Joseph Place. **AO11.7 paragraph 10**. He heard further shooting while taking shelter, but did not think that shooting was coming from City Walls. **AO11.7 paragraph 12**. He did not see any civilian with a weapon or hear any nail bombs. **AO11.8 paragraph 15**.

Conclusion

The civilian evidence indicates clearly the fear and terror of civilians as they sought shelter behind the gable end of block 1 of the Rossville Flats and also in the gaps between blocks 2 and 3 of the flats and the Joseph Place alleyway. There is a body of evidence which indicates considerably more army firing in the area than the two shots fired by Soldier F into the

[2] Charles McLaughlin, **AM322.4 paragraph 24** and **Day 90/114/12 to Day 90/115/15**. Joseph Nicholas **AN17.20 and Day 78/34/16 to Day 78/34/24**. Derrick Tucker **AT15.4 paragraphs 27 to 28** and **Day 99/19/5 to Day 99/20/19**.

gap behind block 2 of the Rossville Flats. There is also consistent civilian evidence as to the lack of hostile activity in the area by civilians.

20.3 Sector 5 Relevant Photographs

P204 Retaining wall running along Block 2 .Joseph Place.

P298 Front of Joseph place looking down the alleyway that leads back into the car park. Blocks 2 and 3 and large retaining wall.

P300 Taken with photographer standing near to Block 3 of the Flats showing wooden slats of the staircase into Block 2.

P302 Photograph of the wooden slats at the above location.

P325 Taken from the opposite direction of the above photographs showing the steps leading from Fahan Street down to the space between Joseph Place and Block 2 of the Flats. Also showing the staircase into block 2 with wooden slats.

P429 Photograph not taken on the day showing the mouth of Gglenfada Park North and showing Block 1 and Block 2 in the distance.

P431 Photograph showing people in the vicinity of the blocks and around the lamppost.

P433 Photograph from the opposite direction looking into Glenfada Park north.

P721 Photograph taken on Bloody Sunday showing retaining wall and steps up toward Fahan Street east.

P816, **P817**, **P818**, **and P819** showing the crowd at the gable end of Block 1 and the body of Barney McGuigan.

EP25.7 The view that the soldiers had from the walls showing the end of Block 1 and the corner of Glenfada with the lamppost.

EP25.17, **EP 25.18** (**P815**) shown to Soldier 227 who identified Barney McGuigan as the man who fell.

EP32.3 Photograph of the group of people tending to Hugh Gilmore including Danny McGowan. Barney McGuigan is also in the photograph.

EP1.1 shows Charley Op.

P233.2 Photograph taken from the city walls, along the southern side of block 2 of the Rossville Flats

20.4 Patrick Campbell

20.4.1 Personal Details and Background.

20.4.1.1 Patrick Campbell was aged 53 on Bloody Sunday. He was a married man with nine children from the Creggan area of Derry. He worked as a docker for Pinkerton Ship Merchants. He had no criminal record or any political affiliations. When his son John was told on the day that his father had been shot he thought at first it was a mistake. When he got home the house was in utter chaos. They had heard people say that Patrick Campbell had been shot but no-one knew for certain. The family later learned he had been taken to Altnagelvin. After the events Patrick Campbell did not talk much about the events of Bloody Sunday. He told them he had been shot somewhere around Joseph Place. He told his family that the soldier who shot him had it on his conscience and that he had shot an innocent man. Patrick Campbell weighed 16 stone when he was shot and could do a good

hard day's work. After he was shot he lost a lot of weight. His son John thought he was never the same man again and he seemed to go downhill day by day. At **AC14.5 paragraph 29** John Campbell summarised the view of the family and the uncontested truth concerning the actions of his father on the day:

"I know for a fact that my father was a completely innocent man who would never have hurt a fly.."

Timing of the shooting.

20.4.1.2 Patrick Campbell was shot at about the time that the paratroopers were in Glenfada Park and he saw them in Glenfada Park. Bernard McMonagle took him from St. Columb's Wells at about 4.15pm to 4.20pm. They were stopped and taken to the Regimental Aid Post at Foyle Bridge. The journey had taken no more than ten minutes. From the Regimental Aid post he was driven by or with Captain 138 by army ambulance to Altnagelvin Hospital where he was admitted at 4.45pm. Temporary Document **20.3**. Two soldiers and Joe Friel were also in the vehicle.

20.4.2 Civilian Evidence on the shooting of Patrick Campbell.

20.4.2.1 The balance of the evidence suggests that Patrick Campbell was shot somewhere south of block 2 of the Rossville Flats. He was then helped to the alleyway behind Joseph Place. There is some evidence he was taken to a house in Joseph Place. There is clear evidence he was taken to St. Columb's Wells and from there he was taken in a car, which was stopped at the Regimental First Aid Post at Craigavon Bridge.

20.4.2.2 Patrick Campbell, who has since died, was shot at the south of the Rossville flats. He did not give evidence to Lord Widgery, probably because of his condition after the shooting. He gave a statement to the police on Monday 7th February at Altnagelvin at 12 noon.

20.4.2.3 In the statement at **ED27.7** he described having a meal at home at about 1.30pm on 30 January 1972. After this he went to the big field near Saint Mary's church to where the civil rights march was starting from. When the crowd moved off he took up a position with his mates near the end of the march. They walked down Southway, along the Lone Moor Road, down Creggan Street into William Street. The crowd stopped in William Street and he was near Stevenson's bakery. He went down towards Little James Street. The gas was quite strong near Little James Street, so he went up Rossville Street out of the way of it. He stood for some time beyond the small barricade, which was outside the Rossville Flats looking down towards William Street.

20.4.2.4 The Army tanks then came into Rossville Street and the soldiers jumped out. At this he turned and ran towards the gable end of the Rossville Flats. This would appear to be south of block 1. He stood there for a few minutes and then ran across the waste ground towards Free Derry Corner. He then felt like a thud in his lower back and fell on to his knees. He put his hand to his hip and saw there was blood on it. He then put his hand up and called that he was shot. Some men then came and took him into a house near Free Derry Corner, and he was kept waiting here for a car to take him to hospital.

20.4.2.5 After some time a car took him to along Foyle Road under the bridge, where an Army medic took him out of the car and put him on a stretcher and dressed his wound. According to the descriptions of other witnesses this must have been the regimental first aid post of the Royal Anglians at Craigavon Bridge. They then put the witness into an ambulance and brought him up to the hospital. He was not a member of any organisation and only went to the civil rights march because everyone else was going. He was not carrying any object prior to being shot.

Interview with Sunday Times.

20.4.2.6 Notes of an interview with Patrick Campbell by the Sunday Times, dated 1st March 1972 are at **AC19.1**. He said he had been on the march from the Creggan and got as far as the Rossville/William corner when he got a bad whiff of gas. He moved along Rossville Street and crossed the barricade outside the flats and stood there. As he looked back down Rossville Street he saw the Saracens coming in. He saw soldiers jumping out and when the shooting began he made a dive for cover behind a small gable near the telephone box. From there he could see soldiers milling about in Glenfada Park. He then made a dash for Joseph Place and was shot in the back (the wound is at the base of the spine). Originally the interview note read: "Medical evidence needed." Then, in manuscript, there has been added:

> "Michael McClusker ran at same time. Recalls a man running with him, falling, and saw blood on his coat at the back."

The notes continued that after that Patrick Campbell remembered virtually nothing. Notes originally referred to a house in "St. Columb's Wells" but the words "St. Joseph Place" were inserted. He was then taken in a private car and on the way to Altnagelvin, just before the bridge at Barrack Street, the car was stopped by the Army and he was put into an Army vehicle. Joe Friel was there at the time. The notes then referred to whether it was the same car as Joe Friel and the driver being Mr. McMonagle. It was noted that he had been visited by Special Branch. His wife had his clothing, complete with the bullet hole in his trousers.

20.4.2.7 **AC19.3** is the map that is attached to The Sunday Times notes of the interview of Patrick Campbell. The map shows where he initially stood in Rossville Street, where he dived for cover to the south of block 1 and an indication where he was when he was shot. The only direct account of the

wounding of Patrick Campbell, appears in the statement of Patrick Campbell himself.[3]

Contemporary Police Report.

20.4.2.8 A police report at **ED27.3**, from a Detective Inspector reads as follows:

"On Monday, 7th February at midday I interviewed the above named [Patrick Campbell] in the presence of Mr Bennett, consultant surgeon. Campbell was one of the persons more seriously wounded as a result of the troubles on 30th January and as a result could not be interviewed until the 7th inst. Campbell elected to make and sign a written statement which involves him in the civil rights march, which relates his action during the period in question. It will be noted from the medical report that he has sustained serious injuries and is likely to be in hospital for some time. He appears to be a jovial type notwithstanding his injuries and he was most co-operative."

20.4.2.9 **Danny McGowan** at **AM255.2 paragraphs 8 to 12** of his statement to this Inquiry described the scene around the body of Hugh Gilmore at the gable end of block 1 of Rossville Flats. Danny Magowan can be seen in the photograph **AM255.6** near the telephone box. When this photograph was taken he described the shooting continuing and people scattering in various directions to take cover. Some ran to Free Derry Corner. He, along with others, remained where they were, pressed up against the south gable of block 1. It was then that he saw Patrick Campbell, whom he knew, walking like a man who had a few bottles in him. When he first saw him, Patrick Campbell was in the area to the south of block 2 of the Rossville Flats, by the shops, which were on its ground floor. This area was marked C on the map at **AM255.9**. Patrick Campbell was leaning against the wall of the shops as if to prevent himself from falling, and was staggering in a southeasterly direction towards Joseph Place. In the witness' view he had

[3] **V25/ 01.07.34** Patrick Campbell interview.

emerged from the gap between blocks 1 and 2 of the Rossville flats. He went over to Patrick Campbell and helped him to the alleyway to the east of Joseph Place, the entrance to which was marked D on the map at **AM255.9**. The witness only realised he had been hit when he saw him and he said 'I am shot, I am shot'. He could not see where he had been hit as he was wearing a heavy coat. His impression was that he had been shot in the market (Rossville Flats car park) before emerging through the gap between blocks 1 and 2 of the Rossville Flats.

20.4.2.10 The alleyway to which he helped Patrick Campbell was formed by the gap between the wall on the southern side of the houses in Joseph Place and a retaining wall for the steep banking which lead up to the city walls. It was packed with men, women and children taking cover from the shooting.

20.4.2.11 It was so packed that it was difficult for Patrick Campbell and the witness to fit in. He realised that he could not take Patrick Campbell much further (as he weighed some 15 stone) so he left him in the care of some people in the alleyway. He then decided to make his way up another set of steps which led from the entrance of the alleyway to Fahan Street East and which are shown on **AM255.9**. At **AM255.2 paragraph 13** Danny McGowan then described how he was shot.

20.4.2.12 At **AM189.5 paragraph 20**, **William McDermott** described how half a dozen shots were fired while he was at Joseph Place, looking out of one of the windows. Women and children were also taking shelter in there and were panicking. He went down the stairs to the Rossville Street entrance of the alleyway between the two blocks of Joseph Place. He wanted to see what else was happening. He saw Patrick Campbell in the alleyway behind Joseph Place being 'oxtored' or carried by two other men, south along the alleyway. His legs were bent and he seemed to be dragging his toes along the ground. He was moaning, but the witness did not think he was badly hurt. He was wearing a gabardine dark beige raincoat. He did not speak to him.

20.4.2.12 He thought he was taken to the back entrance of someone's house in Joseph Place. At **AM189.5 paragraph 22** he said that as he was peeping out of the alleyway, he heard a bullet pass close to his head which hit the wall overhead. He heard a thud above his head. The shot seemed to be fired from the area of Glenfada Park, although he did not see any soldiers there. Whoever fired the shot must have seen the witness before he saw him. He thought that the shot was aimed at. It was too close for comfort so he took cover again. The shooting then died down.

20.4.2.13 It is possible in the light of that evidence that Patrick Campbell was taken first to a house in Joseph Place and then in St Columb's Wells.

20.4.2.14 **Edmund Melaugh** gave evidence to this Inquiry at Day 170. In his statement to the Inquiry at **AM398.4 paragraphs 18 to 20** he described taking shelter behind the gable end of block 1 and still hearing the sound of gun-fire after seeing people he thought had been shot at the Rubble Barricade. He thought there was still shooting coming from further north up Rossville Street. He could see soldiers advancing into Glenfada Park North Courtyard. He thought maybe four or five. They started to shoot across Glenfada Park South. Then one dropped to his knee near the centre of Glenfada Park North and started shooting towards the hexagonal flowerbed and the south gable end of block 1.[4] He said at **Day 170/116/15 to Day 170/116/24** that he did not see him fire but that was where he was aiming the gun. At **AM398.4 paragraphs 21 to 24** he described running along the back of block 2 to Joseph Place. He went into the alleyway and saw people hiding all along the alleyway. At **AM398.4 paragraph 25** he heard someone behind him call out "I'm shot". He saw two people at the entrance to the alleyway who were both wounded. He thought the shots would have come from the soldiers in Glenfada Park North. One was in his thirties and one was in his fifties. One was wounded in the ankle and the other around the hip. **Day 170/120/13 to Day 170/121/1**. At the time he assumed they had been shot by the soldiers shooting from across towards

[4] He marked the position on AM398.25, which he confirmed as closer to the entrance. Day 170/115/14 to Day 170/115/20.

Joseph Place from Glenfada Park North. Another man helped drag the two wounded men about half way down the alleyway before other people took them. He then went on to describe events surrounding the shooting of Patrick Doherty. He confirmed his recollection that he saw Patrick Doherty crawling after the two people were shot. **Day 170/120/7 to Day 170/120/9**.

20.4.2.15 **Patrick Walsh** gave an account in 1972 to the Sunday Times which appears at **AW5.36**. After he had assisted Patrick McDaid into the house in Joseph Place he came out again. The first thing he saw was Patrick Campbell staggering towards the entrance of the alleyway, groaning and clutching his back. He knew Patrick Campbell from work and Patrick Campbell shouted to him "Paddy, I'm hit, I'm hurt bad." Patrick Campbell fell forward into the mouth of the alleyway and was taken into one of the houses. He then gave a description of Danny McGowan being picked up by two men in the alleyway getting one arm each and dragging him along on his back. He seemed to be hit in the leg where Walsh could see blood. He then gave an account of seeing Patrick Doherty who was still alive at that point. At this Inquiry Patrick Walsh indicated that the events in this account had faded from his mind but at **Day 171/37/11 to Day 171/37/15** he confirmed that the detailed account he gave of this incident would have been his recollection of events at the time he spoke to the Sunday Times.

20.4.2.16 At **AT17.5 paragraph 32** **Martin Tucker** described two men running close together along the front of block 2 of the Rossville Flats by the shops. He thought they were running to the alleyway behind Joseph Place. They were shot at the point marked J on **AT17.16**. He thought both were shot in the leg. It was almost like watching a movie. He thought both got into the alleyway behind Joseph Place or into a house. He thought a couple of people helped them. They were in their thirties maybe not old but not teenagers. He did not remember what they were wearing. He did not see where the shots came but thought it was from the direction of Rossville Street and Glenfada Park South. At **Day 098/119/1 to Day 098/119/3** the witness accepted that though both went down one may have been shot. At **Day 098/117/9 to Day 098/1122/1**, Mr Arthur Harvey QC examined the

witness on this issue. It is clear that the witness, who even though he has wrongly described the age of Patrick Campbell, saw the movements of Patrick Campbell and Danny McGowan.

Conclusion.

20.4.2.17 There is no civilian evidence which contradicts the fact that Patrick Campbell was shot from behind in the area of the rear of block 2 of Rossville Flats. He was unarmed and not engaged in any illegal activity. He was shot at a time and at a location where the civilian evidence indicated extensive Army fire.

20.4.3 *Injuries sustained*

20.4.3.1 Patrick Campbell was struck by a single bullet which entered his left buttock and caused serious intra-abdominal trauma before coming to rest either under the abdominal wall or in the abdomen. There was no exit wound. (**E10.11**)

20.4.3.2 As appears from a letter from a Senior Registrar to his GP dated 28th March 1972, (**D1013**) Mr Campbell underwent a laparotomy on 31st January 1972. He was found to have a perforation of the sigmoid colon and the bladder was perforated in two places with rupture of the ureter, which was transplanted in the bladder with colostomy.

20.4.3.3 The colostomy was closed on 6th March and he was discharged on 18th March, six weeks after his admission. However, as appears from a letter from the same Registrar to his GP dated 18th April 1972, Mr Campbell was readmitted on 30th March 1972 with a history of abdominal pain, dyuria and occasional vomiting. He was treated for a urinary infection and detained for ten days before being discharged again on 10th April 1972.

He continued to attend as an out-patient until he was finally discharged on 21st November 1972. The bullet was never removed.

20.4.3.4 Dr Shepherd and Mr O'Callaghan note that the entry wound was described in the operation note as measuring one inch by half an inch. (**E10.11**) They also note that according to a letter dated 7th February 1972 from Mr Bennett identified on x-ray was not recovered at the first operation. The x-ray reports were illegible and no x-rays were made available to them. There was nothing to indicate that the bullet (if it was present in the abdomen) had ever been removed. There was no record of a submission to DIFS relating to Mr Campbell. No comment could be made concerning the nature of the projectile.

20.4.4 Removal to Hospital.

20.4.4.1 Patrick Campbell's son, John, who was aged 22 at the time of Bloody Sunday, described how his father had told the family about his journey to hospital. Mrs. Doherty, a neighbour of theirs, had put Patrick Campbell into a car to take him to hospital. There were others in the car but he did not know whom. The car was stopped at a checkpoint and his father was put in a Saracen and taken to Altnagelvin Hospital. A soldier held his gun to his father's head all the way to the hospital. His father thought they were taking him to finish him off. **AC14.5 paragraph 27**.

20.4.4.2 **Bernard McMonagle** was the man who drove to the first aid post at Craigavon Bridge. At **ED27.5** he described going up to his mothers house at [redacted] It was about 4.15 pm. He parked the car at the top of St. Columb's Walk and saw a crowd down on the Lecky Road. He walked down to St. Columb's Wells to see what was happening. He heard some of the crowd talking about people being shot. Several fellows approached him and two of them asked if he had his car with him; they obviously knew he had a car. The fellows told him that a man had been shot and asked him to bring him to bring the man to the hospital. He went

and got the car and made his way up Hollywell Street and eventually got to Foyle Road. Mrs Doherty came in the back of the car with the injured man. He had passed a military road check earlier at Ferguson's Lane at about 4.10 pm when he was coming from work. The witness went towards the checkpoint and got out and approached the officer in charge. He told him what had happened. He then came to the car and saw the wounded man. He then brought him along to this centre.

20.4.4.3 At **AM366.1 paragraph 2** of his most recent statement he indicated that he used to do some freelance photography and after finishing work at 4.00pm he headed from Dupont to the Bogside taking a camera with him. It was his intention to take some photographs. He drove to the Bogside. The route which he took to the Bogside is marked on the attached map A at **AM366.5** which shows him crossing the Craigavon Bridge and getting in the end to a house on the west side of St. Columb's Wells.

20.4.4.4 At **AM366.1 paragraph 4**, he said he arrived at the approximate point which is marked X on map A. This was at around 4.20 pm. He was surprised when he reached St. Columb's Wells to see hundreds of people running from the north of St. Columb's Wells towards him as he approached in his car from the south. He had driven about halfway along St. Columbs Wells from the south when he saw the crowd. The road that runs through St. Columb's Wells is no more than 300 yards long.

20.4.4.5 At **AM366.2 paragraphs 7 to 9** he said he drove slowly through the crowd. As he reached point X on map A, a person walked in front of the car with a hand raised. There may have been another person trying to flag him down as well, but he was not sure. He could not remember anything at all about that person. He wound his window down. He saw a man being carried towards the car by some other people. The man's face was pointing towards me and his legs were dangling. He was being carried from the eastern side of the road, which ran through St. Columb's Wells, to the west side of the road on which he had stopped the car.

20.4.4.6 He had a vague memory of a coat or jacket wrapped loosely around the man trailing along the ground as he was being carried, although it may have been that someone placed the coat or jacket on him after he had been helped into the car. The rear door on the right-hand side of the car, namely the side nearest to the east side of the road, was opened. One of the people who had carried the man to the car said to him that there had been a spot of bother and a few people had been shot. The witness was asked to take the injured man to hospital. He was wary about taking the injured man to hospital, but was reassured when he saw Kathleen Doherty amongst the people helping the man on to the back seat of the car. He knew Kathleen Doherty's husband who worked with him as a fitter at Dupont.

20.4.4.7 At **AM366.2 paragraphs 10 to 13** he described how the injured man was placed on the back seat of the car face down. He could remember seeing blood pouring out from the front of the man's body. However, for some reason at the time he thought that the man had been shot in the bottom of his back. He could not say on which side of the back he had been shot. He did not know the identity of the injured man at the time. After the man had been placed into the car, Kathleen Doherty got into the back with him. She sat with the head of the injured man facing down on her knee. As far as he was aware the man was not carrying a weapon of any description and he did not think that Kathleen Doherty would have had anything to do with him if he had been armed. Another person may have got into the front passenger seat next to him, but he had no memory of this now. He turned the car around, as he intended to take the injured man to Altnagelvin Hospital. He had virtually reached the Craigavon Bridge when he came upon an Army barracks where the car was stopped.

20.4.4.8 His journey from St Columb's Wells to Craigavon Bridge probably took no more than ten minutes. During the course of the journey Kathleen Doherty told him that the injured man was her neighbour from the Creggan and that his name was Mr Campbell. No Christian name was ever mentioned to him. He only became aware a few weeks ago that the injured man's first name was Patrick. There was no mention at any time of the circumstances

in which the injured man had been shot and he did not find out subsequently as they have never met since that day.

20.4.4.9 At **AM363.3 paragraphs 17 to 18** he stated that when he reached the Army barracks on the Foyle Road close to the Craigavon Bridge he was asked by an Army officer where he was going. There was an armed soldier standing near the officer. He could not recall whether there were any more armed soldiers in the yard. He was directed by the officer into the yard of the barracks and instructed by him to get out of the car once he had driven into the yard. He got out of his car. He could not recall seeing the injured man's face as he did so. There were soldiers around the car almost immediately. Medical personnel had also arrived quickly on the scene. They said that they would look after the injured man. He did not see the injured man at all after that. At **AM366.3 paragraph 19** the witness described being taken into a room at the Army barracks and interviewed. After he was released he witnessed an incident where apparently RUC officers were "having fisty-cuffs" with army personnel over the events of the day. He did not know whether he was interviewed by the Army or by the RUC and whether a statement was prepared.

20.4.4.10 It seems likely that Patrick Campbell was attended to by **Soldier 138**, who on the day was the medical officer with the 1st Battalion of the first Royal Anglian Regiment and was based at the post by the Craigavon Bridge. At **Day 383/21/7 to Day 383/23/17** Soldier 138 described the man in **P747** as looking very familiar. He recalled the man he treated was middle-aged, overweight and balding. The man was in a state of shock and sweating heavily having clearly lost a lot of blood. He was seriously ill and had been shot in the tummy. Counsel to the Inquiry pointed out that although Patrick Campbell was shot in the buttock the bullet had lodged in the abdominal wall or inside the abdomen so he might well have had acute pain in his tummy. The witness accepted that his recollection was entirely

consistent with the evidence the Inquiry had about both Patrick Campbell and Joe Friel who Soldier 138 also saw.[5]

20.4.4.11 **Joe Friel** described at **AF34.4 paragraph 25** being at the first aid post. He was put on a stretcher and then put into a Saracen. After receiving some treatment Patrick Campbell was then brought into the Saracen and put on the other side. He was wearing a cloth cap and a gabardine "Columbo" style coat. He did not know how long he had been in the Saracen before Patrick Campbell arrived but it was maybe just a matter of minutes. Patrick Campbell was chalk white and he thought he was dying. He had the impression of steam coming off his body. Patrick Campbell asked the witness was he ok and the witness asked Patrick Campbell the same. They held hands and cried. Two soldiers got into the back of the Saracen and the doors were shot. They seemed to be tending more to Patrick Campbell. At **AF34.4 paragraph 26** he described being taken to hospital. He thought that he was taken in simultaneously with Patrick Campbell.

20.4.4.12 At **AM252.2 William McGoldrick** also provided evidence of the picking up of Patrick Campbell from St Columb's Wells. He stood at the point marked E on the map at **AM252.5**, which is just at the mouth of St Columb's Wells, about four houses down on the eastern side if travelling from Fahan Street. He stated at **AM252.2 paragraph 3** that he stood there and there were perhaps about 100 people taking cover by the side of the houses in that area. He stood there for perhaps ten to fifteen minutes but he could not be accurate about the time. He remembered that as he stood there some people to his right, closer to the junction with Fahan Street, were shouting to the people who were crossing Fahan Street from Joseph Place to St Columb's Wells that they should hurry and come and take cover because the Army was shooting from the city walls. He could hear shooting but did not know which direction it was coming from. He did not see or hear anything which confirmed to him that the Army was shooting from the city walls. He did not look up at the walls at any time. At

[5] Patrick Campbell was brought to the location at Craigavon Bridge between 16.40 and 16.45 and

AM252.4 paragraph 4 he stated that after a time, he saw some people, about four, carrying a man. He did not know in which direction they had come from. They were shouting "Does anybody know anything about first aid?" Up until a few months before then, he had been in St John's Ambulance and he followed the men into a house.

20.4.4.13 He could not remember precisely which house it was, but it was possibly the one which he marked on the map as point F on **AM252.5**, which was about six houses down on the left hand side i.e. the west side of St Columb's Wells travelling south from Fahan Street, or one near there. The man was placed on a couch. He remembered that he was a big tall man, heavily built and bald. He could not remember if he was wearing glasses. He thought he was wearing a dark coloured suit. The witness pulled his shirt up and saw that there was a hole near his left kidney on the left-hand side of his back, about two and a half inches in from his side. It was a black hole with a blue ring around it. He could see that it was a bullet hole. It was not bleeding but he could tell that he could not do anything for the man, as he needed to be taken to a hospital as soon as possible. The witness asked whether anybody in the house had a towel or pad he could use. Someone passed him a towel and he pressed it against the wound. He said that someone had to get him to hospital. There were about twelve people in the house but he did not know any of the people there. He remembered that a man who was in the house got a car and drove the injured man to hospital. He later learned that the driver's name was Barry McMonagle.

20.4.4.14 A couple of the women and men from the house went with him. The witness did not go. He remembered that someone called the injured man Paddy when he was in the house. He remembered that the man said that he had been shot although he did not say where he had been standing when he was shot. Nobody in the house seemed to know where he had been when he had been shot. He did not know which hospital they took him to. They

may have gone to Altnagelvin but he remembered that somebody in the house said that it might be difficult to get there because the soldiers might stop them. They may have gone to Letterkenny. It would have been one of the two.

20.4.4.15 In **AM252.2 paragraph 5** the witness said that a few days later, he remembered reading the local journal which gave a list of the dead and injured. A friend of the witness remarked that the person that he had helped in the house must have been Patrick Campbell.

20.4.4.16 The passenger who accompanied Patrick Campbell to the Regimental Aid Post was **Kathleen Doherty**. Her statement to the police is at **ED27.6**, where she said that on 30th January 1972, she left her home to go down to the Lecky Road to see the parade passing. About 4.15 pm she was standing on the Lecky Road with a group of people. Everybody started to shout that the soldiers were shooting. She ran up to McKeown's Lane into St Columb's Wells. She could hear gunfire coming from Rossville Street. When she got into St Columb's Wells she heard someone shout that there was a man shot. A man shouted that it was Patrick Campbell from 4 Carrickreagh Gardens. A postman who was standing beside her said that as she knew him would she go in the car with him to hospital. The witness got into the car along with Patrick Campbell and the driver, who she knew to be Barney McMonagle. They stopped with the Army in Ferguson's Lane and told them what had happened. They brought them to the Army compound at Foyle Road.

20.4.4.17 At **AC16.3 paragraph 19** **Noel Campbell** stated that he reached St Columb's Wells. He said he saw a man lying in the middle of the road at point H on the attached map at **AC16.5**, which is at the mouth of the Wells itself. At **AC16.3 paragraph 19**, the witness said that there was quite a large crowd of people standing around him. He looked over their shoulders. The man was lying on his back. Somebody rolled him over on to his chest as he watched. His head was pointing south. He was wearing a white shirt which was bloodstained. He thought he had been wounded in his lower

back or shoulder. He did not see the wounds. Someone in the crowd said his name was Campbell. Someone else said that he was a docker. Other people were calling out for a doctor or an ambulance

20.4.4.18 **Michael McKinney** at **AM309.3 paragraph 21** described taking cover at 38 St Columbs Wells and saw a car pull up along the street. Behind the car were two men carrying another man who was crouched over holding his stomach. The man looked as though he had been shot in the stomach. The man was in his fifties and had thin hair. He thought it was Patrick Campbell whom he met after Bloody Sunday. Mr. Campbell had been a customer in their butcher's shop.

20.4.4.19 **John Leppard** at **Day 177/153/15 to Day 177/154/12** confirmed helping take a man out of a house in St Columb's Wells. He was a heavily built middle-aged man with a bald head. He believed at the time the man was dead but he was not limp or floppy and they had no difficulty getting him into the car. This incident appears clearly to refer to Patrick Campbell.[6]

20.4.4.20 **Martin McShane** at **AM384.3 paragraph 16** described seeing a middle aged man he later learned to be called Campbell lying on the ground. He could see a bullet hole in his right hip, almost at his buttock. Mr. Campbell was groaning with pain. There was a group of around a dozen people there some of whom were applying pressure to the wound to try to control the blood loss. The position marked by the witness on **AM384.4** at point "F" was near the entrance to St. Columb's Wells.

20.5 Danny McGowan

20.5.1 Personal Details and Background.

[6] The witness Anthony Harkin described a man of between 40 and 45 carried by the arms and legs as if he was in a chair. He thought the man was hit in the back or hip and was alive. He confirmed at **Day 177/42/1 to Day 177/42/9** that **P747**, which is of Patrick Campbell, looked like the old man he saw in St. Columb's Wells.

20.5.1.1 Danny McGowan was thirty-seven years old on the 30th January 1972. He lived at [redacted] with his eight children and his wife Teresa who was expecting their ninth child at the time of Bloody Sunday. A tenth child was also born after Bloody Sunday.

20.5.1.2 Mr McGowan was a hardworking man, dedicated to his family who was forced to go to England in search of work throughout the 1950's and 1960's.

20.5.1.3 Danny McGowan returned to Derry and was employed n Dupont firstly in construction and then in production. **Day 43/93/22 to Day 493/94/5**.

20.5.1.4 Mr McGowan did not give evidence to Lord Widgery as he was not released from hospital until 20th March 1972. No evidence was presented to the tribunal in relation to the circumstances in which Mr McGowan was shot, in fact, the only reference to Mr McGowan in Lord Widgery's report was in Appendix A, "List of Deceased and Wounded." The experience of having been shot and the tragedy of Bloody Sunday had a great impact on Danny's life. Sadly, Mr McGowan died after a long illness on the 28th January 2004, two days before the thirty-second anniversary of Bloody Sunday and without having witnessed the outcome of this Inquiry.

20.5.2 Injuries Sustained

20.5.2.1 Mr McGowan was shot between the knee and ankle on the inside of the right leg. His shin was shattered. The entry wound was halfway down the medial (inner side) of the right calf and the exit wound over the lateral (outer) side of the leg. **E10.0011**, **D0847** and **ED 29.3** The track of the wound is, therefore, more likely to be from left to right, which is consistent with Mr McGowan having been shot by a soldier located at the entrance to Glenfada Park North.

20.5.3 Civilian Evidence on the shooting of Danny McGowan

20.5.3.1 Mr McGowan gave an account of the circumstances of his unjustified wounding, in his statement of the 28th February 1972 at **AM 255.10**. In this account he makes it clear that he was at the telephone box at the end of Block One of the Rossville Flats, where he saw a young man lying on the ground. This young man, was we know, Hugh Gilmore to whom Mr McGowan, as can be clearly seen in **P763**, provided assistance. Mr McGowan in this statement refers to noticing a young girl, undoubtedly Geraldine Richmond, who was in hysterics. Significantly in this statement he refers to seeing two soldiers in firing positions at Glenfada Park:

"I also noticed two soldiers on their knees in firing positions at Glenfada Park. Then I noticed a man whom I now know to be Patrick Campbell staggering in a drunken fashion about 20 yards from me just above the butcher's shop at Joseph Place. He shouted to me "I'm shot, I'm shot". I ran over and caught him by the arm and helped him along towards the rear of the houses on Joseph's Place. Just as I pushed him around the corner of the rear of the houses my right leg folded underneath me and I realised that I was shot."

20.5.3.2 This statement provides the most accurate description of the material events which led up to the unjustified shooting of Mr McGowan. It is the most accurate account because it was made at the period of time closest to the events. From this account it would seem that the two soldiers who must be members of Anti-Tank Platoon had assumed firing positions at the corner of Glenfada Park North.

20.5.3.3 He goes on, in this statement, to describe how he was helped to a car in St Columb's Wells which took him home and taken, subsequently, to Altnagelvin hospital. In his Eversheds statement at **AM255.3 paragraph 16** Mr McGowan describes how someone drove the car towards

Altnagelvin, but on seeing soldiers in Bishop Street, drove him to his home in [redacted] instead.

20.5.3.4 **John Radcliffe**, a neighbour and friend, went into Mr McGowan's house, **Day 220/ 70/10** , where he met Teresa McGowan and Mrs Kitty Duffy, his sister-in-law who also lived in the same street. He saw Danny McGowan lying, conscious, on the couch with a wound to his right leg, just above the calf muscle. There didn't seem to be much blood coming from the wound but he could see that the bullet had passed straight through Danny's lower leg. Mr Radcliffe, telling Danny that he needed to go to hospital, went outside and stopped a Knights of Malta ambulance on Southway. As they were unable to take an additional casualty they called for an ambulance which arrived sometime later. Danny did not tell Mr Radcliffe how he became injured, other than telling him the army had shot him". **AR1.4 paragraph 14.**

20.5.3.5 This version of events is supported by the statements of ambulance men **John Rutherford** and **Ronald Moore** in Ambulance 4, **ED 29.5**, who, arriving in Glenfada after having received a call at 17.14, were told to go to [redacted] From there they collected a man, called Danny McGowan, with a broken leg who said he received the injury when playing football. According to Mr McGowan at **AM 255.3 paragraph 17**, his brother and a neighbour **Walter Duffy**, who has never made a statement, accompanied him to the hospital. The army stopped the ambulance on the Abercorn Road where they were all searched until they were permitted to continues after Mr McGowan's brother, who was ex-army, intervened.

20.5.3.6 Mr McGowan was admitted to ward six in Altnagelvin Hospital at 17.45. **D0845**. His wound was cleaned by Dr Fenton and a pin inserted in his leg. The wound was sutured on 7th February 1972 and on 20th March 1972 Mr McGowan was discharged. He was to continue to receive treatment for the wound he sustained that day, on and off, right up until 10th September 1980.

20.5.3.7 In his interview with the police at the hospital, at **ED29.4**, Mr McGowan says that he was injured next to Free Derry corner at his brother-in-law's, Joseph McColgan, [redacted] He said his brother in law and other 'fellas' he knows were with him at the time. In his Eversheds, statement he says he was not on the march but was just visiting his brother in law. **AM255.1 paragraph 3**.

20.5.3.8 The police comment, in their report, on the fact that whilst Mr McGowan said, in this interview, that he was injured at Free Derry Corner, he was picked up, one and a half miles away, at [redacted]. Mr McGowan had told the ambulance driver, Mr Moore, that he had received his injuries as the result of playing football. Superintendent Michael J Finn believed that Moore must have mistaken someone else for Mr McGowan. However, Mr McGowan explains at **AM255.3 paragraph 19** that he told the authorities that his injuries were sustained while playing football because he did not want to get arrested and because he was mistrustful of the authorities. This was an honest and understandable reaction from an innocent man in a climate where men were being regularly interned without trial.

20.5.3.9 In a supplementary statement to the Inquiry, at **AM 255.16**, Mr McGowan was asked to answer questions in relation to information contained in a document entitled "B.S. Summary of Irish Eye Witness Stories," **AM255.14**. In particular he was asked whether he ran up Chamberlain street and whether he saw Father Daly's Gunman / OIRA 4. In his supplementary statement Mr McGowan reiterates the position that he has taken over the years, that he was not on the march and did not make his way down Chamberlain Street, but rather made his way from Free Derry Corner towards Blocks 1 & 2 of the Rossville flats.

20.5.3.10 Mr McGowan admitted he did see OIRA 4 through the gap between Blocks One and Two of the Rossville Flats and that, contrary to what is stated at **AM255.14**, he did not see OIRA 4 fire a few shots around the gable end, only that he was holding a gun.

20.5.3.11 The above inconsistencies have been identified by Katherine Shepherd in her letter of the 18th April 2002 as the basis for allegations that Mr McGowan:

(a) Withheld information from this Tribunal.

(b) Came from the car park of the Rossville Flats (perhaps having been on the march and/or in the vicinity of Barrier 14.

(c) Attempted, through his supplementary statement, to bend his previous incomplete and inaccurate account to Eversheds.

(d) Is not consistent with his pre-Eversheds accounts in assuming that he was shot from the Walls.

20.5.3.12 Unless the above 'allegations' are coupled with the suggestion that Mr McGowan was shot justifiably, i.e. that he was armed at the time that he was shot, and that these inconsistencies are an attempt to conceal that fact, they should be viewed, in our submission, a simple mixture of inconsistent recollections and concern for ones liberty.

20.5.3.13 We would remind the Tribunal that Danny McGowan enjoyed the reputation of being a devoted family man and was not connected with any paramilitary organisation.

20.5.3.14 The central thrust of the suggestions in the Katherine Shepherd letter is that Mr McGowan is incorrect when he suggested that he was shot from the City Walls. It is accepted, as the evidence suggests, that the more likely explanation is that he was shot by a soldier located at Glenfada Park. Incidentally, the inconsistencies referred to in the Katherine Shepherd letter are in no way comparable to the glaring inaccuracies and inconsistencies that characterise the soldiers' evidence on the central issues.

20.5.3.15 It is important that, in assessing Mr McGowan's evidence, the Tribunal consider the effect that Bloody Sunday had on Mr McGowan and his response to these traumatic events as evidenced by the medical proofs which have been obtained as well as the evidence of Mr McGowan himself at **AM 255.4 paragraph 19**. Ultimately the conclusions which the Inquiry

make in relation to how Mr McGowan arrived at the position indicated in **P763** are of secondary importance to the conclusions that the Inquiry must make in relation to the circumstances surrounding his unjustified shooting. The soldiers failed to offer any explanation for the shooting of Danny McGowan in 1972 and they have failed to offer any explanation in 2003 because, we submit, there was none.

20.5.4 Civilian Evidence

20.5.4.1 There are three significant witnesses for the tribunal to consider in relation to Mr McGowan, They are **Edmund Melaugh, AM398**, **Eddie Dillon AD 45** and **Donna Harkin AH 13**.

20.5.4.2 Edmund Melaugh was a witness who did his best to give an accurate account of the events surrounding the shooting of Mr McGowan, Mr Campbell and Mr Doherty. His NICRA statement at **AM398.19** says as follows:

"I heard more shooting and saw two men fall at the end of the lane. The other man and myself went back to help these men. One was wounded somewhere round the hip. This man I helped away as far as some other men at the entry. I then went back to help the other man who could not drag the other wounded man who was shot in the lower part of the leg".

The first man would in our submission appear to be Patrick Campbell while the second man is Danny McGowan.

20.5.4.3 His Eversheds statement at **AM398.4 Para 25** provides a little more detail:

There were two wounded at the entrance to the Joseph Place alleyway at point **K grid reference K19 AM398.18 AM 398.5 Paragraph 26** .One was in his fifties the other in his thirties. I remember one was shot in the ankle. They were very close together and they were just at the end of the alleyway. **Day 170/122/01**. In his statement to the Inquest, **AM 398.22**, Mr Melaugh states:

"This other man and I were in a lane behind the small flats in Rossville Street and I saw two men being shot at the end of the lane. One was shot in the ankle and the other about the hip. I went over to help them. Neither of them was armed," and, on the Keville Tape, **AM 398.23**: "We were in a little lane behind – the small flats in Rossville Street and I saw these two men getting shot at the end. One was shot in the ankle and the other was shot up in the arm." "They were stationary and we were able to reach out and drag them in. We did not have to move out onto open ground." **Day 170/122/7 to Day 170/122/ 22**.

20.5.4.4 **Edward Dillon** is also an important eye witness for Mr McGowan. He saw Mr McGowan immediately after he was shot and then assisted him: "I was coming up to Free Derry Corner towards the meeting. My back was to Rossville Street. At the High Flats the soldiers started firing. I went to the steps which leads to a passageway into Faughan Street. A man came behind me and cried out he had been shot. I went back to see how badly he was shot had been shot. I went back to see how badly he was shot. He was shot in the right leg below the knee. The leg appeared to be broken to me and was bleeding badly." **AD 45.6**

20.5.4.5 The NICRA version should be compared with the Eversheds statement at **AD 45.1 Paragraphs 6 to 7.** Here Mr Dillon made his way to the Joseph Place alleyway and, within a few seconds of reaching it, Mr McGowan arrived. Mr Dillon accepted, when questioned by Arthur Harvey QC on **Day 174/72/11 to Day 174/73/4**, that his memory had become confused and he had compressed a number of incidents.

20.5.4.6 He accepted when further questioned on **Day 174/73/5 to Day 174/75/11** that his statement at **AD 45.6** indicated that Dillon was on the steps leading to a passageway onto Fahan Street and Mr McGowan had come from behind him and cried out that he had been shot. This statement confirms Mr McGowan's present belief that he was shot while on the very first step which lead from the alleyway to Fahan Street East shown on Mr McGowan's map at **AM 255.9 grid references K19 position E**. Indeed it was pointed out by Lord Saville on **Day 174/74/25 to Day 174/75/6**. This

location is a very short distance from the bottom of the Fahan Street steps and the beginning of the Joseph Place alleyway. In addition at **Day 174/75/7 to Day 174/76/8** Mr Dillon accepted that it was possible that Mr McGowan was taken the full length of the Joseph Place alleyway and placed in a car in St Columbs Wells.

20.5.4.7 It is obvious that Mr Dillon did assist Danny McGowan from the Joseph Place alleyway to a car in St Columb's Wells when one considers the following:

(a) The injury which Mr Dillon witnessed is consistent with Mr McGowan - shot in the right leg below the knee, breaking the knee and causing it to bleed badly. **AD45.6**.

(b) The age is consistent with Mr McGowan.

(c) The location is consistent with Mr McGowan.

(d) The reference at **AD45.6** to a 'young lad' helping him with Mr McGowan is is consistent with Edmund Melaugh. **AM398**

(e) He was subsequently told the man he helped was Mr McGowan

20.5.4.8 **Donna Harkin nee Friel**

Donna Harkin was a 16 year old student who saw, from the front window of her flat in 19 Garvan Place, Mr McGowan being shot. Her recollection, on **Day 171/104 to Day 171/133**, was not challenged by those who represent the soldiers. It is important to note that in her undated NICRA statement at **AH13.12** she makes it clear that, when she stuck her head out of the window, she noticed a group of men crouched at the edge of the Joseph Place flats at the end of the bakery trying to make their way to the back of Joseph Place flats. As the group ran forward an elderly man was shot in the leg and fell. The shot came from the Glenfada direction. Two of the men, in our submission, Edward Dillon and Edmund Melaugh crawled back to get him and two ran on. Donna Harkin then continues in this statement to describe the horrific murder of Paddy Doherty.

20.5.4.9 Donna Harkin's Eversheds statement at **AH 13.6 paragraphs 33 to 35** and her attached map at **AH 13.24** provides valuable clarification of a number of matters. Firstly, she is able to identify with a degree of precision where she believes that Mr McGowan fell as being point 22 on **AH 13.24** with his head facing towards the Joseph Place alleyway. In addition she believes that the 'elderly man' to whom she referred was aged 30 to 40, her parents' age. Mr McGowan was 37 on Bloody Sunday. She believed that Paddy Doherty was behind Mr McGowan helping him to safety by pushing his feet.

20.5.5 Conclusion

20.5.5.1 There is no civilian evidence that contradicts the fact that Danny McGowan was shot in the area of the Joseph place alleyway. Three witnesses provide an accurate and honest account of the position and activity of Danny McGowan when he was shot and are consistent with his statement of the 28th February 1972, at **AM 255.10**. He was unarmed and not engaged in any illegal activity.

(i) Danny McGowan was shot after Hugh Gilmore.

(ii) Danny McGowan assisted Hugh Gilmore at the telephone box where he can be seen in Robert White's photograph **P763**

(iii) Danny McGowan was shot after Patrick Campbell.

(iv) Danny McGowan was shot before Patrick Doherty and Barney McGuigan.

(v) Danny. McGowan was shot in the area near to the steps which lead to a passageway into Fahan Street East. This is an area near to the entrance of the alleyway which runs behind the maisonettes at Joseph Place.

(vi) Soldier F was the only soldier who admits to having fired into the area in which Danny McGowan was shot. The evidence supports the suggestion that Soldier F shot Danny McGowan.

(vii) Danny McGowan was carried to a car in Columb's Wells which brought him to his house in [redacted]

(viii) Danny McGowan was, eventually, brought by ambulance to

Altnagelvin Hospital.

(ix) Danny McGowan was unarmed when shot.

(x) Danny McGowan had not handled a gun or nail bomb or had acted in support of any person handling or using a gun or bomb on Bloody Sunday.

(xi) Danny McGowan did not pose a threat to the soldier who shot him.

(xii) This soldier could not have believed that Danny McGowan could have posed a threat at the time he shot him.

(xiii) No other person near Danny McGowan posed a threat to the soldier who shot him.

(xiv) Danny McGowan was not in the vicinity of civilian gunmen or bombers when shot.

(xv) There were no missing casualties in the Joseph Place alleyway. On the contrary Danny McGowan is an injured person for whom the soldiers have failed to account

(xvi) Danny McGowan was not shot in crossfire or in the course of a 'gun-battle' with civilian gunman.

(xvii) Danny McGowan was shot deliberately and without justification.

20.6 Military evidence Sector 5

20.6.1 Soldier F

20.6.1.1 There is video and photographic evidence[7] before the Inquiry, which suggests that a substantial number of anti-tank Platoon soldiers entered Glenfada Park beyond those who admit to having done so. However we know for certain that Soldier F did and that he eventually admitted firing two shots from the corner of Glenfada Park North behind Block 2 of the Rossville Flats.

[7] V48/11.35 - 11.41 and EP2.8.

20.6.1.2 As has been seen in our submissions on Sector 3 and Sector 4 Soldier F admitted for the first time firing two shots behind Block 2 of the Rossville Flats in his statement to Lieutenant Colonel Overbury on 19 February 1972.

20.6.1.3 In that statement he described firing his two rounds at an alleged nail bomber in Glenfada Park. Immediately after this he ran along the "eastern" wall of Glenfada Park to the corner. As he did so he heard pistol shots coming from the area of the wall at the far end of the Rossville Flats. He shouted "there's a gunman" and he dropped to one knee and took an aim position. He saw a man near the wall facing his direction who turned as if to run. He saw he had an object in his hand. This man was the only person in the area from which gunfire had come. The object in his hand was large and black like an automatic pistol. He fired two rounds at the man and he fell to the ground. **B135**.

20.6.1.4 He then saw 20 people, 19 men and 1 woman standing near him huddled together at the end of the flats at Glenfada Park. He arrested these people with others including Soldier G who came up. **B135**.

20.6.1.5 His statements to the RMP and subsequently were utterly dishonest and designed to disguise the amount and the location of his firing on the day. He had already made four statements to the RMP[8] before he admitted to firing any shots behind block 2 of the Rossville Flats. This is utterly inexplicable except on the basis that up to that point Soldier F had concealed his shooting in anticipation of not having to account for it. At a very early stage the army must have been in possession of the information that two persons had been shot dead behind the flats and others wounded in that area. It would not have taken long by a process of elimination and a serious investigation that the soldiers likely to have fired in that area included Solder F. The first RMP statements of Soldiers134, 227, 040 and

[8] He had also made a statement to the RUC on issues arising out of arrests on 15 February 1972 at **AN28.10**.

025 were all made by 3 February 1972 presenting clear information of a Paratrooper firing in the area of the rear of the Rossville Flats. It appears that in spite of making four RMP statements between 30 January and 19 February 1972 Soldier F had still not been made to commit his actions to paper until 19 February 1972. [Sentence withdrawn at the request of Madden & Finucane on the grounds of error.] If Mr Elias is correct about the date error on the trajectory document the RMP had the information concerning Soldier F's firing and did not act upon it. Lt.Colonel Overbury took the statement on 19 February 1972.

20.6.1.6 In his Treasury Solicitor statement he described asking G to cover him as he heard pistol shots in the direction of the Rossville Flats. He approached the southeast corner of Glenfada Park. He got down on one knee. He observed a man with a pistol at the far end of Rossville Flats. He thought the man was wearing darkish clothes. The man had a black object which looked like a pistol in his hand. He then shouted to Soldier G " there's a gunman down here" and took two aimed shots and the man fell to the ground. The man was in a half crouching position moving to the right as he shot him. **B138**.

20.6.1.7 Soldier F attempted to put forward a number of explanations as to why it had taken him to 19 February to mention both his shot at the Barricade and the shooting behind block 2 of the flats. When asked why he had not mentioned his shooting of the man behind the barricade or the man with the pistol behind the Rossville Flats one of his answers was:

All I can say was there is errors in the judgement of making the statements and they got confused." **Day 375/138/25 to Day 375/139/6**.

20.6.1.8 It was pointed out that in his first RMP statement he was not confused about the number of bullets he fired. He replied:

"Not at that particular time." **Day 375/139/10**.

He continued to give further evasive and untruthful answers which are examined in our submission on Soldier F in Sector 3. It is submitted that Counsel to the Inquiry summarised the general truth about Soldier F's failure to mention the shooting at the barricade and behind block 2 of the flats with the following question at **Day 375/166/19 to Day 375/166/24**:

> Q "Is the position that by this stage it was becoming apparent in the course of the Investigation that the accounts given by the Anti-Tank Platoon did not fit with the number of victims?"
>
> A " Not to my knowledge."

20.6.2 The evidence of INQ 1826

20.6.2.1 INQ 1826 was in the Ferret scout car on Rossville Street and described having heard a burst of shots coming from a position south of him. He marked this position and the direction of the shots on **C1826.14**. At **Day 341/137/10 to Day 341/141/4** the witness described hearing five to eight single shots. He could not see a person but just puffs of smoke. The shots were to his front right and diagonally. From the angle he was viewing it looked like an alleyway. They were high velocity shots and were all fired at the same time. He could not say if they all came from the same area. He confirmed that the direction of fire was across Rossville Street and in the direction of Joseph Place and behind Rossville Flats. **Day 341/145/1 to Day 341/145/10**. At the time he assumed it was a civilian firing because he did not realise that soldiers were as far south as they actually were. The line of fire could not have been directed at soldiers. If the shots had been fired in his direction he would have seen the person firing the weapon. **C1826.5 paragraph 30** and **Day 341/145/11 to Day 341/145/21**. It is submitted that the only factual and logical conclusion that can be drawn

from the evidence of INQ 1826 is that he witnessed a member of Anti-Tank Platoon firing across from the direction of Glenfada Park North to the back of block 2 of the Rossville Flats and that those were the shots fired by Soldier F.

20.6.3 Soldier G

20.6.3.1 It is particularly notable that Soldier G did not mention Soldier F shooting from the southeast corner of Glenfada Park until his Treasury Solicitor statement. In that statement he described being recalled by their Platoon Commander and hearing F shout: "There's a gunman or something like that." He saw Soldier F down on one knee at the south east corner of Glenfada Park aiming in an easterly direction. He saw him fire one or two shots in a direction out of his sight. **B187 paragraph 8**.

20.6.3.2 It would be a remarkable coincidence, if it were a coincidence, that both Soldier F and Soldier G, who were paired on the day, independently forgot to mention Soldier F's discharge of two shots eastwards from the south east corner of Glenfada Park. It is an obvious inference that Soldier G only offered this information once he knew Soldier F had by then admitted it. He also provided corroboration by including the information that he heard Soldier F say, "There's a gunman or something like that." There is a further possibility that he was told not to mention it up to that point. Soldier G had of course been engaged, as can be seen in our submissions on Sector 4, in his own particular activities at Abbey Park.

20.6.3.3 The question as to why it was not until his Treasury Solicitor's statement that Soldier G mentioned Soldier F's activity at the corner of Glenfada Park North can only have a limited number of answers. It is possible that he had witnessed Soldier F's unjustified firing there and chose not to reveal it until asked to provide a justification for it. It is also possible that he did not witness Soldier F's activities in this location at all but fabricated a corroborative account when asked to do so. Either of the above

possibilities made Soldier G an utterly dishonest and unreliable witness to Soldier F's activities at the end of Glenfada Park North.

20.6.4 Soldier H

20.6.4.1 As we know Soldier H claimed to have fired 19 shots at a silhouette in a frosted window in Glenfada Park North. At **Day 377/85/17 to Day 377/86/6** it was put to Soldier H by Counsel to the Inquiry that the account of these shots was untrue because he fired a large number of shots he would not be able to justify and that he had to come up with an account to explain them. He rejected this suggestion.

20.6.4.2 At **Day 377/98/3 to Day 377/102/1** Soldier H was examined on the possibility that some of his shots were fired towards the rear of block 2. He said he did not fire in that direction.[9]

20.6.4.3 According to the notes of his Sunday Times interview Patrick Campbell described looking back down Rossville Street and seeing the Saracens coming in. He saw soldiers jumping out and when the shooting began he made a dive for cover behind a small gable near the telephone box. From there he could see soldiers milling about in Glenfada Park. He then made a dash for Joseph Place and was shot in the back (the wound is at the base of the spine) It is important to note that in a contemporaneous account Patrick Campbell was able to note soldiers in Glenfada Park just prior to his shooting.

[9] He also rejected a suggestion from the evidence of Soldier 027 that he may have fired in the area of Joseph Place. **Day 377/106/14 to Day 377/106/24**.

20.6.4.4 **Soldier J** of Anti-Tank Platoon was also in Glenfada Park. He denied seeing Barney McGuigan, Patrick Doherty, Danny McGowan or Patrick Campbell being shot and denied seeing Soldier F fire from the corner of Glenfada Park or seeing any soldier in that position. **Day 370/65/23 to Day 370/68/6**.

20.6.4.5 **David Longstaff** had no recollection of Soldier F's shots from the south east corner of the gable end of Glenfada Park North although he had moved into Glenfada Park North. It was suggested to him that according to the evidence of Soldier 227 there were three paratroopers coming to the corner of Glenfada Park North. It was suggested to him he must have seen Soldier F on one knee shoot Barney McGuigan. He had no recollection of that at all. **Day 374/185/12 to Day 374/185/18**.

20.6.4.6 **Soldier E** also arrived at the gable end of Glenfada Park North where he claimed to have been involved in a number of arrests.

20.6.4.7 It is abundantly clear that given the location and activity of Soldier F and the movements of his colleagues, a number of them, apart from Soldier G, must at least have witnessed his activities. None of them have admitted to doing so. It is clear that at least some of the evidence from soldiers on the City Walls indicates the presence of more than one soldier at the point of firing. The evidence of these soldiers is examined in further detail below.

20.6.4.8 There is also civilian evidence of further shooting into the area than the shots admitted by Soldier F. This shooting could only have come from members of Anti –Tank Platoon. A number of civilian witnesses who were located in the area reported seeing soldiers positioned in Glenfada Park aiming and firing across the rear of block 2 of the Rossville Flats towards the Fahan Street steps some of which was later than even the shooting of Barney McGuigan.

20.6.4.8 **Denis Bradley** gave evidence of a soldier firing from the entrance to Glenfada Park North car park at the east. He feared for the people on the pram ramp leading down from Glenfada Park South onto the street. The soldier was firing above head height in a haphazard manner. He was firing in a generally southerly direction. He fired about six to eight shots in total. His general body direction was not towards the back of block 2 of the Rossville Flats **H1.13 paragraphs 32 to 33**. Mr. Bradley confronted him. **Day 140/137/11 to Day 140/142/24**.

20.6.4.9 **John Porter** is now deceased. He was looking out of the window of 8 Abbey Park. He said that he saw two separate sets of paratroopers firing towards Joseph Place. The first group fired three shots towards block two. The second group fired seven shots towards the south of block two. Both incidents occurred after Evelyn Lafferty was shot at in Abbey Park.

20.6.4.10 The witness described seeing two paratroopers appear at the corner of Glenfada Park North. The first fired two shots in the direction of Joseph Place and the second fired one shot in the same direction. Then the two paratroopers moved off the group of arrestees. His evidence about the second set of paratroopers was of one paratrooper firing four shots from the hip in a fanning movement and a second paratrooper firing two shots from chest height. A third paratrooper then fired one shot from his shoulder. **WT8 50A to 51G**.

20.6.4.11 **Hugh Barbour** described three or four soldiers coming out of the gap between Glenfada Park North and Glenfada Park South after Barney McGuigan was shot. They came onto Rossville Street, took up kneeling positions and put their rifles to their shoulders. He marked their position at point L on **AB10.1**. He decided to make a run for it to Joseph Place and heard intense shooting coming in his direction. He saw a couple of shots strike the steps leading to Fahan Street. **AB10.5 paragraph 29** and **Day 88/75/19 to Day 88/78/2**.

20.6.4.12 **Simon Winchester** was unable to remember his 1972 account when he gave evidence to this Inquiry. In 1972 he said that he saw a soldier in front of the Glenfada Park flats firing four, five or six shots towards Joseph Place.**M83.18 paragraph 21**.

Soldiers on the Walls.

20.6.5 Soldier 227

20.6.5.1 Soldier 227 was located on the City Walls as an Observer in Charlie OP. At **Day 371/150/4 to Day 371/152/17** he indicated that he stood by the contents of his 1972 statements describing three paratroopers emerging from behind the rear of the flats in Glenfada Park. Whilst the other two were making arrests the other Para was kneeling next to a lamp-post which was positioned between him and the eastern block of Glenfada Park. His rifle was aiming parallel with Block 2 of the Rossville Flats. Once he saw him fire the witness saw somebody lying near the telephone box.[10] The witness identified the man shot from the relevant photographs of the body of Barney McGuigan at the Widgery Inquiry. **Day 371/201/3 to Day 371/204/6**.

20.6.5.2 In his first RMP statement, apparently made in the early hours of 1 February 1972 and which is in hand-written form at **B2186.1**, **B2186.2** and **B2186.3**, he had described seeing three soldiers appear from the rear of the flats in Glenfada Park and one of them knelt on the corner facing the Rossville Flats. The other two soldiers were making arrests. At this point he heard two or three pistol shots being fired from the area of the Rossville Flats. The soldier in Glenfada Park then fired two rounds towards Rossville Flats and he saw a man fall at the corner of block 1 of the flats. He then described his attention being attracted by the man lying on the

[10] Also in Charlie OP was Soldier 025. His RMP statement at **B1536** indicated a soldier had taken up a position facing them and a small crowd after coming round the corner of Glenfada Park. At **Day 361/50/7 to Day 361/51/23** he said that this soldier went towards a body on the barricade in Rossville Street.

ground in front of Joseph Place who had been shot in the lower part of the body and while doing so heard a number of SLR shots and other high velocity shots but he did not know from what area they came.

20.6.5.3 In his second RMP statement, dated 2 February 1972, he again described the three soldiers. One of them kneeling at the corner of the building facing towards the Rossville Flats and the other two making arrests. At this time he heard two or three pistol shots being fired from the area of Rossville Flats. The shots were fired in rapid succession. The soldier kneeling then fired two aimed shots towards the Rossville Flats. He saw him do this and he also saw a man at the corner of block 1 of the Rossville Flats fall to the ground. **B2185**.

20.6.5.4 The witness told Lord Widgery that he heard three to four pistol shots. He did confirm that he did not notice any shots coming from the position that Soldier F had placed himself in before Barney McGuigan was shot. **WT16. 40E** , **WT16.49D**

20.6.5.5 In his Eversheds statement at **B2204.008 paragraph 41** he described his present recollection as the pistol shots being fired prior to the paratroopers appearing from Glenfada Park North. He was reluctant to confirm that hearing the pistol shots and seeing the paratrooper kneeling and firing two aimed shots were actually connected although his RMP statement gives this impression.

20.6.5.6 On **Day 371/167/19 to Day 371/175/17** the witness, in response to Counsel for some of the soldiers, marked the position where the pistol shots came from. He had of course never seen the firer. **B2204.036**. This directly contradicted the witness's testimony to Lord Widgery when he said that not only did he not see anyone down where Soldier F had fired as it was out of his view but he did not notice any shots coming from that position before Soldier F's firing had occurred. The marking on this map is

in complete contradiction of the evidence of the witness from his first RMP statement through to his evidence to Lord Widgery.[11]

20.6.5.7 He had also described at **B2204.006 paragraphs 28 to 29** his attention being drawn to a man that seemed to be dragging himself along by his arms on the eastern side of Joseph Place. He was going from the witness' left to his right towards the Rossville Flats. He could see no obvious wound or reason why he should be dragging himself along rather than walking or crawling. He could not see any weapons on him although he would not necessarily have been able to see a handgun. The witness described him progressing towards the northern end of Joseph Place. This direction of movement would not in any case have taken the man to the northern end of Joseph Place but towards the Rossville Flats. At **Day 371/155/6 to Day 371/159/3** it was suggested to him that the person he saw could have been Danny McGowan or Patrick Campbell. He could not make that connection because the man was crawling from his left to his right before he was taken away in the direction he had come by two men. He further stated in evidence that he made no connection with the soldier firing and this man. It is clear that the witness is describing a person who was simply crawling along Joseph Place or is in error regarding the direction of movement of Patrick Campbell and Danny McGowan.

20.6.5.8 The witness missed up to 103 SLR shots which were fired in the Bog-side by the army that afternoon although he did apparently hear Thompson sub-machine gunfire, sounds of an explosion like a nail bomb, three SLR shots, then pistol shots followed by two SLR shots. **Day 371/175/19 to Day 371/200/12**. His observations on this issue clearly do not represent an accurate picture of events. For further submissions on the evidence of this witness see submissions on Observation Posts Sector 3.

20.6.6 Soldier 040

[11] See also **WT16. 43E to WT1644B**.

20.6.6.1 This witness was located in Magazine Street accompanied by Soldier 134. He made a first statement to the RMP on 2 February 1972, which is at **B1652.** He described seeing 3 members of the Parachute Regiment arresting a number of people at the end wall of Glenfada Park Flats. He saw two other Parachute Regiment members take up position on the corner where the arrests had taken place. One of them adopted a kneeling position and fired a shot along the rear of block 2 Rossville Flats. He saw a man waving his arm leap in the air and land on his back. A priest came out and tended to the man.

20.6.6.2 At almost the same time he saw the man shot he saw a further two men fall to the ground in front of the Rossville Flats but about fifty yards further along towards Rossville Street. One of the men got up but fell again and was helped to a position under the veranda at the front of block 2 of Rossville Flats. At the time he thought that the two men had been struck by rubber bullets because one of them got to his feet. He did see three bodies being taken away and a further four casualties removed from somewhere in front of Joseph Place which was outside his field of vision.

20.6.6.3 His second statement was taken on 16 February 1972 by Lt.Colonel Overbury at Lisburn. It appears at **B1656**. In this statement he indicated he wished to correct some points having studied photographs of the scene he observed on 30 January 1972. The kneeling soldier was now said to be pointing his rifle at a man facing him with his arms above his shoulders and his fists clenched. The man fell by the trees between the end of Joseph Place and the end of Rossville Flats nearest to the observer. Soldier 040 then described two men running from the crowd as fast as they could. One was in a crouching position and held his right arm under his left armpit. The other man had his arm around the first man's shoulder. They ran extremely fast into the ground floor flat, second from the right of the Joseph Place flats.

20.6.6.4 Just after the first man had been shot he saw another man lying on the ground in the area between blocks 1 and 2. He could still the paratrooper

who had fired but could not say if he had fired again. Almost immediately he saw another man fall a few yards to the left. He started to get up but fell again. He did not know from which direction he was shot but he was facing up Rossville Street towards William Street.

20.6.6.5 In his first RMP statement at **B1652** he had said: "Sometime later I think I heard the sound of automatic fire but I am not certain on this point." About ten minutes after that he saw a crowd of people who were standing in Rossville Street suddenly scatter and about 20 of them, who didn't appear to know where to run, stood near the end wall of Colmcille Court (he later corrected this to Glenfada Park North in his second RMP statement.).

20.6.6.6 In his second RMP statement at **B1656** he stated that it was just after 20 people had been arrested and taken away that he heard what he thought was automatic fire coming from the area of Glenfada Park. Assuming he was talking about the same twenty people he had described in his first RMP statement who he now classified as arrestees he significantly altered the timing of the firing. He also now placed the source of the firing in the area of Glenfada Park whereas previously he had not placed the source of the firing.

20.6.6.7 In his Treasury Solicitor statement at **B1659** he said he "heard automatic fire from the direction of Glenfada Park." He was by then saying not only that he heard it but also from what direction it came.

20.6.6.8 In his Eversheds statement at **B1661.005 paragraph 28** and **B1661.006 at paragraph 38** he stated that he could no longer recall automatic fire. He thought that it was more likely he was referring to single shots fired by an automatic weapon rather than machine gun fire. He stated: " I do not remember hearing machine gun fire. I therefore believe that the reference to automatic fire is single shots fired from an automatic weapon. He corrected the location of the soldier mentioned in his Treasury Solicitor statement from the southwest corner of Glenfada Park North to the southeast corner. The following issues arise:

(i) In his first statement in 1972 the witness explicitly said he was not certain he heard the sound of automatic fire.

(ii) It is therefore difficult to see how in his second RMP statement to Lt. Colonel Overbury he was able to state independently that he heard what he thought was automatic fire and place the area it was coming from as Glenfada Park when he had not mentioned a source area in his first RMP statement.

(iii) By the time of his Treasury Solicitor statement he had become even firmer stating he heard it and gave the direction it came from. This cannot be credible.

(iv) His Eversheds statement again cannot constitute credible evidence on this issue. He never mentioned single rounds from an automatic weapon in 1972 and it is clear he is trying to rationalise the fact that he is now sure he did not hear machine gun fire.

(v) The Inquiry should find that the first recollection of this witness is nearer the correct one namely that he thought he heard automatic fire but could not be certain. It is submitted the evidence of the witness suffers by the fact that the further he is removed from the incident in his statements in 1972 the more assertive he becomes in his description. It may be that the witness was prompted or encouraged in this growing assertiveness but it is not credible evidence.

20.6.6.9 It is notable that the witness described two men run from the crowd in a crouching position to the first house in Joseph Place for the first time in his second RMP statement taken on 16 February 1972. One of them had his right arm under his left armpit as if he was hurt or holding something. The other man had his arm round his shoulder. A very similar account of this incident appeared in the second statement of Soldier 134 considered below, who was in the derelict building at Magazine Street Upper with Soldier 040 and who was also interviewed by Lt. Colonel Overbury on 16 February 1972 for the purposes of his second statement. The Inquiry is aware that Patrick McDaid was helped into a house in this area by Patrick Walsh and Michael Bradley was also assisted to a house in this area.

20.6.6.10 The witness does not report seeing any civilian gunmen or hearing any low velocity gunfire in Sector 5. **B1652 to B1654**.

20.6.7 Soldier 134

20.6.7.1 Soldier 134 gave his first RMP statement on 3 February 1972 at **B1822**. The witness described a male civilian "trotting" across Glenfada Park towards the Flats with a Paratrooper behind him. The Paratrooper then knelt down behind a lamppost and fired one round from his SLR at the man who then fell to the ground. At **Day 363/38/25** the witness confirmed he believed the Paratrooper was on his own. About two or three minutes later he heard about five or six more shots from SLR's, which came from "Lecky Street/William Street" area. In his evidence to this Inquiry the witness explained he thought that Lecky Street was the William Street area. After these shots were fired he saw three civilians fall to the floor in the same area as the previous shooting. He presumed these three people had been shot. Most of the people dispersed leaving only about two hundred people in cover around the flats. He then saw two civilian ambulances arrive and the bodies were put inside. He again heard another SLR round being fired from the area of William Street and the people around the ambulance immediately took cover. **B1822 to B1824**.

20.6.7.2 The witness next made a statement on 16 February 1972 to Lt. Colonel Overbury. In this statement his description of the incident is modified. He saw the paratrooper kneeling in the aim position pointing his rifle in his direction. As the witness heard the sound of his rifle firing a single shot he saw a man sprawled on the ground between the two trees between Rossville Flats and Joseph Place. He did not see the man fall but he appeared to be the same man he saw "trotting" across Rossville Street. The witness also said he had made this statement after a conversation with Soldier 040 who had described the man as turning back towards the soldier with his hands raised. He concluded that he could not have seen the man at the moment he fell because he had not seen the man facing the soldier. He

accepted at **Day 363/48/15 to Day 363/48/19** that the man he saw "trotting" and the man shot might have been a different man but his conversation with Soldier 040 was clearly based on him believing it was the same man.

20.6.7.3 He saw a priest and a crowd gather. Then he described seeing two men running together one with his arm around the other. One was holding his hand under his jacket. They ran into one of the Joseph Place Flats. This description is very close to the description which appeared in the second RMP statement of.Soldier 040 examined above. According to the evidence of Soldier 134 he did discuss matters with Soldier 040 in advance. Again as with Soldier 040 this incident is described by the witness for the first time at Lisburn on 16 February to Lt. Colonel Overbury. Around this time he also saw two men, not three as he said earlier at the corner of blocks 1 and 2 of the Rossville Flats. He saw one fall and as he looked to see where the shot came from he saw another man near him on the ground. He did not see where the shots came from. **B1826 to B1827**. The position of the two men he saw who fell is marked at C and D on **B1831.014**.

20.6.7.4 The second statement to Lt Colonel Overbury contains important changes. In his first RMP statement he saw a man being shot running away from the Paratrooper. That has been altered by the time of the second statement to not seeing the man fall. The witness was asked was it because of the difficulty his first account would have created for the army at the time was that why he was invited to change his account or was that the reason his evidence was suppressed. He denied these suggestions. **Day 363/88/20 to Day 363/88/24**.

20.6.7.5 The first statement described a man being shot then a gap and three other men being shot. The second statement and subsequent statement to the Treasury Solicitor indicated that he had meant to describe three people instead of four as having been shot. When asked was it in fact really the suggestion of the Treasury Solicitor staff that he alter his evidence to

suggest that he had mistaken three people for four he replied " I cannot honestly say sir." **Day 363/93/6 to Day 363/93/9**.

20.6.7.6 The change in the accounts of this witness is remarkable considering he was deployed as an observer of relevant events from the City Walls. The change in sighting of the first man falling having been shot from behind is not a credible explanation even in the light of a conversation with 040. The change in number of persons seen is inexplicable since that was not an issue discussed with Soldier 040. The fact is that what emerged by the process of statement taking was an account very much more favourable to the army than his first statement.

20.6.7.7 This witness claimed in his 1972 RMP statement to have heard Thompson sub-machine gunfire in the Stevenson's Bakery/William Street swimming pool area on Bloody Sunday about fifteen minutes before the gathering of the crowd at Free Derry Corner. In his Treasury Solicitor statement he had changed it to at a time when the marchers had arrived at Free Derry corner. At **Day/363/29/22 to Day 363/29/23** he said the location was only an assumption. In his Eversheds statement at **B1831.005 paragraph 33** he claimed to have heard it whilst the crowd were at Free Derry corner. When asked why there was a difference he replied that he had no idea but that was what he believed at the time of the statement. **Day 363/26/10 to Day 363/28/9**. Neither could he explain the difference between his RMP and Treasury Solicitor statement[12].

20.6.7.8 There is thus a body of evidence confirming the presence of one or more soldiers at the corner of Glenfada Park North and one firing behind block 2 of the Flats. The evidence also supports the proposition that a number of other members of what must have been Anti-Tank Platoon were in the vicinity of Soldier F when he was firing. The civilian evidence indicates a greater volume of firing in the direction of the rear of block 2 of the flats

[12] Acknowledged in examination by Arthur Harvey QC that not only did the distance make considerable distortion of sound possible but that he could be mistaken it was low velocity shots. **Day 363/75/10 to Day 363/75/13** and **Day 363/75/7 to Day 363/75/12**.

than any military witness. Indeed that must be so since there were four casualties in this location but only two admitted shots from one soldier. On that simple but irrefutable proposition it must follow that the civilian evidence must be more accurate than the military evidence.

20.6.8 Soldier 030

20.6.8.1 This witness was located on the platform. His observations in relation to the blocks of Rossville Flats are dealt with in our submissions on Observation Posts in Sector 2. As described in his first RMP statement made on 2 February 1972 following the observations at the Rossville Flats, he saw a body lying by the telephone box. He heard a burst of what in his opinion was Thompson sub machine gun fire. He claimed Soldier 001 then directed his attention to a 5ft wooden fence on the left-hand corner of Glenfada Park. He described a soldier engaging the gunman, the gunman disappearing and automatic fire from that position ceasing. The soldier in Glenfada Park turned and aimed his SLR in the direction of the platform. He then heard a number of single low velocity shots from below him. This was followed by one shot from the soldier in Glenfada Park. He then glanced down and saw a body below him. He described four bodies after the shooting stopped. **B1590**.

20.6.8.2 He made his second RMP statement on 16 February 1972 to Lt Colonel Overbury. In this statement the number of pistol shots below him have become a volley. He then saw the paratrooper fire one shot in his direction from which the shots had come. When he looked over the wall he saw a man lying on the ground. This statement was clearly crafted to make a closer connection between the low velocity shots, the paratrooper and the man lying on the ground. **B1597**.

20.6.8.3 In his Treasury Solicitor statement he described the soldier in Glenfada Park then turned and aimed his SLR in his direction. Immediately after this he heard single low velocity shots from below him but he could not see who was firing since his view was obstructed by the city wall. However he

looked down and could see a body lying below him opposite the gaps between blocks 2 and 3 of the Rossville Flats. **B1612.019 paragraph 5**.

20.6.8.4 At the Widgery Inquiry, as he had done in his Treasury Solicitor's statement, he described these events as occurring after seeing the body of Barney McGuigan. He was also clearly adding details to his evidence at Widgery, which were patently untrue. See his evidence to this Inquiry at **Day 366/142/2 to Day 366/147/6**.

20.6.8.5 The witnesses Eversheds statement was in complete contradiction of his earlier accounts. The witness therein claimed not to have seen a soldier aim his rifle in his direction but a civilian gunman. The gunman was dressed in combat gear and had long straight black hair. The gunman fired not from Glenfada Park but south of Joseph Place and fired at the city wall south of Charley OP. **B1612.003 paragraph 14 to B1612.005 paragraph 30**.

20.6.8.6 The witness' accounts of events are inherently unreliable and stem from an attempt to justify shooting by a soldier into the area which he was observing. None of the amount of dramatic activity he witnessed was reported by him to his Sergeant 001 who was close by. None of these events were recorded in any report or log available. No military or police witness on the walls corroborates his account of events.

20.6.9 Conclusion

20.6.9.1 Given the volume of firing claimed by Soldier S into the gap between blocks 1 and 2 of Rossville Flats, the Inquiry will be alive to the possibility of Patrick Campbell having been wounded as a result of one of those shots. However, it is submitted that Soldier F, on the clear weight of the evidence, wounded Patrick Campbell on Bloody Sunday. Further, he wounded Danny McGowan. Although these acts were not admitted by Soldier F, the above conclusions are suggested by the evidence given by the military

witnesses before the enquiry. He then murdered Patrick Doherty and Barney McGuigan.

20.6.9.2 The only soldier who acknowledged firing into Sector 5 was Soldier F. It is submitted that contrary to Soldier F's evidence, he fired more than the two shots he claimed into this area. Soldier F lied about seeing a man with a pistol. This was a fiction to cover his unjustified shooting in Sector 5. It is further submitted that Soldier F's evidence of the number of shots he fired in this area and indeed his overall total of 13 is unworthy of belief. Having lied consistently in 1972 about where he fired and how many shots he fired in particular areas the Inquiry should place no weight of any kind on his evidence of the location and number of shots he discharged.

20.6.10 Observation Posts Sector 5

20.6.10.1 Soldier F was the only soldier who admitted firing into Sector 5 on Bloody Sunday. He claimed to fire at a man with an object in his hand, which was large and black like an automatic pistol. He fired two rounds at this man, who then fell to the ground.

20.6.10.2 The sight lines from a number of Observation Points on the City Walls would have given a clear view into the area behind block 2 of Rossville Flats and would have given an excellent view of any activity by civilian gunmen or indeed any activity by soldiers. The evidence of soldiers relevant to this sector has been considered in detail in our review of Military Evidence in Sector 5. It is clear from the evidence that soldiers on the Platforms Charley Op[13] and Magazine Street Upper had excellent views into Sector 5.

[13] **EP1.1** shows Charley Op. **P233.2** is taken from the City Walls, along the southern side of block 2 of Rossville Flats.

20.6.10.3 None of the soldiers at any of these locations, who made statements, reported gunfire from civilians in their direction. None of the soldiers reported a sighting of a civilian gunman or indeed a bomber on the area behind block 2 of Rossville Flats[14]. The regimental logs of 22nd Light Air Defence Regiment and The Royal Anglian Regiment do not contain any such reports. The 8th Brigade log does not contain any such report.

20.6.10.4 The soldiers who did report seeing a Paratrooper fire into this area, namely Soldier 030, Soldier 040, Soldier 134 and Soldier 227, gave limited accounts of a single soldier firing one or two shots. This cannot be correct, given:

i) The civilian evidence regarding the quantity of firing in this area.
ii) The evidence of INQ 1826.
iii) The number of known casualties in this sector.

20.6.10.5 The limited evidence from soldiers on the City Walls of low velocity or pistol fire is not credibly connected with any event in Sector 5.

20.7 Civilian gunmen and bombers

20.7.1 The evidence of **Nigel Wade**, at **M79.4 paragraph 15**, is that in front of Free Derry Corner, he heard more shooting and with about a thousand others he went flat on the ground. It was impossible to tell where the shooting was coming from but it sounded to him that the closest shots were from nearby buildings, which he thought were called "Joseph Flats". At **Day 109/140/23 to Day 109/141/3**, he was asked did he have any recollection now of having a perception that these shots came from Joseph Place flats. He answered that he did have that sense, but would not put it any stronger than that:

[14] It is notable that the evidence of police officers in and around the walls confirms this position.

"Since you mention it, it could have been an echo effect, I do not know. But I did have that sense. But I could not be more definite."

At **Day 109/222/1 to Day 109/222/25**, he acknowledged that this had been a personal impression, for which he lacked any evidence. In his article at **L34**[15], he stated that they were pinned to the ground and there was firing from the Para's and "snipers in the R.F." This witness' perceptions, which he even acknowledges could have been an echo effect, do not constitute reliable evidence to establish shooting from the Joseph Place flats, or indeed any location.

20.7.2 The Sunday Times, at **S37**, described an Official firing two .32 pistol shots from the lane behind Joseph Place up at the Observation Post near Walker monument. It was hopelessly out of range and it was also risky since he was in full view of the City Walls and the lane was crowded with panicking people. At **Day 414/63/25 to Day 414/64/25**, Reg Tester denied any knowledge of this incident, although Peter Jacobson had indicated that Tester would have confirmed the incident took place. In any event, a purported account of an incident of pistol shots at this location and at an undetermined time could not be relied upon as credible evidence of such an event actually occurring. In addition there is no military evidence which ties a sighting or records a reaction to this alleged incident. Even if the report is authentic, it did not and could not impact on the actions of soldiers on the day.

Role and responsibility of civilian gunmen and bombers

20.7.3 It is clear that alleged civilian gunmen or bombers played no role whatsoever in the killing and wounding in Sector 5. Soldier F's pistol man behind block 2 of Rossville Flats was a creature of invention designed exclusively to conceal the fact that he had no lawful or valid reason to fire shots behind block 2 of Rossville Flats.

JH10.2, **JH10.5**, **JC4**, **JM19**, **JH7**, **JE2**, **JC12**, **JH5.1**, **JM43**, **JW6**, **JM30**.

20.8 Missing Casualties Sector 5

20.8.1 This section is prepared and presented as a response to the Lawton and Aiken team documents at **OS7.34** and **OS8.42**.

20.8.2 PIRA 25

At **AG17.7 paragraph 15 to 16** in his original statement to the Inquiry, the witness indicated he saw Patrick Doherty shot crawling towards the alleyway which ran along the eastern side of Joseph Place by three soldiers at the entrance to Glenfada Park North. Another man who went out to Patrick Doherty's aid was shot at. The witness gave oral evidence at **Day 424/122/24 to Day 424/124/10**. He indicated that the second man who was also shot at but who he did not think was injured may have been Patrick Walsh. He later found this out by seeing a photograph of him. He had described in his statement at **AG17.7 paragraph 16** a further man who he was later told was Alexander Nash going out to their aid. The witness was told later it was Alexander Nash although he did not know it at the time. This man was shot in the hip or buttock. At **Day 424/124/21 to Day 424/125/10** the witness was asked did he see someone shot in the hip or buttock. He replied no. He explained that people were saying it was Alex Nash and he had been shot in the hip. He had not known that at the time and he had seen no-one else shot in the area apart from Mr. Doherty. He confirmed to Counsel to the Inquiry that the position was he heard some time after the events of the afternoon that Alex Nash had been shot and for some reason he believed he was the man who had come to assist Mr. Doherty. The witness further confirmed at **Day 424/139/4 to Day 424/139/6** that he could not remember seeing the third man shot. It is clear from the examination of this witness that he presents no credible evidence of a "missing casualty."

---

[15] "Leaders of March Lost Control" by Nigel Wade (31st January, 1972)

20.8.3 Joseph McKinney

At **AG17.1 paragraph 23** this witness gave a detailed description of seeing the body of Patrick Doherty including position, clothing, age and later knew it was Patrick Doherty. He described a second body but could not visualise him as clearly as Paddy Doherty. At the date of his statement he did not know how the second body was lying or his approximate age. He recalled " thinking both men were dead" although he didn't see any wounds on either man. The witness gave evidence and was examined at **Day 076/138/16 to Day 076/146/6**. It is submitted that the scene described by the witness was as in the **P714-717** showing Paddy Walsh beside the body of Patrick Doherty rendering assistance.

20.8.4 Martin Tucker

At **AT17.5 paragraph 32** he described two men running close together along the front of Block 2 of the Rossville Flats by the shops. He thought they were running to the alleyway behind Joseph Place. They were shot at the point marked J on **AT17.16**. He thought both were shot in the leg. It was almost like watching a movie. He thought both got into the alleyway behind Joseph Place or into a house. He thought a couple of people helped them. They were in their thirties maybe not old but not teenagers. He did not remember what they were wearing. He did not see where the shots came but thought it was from the direction of Rossville Street and Glenfada Park South. At **Day 098/119/1 to Day 098/119/3** the witness accepted that though both went down one may have been shot. At **Day 098/117/9 to Day 098/1122/1** the witness was examined on this issue by Mr Arthur Harvey QC. It is submitted that the description the witness gave was that of Patrick Campbell being assisted by Danny McGowan.

20.8.5 Joseph Nicholas

At **AN17.5 paragraph 21 to 22** the witness described the shooting of Patrick Doherty whom he assumed had been shot by two soldiers at Joseph Place. Patrick Doherty had been crawling towards the alleyway behind Joseph Place. There was a group of people at the entrance of the alleyway to which he had been heading. They had already got across the open space and were urging him on before he was hit. One of the group came out to try to rescue Patrick Doherty after he had been shot and the witness believed the rescuer was then shot in the leg and was dragged back into the group in the alleyway. A second person then came out and again appeared to be shot around the legs and dragged back. Finally a man he now knew to be Paddy Walsh crawled out to Patrick Doherty. At **Day 78/45/13 to Day 78/45/20** the witness confirmed he did not see the persons afterwards to confirm they had been hit. At **Day 78/45/8 to Day 78/46/12** on examination by Counsel it was suggested that Danny McGowan had come out of the alleyway and assisted a person into the alleyway who was Patrick Campbell. It was put to him that given the passage of time his sequence of events was a little askew and whether persons were hit as opposed to taking protective actions to save them from being hit he could not now say. He replied it was possible. Further at **Day 78/49/19 to Day 78/50/6** an extract from his 1972 interview with the Sunday Times journalists at **AN17.20** was put to him. " Nicholas watched Walsh crawl out twice. And also saw the rescue of McGowan after he was shot helping Campbell. Nicholas thinks Walsh beckoned for help." It was suggested that those two and Patrick Doherty added up to the three men he saw shot which the witness accepted.

20.8.6 Derrick Tucker Junior

20.8.6.1 At **AT15.20** this witness, who was 12 at the time, made a statement in which he described a number of youths running behind the maisonettes through a small alleyway. He described these youths as being fired on by troops in the observation posts on the Derry Walls. As the last three youths

entered the alleyway the first two crawled with shots in the legs but crawled on in. The last one was crawling in and a shot rang out and he fell. He lay still but there was no sign of a wound. After describing attempts to assist this person the men carried him down to an ambulance. He was dead. He then described men being carted into the ambulance soldiers fired even though the white handkerchief was being waved by Father Mulvey.

20.8.6.2 At **Day 99/26/17 to Day 99/27/20** the relevant contents of this statement were put to the witness. He was asked did he have any recollection now of two people apparently shot in the legs. His answer was "I honestly cannot say." He replied yes when it was suggested to him that the third man must have been Patrick Doherty. He confirmed one of the men attempting to assist must have been Patrick Walsh. At **Day 99/33/24 to Day 99/36/15** the witness was further examined and confirmed that some people would have thrown themselves to the ground without being shot. Others would have stood up in bewilderment and others would have carried on. He assumed but he did not see the two persons shot in the leg. The witness agreed that a description put to him of an incident from Danny McGowan was consistent with what he saw. That description was of Danny McGowan helping Patrick Campbell across the open ground and being shot just as he was getting into the alleyway and then pushing Patrick Campbell into the alleyway and dragging himself eventually in. The witness also confirmed at the time his assumption was that the persons were being shot at from behind i.e. Rossville Street as opposed to the City Walls. He further confirmed the men were not carrying weapons and they were not doing anything to give rise to soldiers shooting at them.

20.8.7 Patrick McGlinchey

At **AM247.3 paragraph 13** the witness, who was 15 years old at the time of Bloody Sunday, described some men running up the entrance way of one of the first three houses in the north block of Joseph Place marked at

AM247.10. They had their backs to him and he didn't know where they came from. As one of the men was seven or eight yards from the front door he called out "I'm hit" and "seemed to reach around his back". The witness believed he had been shot in the back. He had black or brown hair and was wearing a jumper rather than a coat and "trousers of some sort." In examination at **Day 388/79/5 to Day 388/79/25**, the witness claimed his impression was that the man shouted out when he actually realised he had been hit. No one was supporting him or assisting him. It is submitted this evidence amounts to an "impression" of a 15 year old boy. Whilst no doubt honestly held someone shouting " I am hit" and seeming to reach round his back is hardly sufficient to lead to a finding of an additional casualty on Bloody Sunday. His statement the man "seemed" to reach around his back. The witness saw nothing of the aftermath and what he did see was a fleeting moment of a running man with others. It is noted that there is no other evidence before the Inquiry concerning a casualty occurring in this location. It is also instructive to note that if the man was running up one of these driveways there is no claimed army firing or targets in this location. Therefore no known soldier fired in this location. If a gunman or person engaged in such activity had been shot the soldiers would no doubt have claimed it. The Inquiry will also be aware that a number of known casualties were taken into houses in this location, including Patrick McDaid, who had sustained a wound to his back. The Inquiry should treat this evidence with the utmost caution.

20.8.8 Joseph Moore

At AM413.5 paragraph 24 the witness, who was in the group at the telephone box at Block 1 of the Rossville Flats saw Barney McGuigan shot. He then described a lad in his teens or early twenties crawling along the kerb "doggie fashion" along an alleyway by a garden wall in front of the Joseph Place maisonettes. As he crawled he gave a cry of pain and rolled over onto his side. He did not know what happened to him after that. In examination at **Day 89/141/17 to Day 89/160/21** the witness accepted that the person he saw could have been Paddy Doherty. His 1972 statement had

indicated that the man was crawling away from his position. It is submitted that the balance of the evidence is such that the witness was describing the crawling figure of Patrick Doherty.

20.8.9 David McIntyre

At **AM284 paragraphs 1 to 2** the witness was ten years old on Bloody Sunday. He gave evidence on this issue at **Day 171/144/1 to Day 171/154/5**. He described seeing a male aged about 17 shot in the face or the eye in the area of the steps between Joseph Place East and Fahan Street East. The witness corrected this to "the upper body" at **Day 171/139/18**. It was a single shot. Another man went to try to help him. This man was about 17 or 20 years old. Another single shot sounded and the man fell down. Both points are marked at D and E on **AM284.3**. At Day 171 the witness declined to take the oath or affirm. In examination at **Day 171/148/21 to Day 171/148/22** the witness was asked could the man have been a significantly older man. He replied that the first man could have been an older man. The witness said he was looking "for a matter of seconds". As regards the second man's age it was put to the witness that he had said the man was perhaps between 17 and 20. He replied:" No, from a distance that is what he looked but I know he was not." At the time of his statement he did not know who the people were but he was told it was someone called Mr. Doherty and the other man was called McGowan. He insisted that it was Mr. Doherty he saw shot and that both men had been shot from the City Walls. Given the tenor and content of the evidence of this witness it would be difficult either to rely on him as identifying the persons he believes he saw at all.

20.8.10 Missing Casualties St. Columb's Wells

20.8.10.1 The Aiken team document, at **OS8.42**, refers to a number of casualties or bodies said to have been removed by car from St. Columb's Wells.

20.8.10.2 **Nigel Wade**, in his Treasury Solicitor statement at **M79.4**, described seeing three or four others come out of St Columb's Wells waving white handkerchiefs. There were more shots and they and the bystanders flattened out again. After some minutes, four wounded men were brought across the road by the flats, at a low run, and put into private cars. They were not fired upon as they moved this time. At **M79.22 paragraph 18**, the witness described standing at point E, marked on **M79.25**, which is in St Columb's Wells. As he was standing at that point he remembered seeing three or four people, who had apparently been shot and were bleeding, being loaded into cars and driven off. It can be noted that although Mr. Wade had mentioned the matter in his Treasury Solicitor's statement he was not asked about this at the Widgery Tribunal when he gave his evidence. Clearly the issue of so-called missing or unknown civilian casualties was not then exercising the minds of the soldiers representatives.

20.8.10.3 It is notable that his account at **M79.22**, signed on the 2nd June 1999, states that the people had "apparently been shot and were bleeding". This description did not appear anywhere in his Treasury Solicitor's statement in 1972, which merely used the term "wounded". The witness was asked about this matter at Day 109 at this Inquiry. At **Day 109/139/7 to Day 109/139/23**, the witness described cars being commandeered or backed up and a great crowd in the street. There was a great fuss about getting cars through to the top of the street near the Joseph Place area:

> "A number of bleeding people, I had no idea whether they were, you know, lightly or heavily wounded or even dead, were brought out and put into cars and the cars made their way down the crowded street toward, I assume, the hospital". He was not able to see the nature of their injuries but he said he could see a lot of blood.

20.8.10.4 It should be noted that the witness, when asked about this matter at **Day 109/142/16 to Day 109/142/19**, stated:

"...Once again I find time shrinks one's memory..."

20.8.10.5 Of course, what appears to have happened to some extent is that his memory has expanded the incident into one where he sees a lot of blood. This cannot be reconciled with the fact that he currently has no idea if these individuals were lightly or heavily wounded or even dead. The witness therefore cannot have seen wounds on the people described as "wounded" in 1972. This may be a snapshot recollection of a known casualty being assisted into a car by those who had come to his aid. However there is nothing in his recollection which would allow a conclusion that he saw additional wounded casualties on the day.

20.8.10.6 **Simon Winchester** in his Treasury Solicitor's statement at **M83.20** spoke of seeing 2 casualties lying in the gap between Joseph Place and Rossville Flats. He then walked down to Free Derry Corner and met Mr Wade once again and with him saw "seven casualties being put into cars in Leckey Road and driven off to hospital". This issue was not pursued with the witness at the Widgery Tribunal by Counsel for the army.

20.8.10.7 It is notable that Mr. Wade described the incident as occurring in St. Columb's Wells between the cross and point E, on his map at **M79.25**. Mr Wade had also placed it in St. Columb's Wells in his 1972 Treasury Solicitor statement. It is indicative of the difficulties for witnesses in giving evidence of such a scene that even in their 1972 Treasury Solicitor statements they have pinpointed two clearly distinct locations even whilst in each other's company.

20.8.10.8 The evidence of Mr Wade was put to the witness at **Day 116/87/13 to Day 116/88/10**. Mr. Wade's evidence was that what he saw were three or four persons being put into cars in the vicinity. When asked if he was certain that he saw seven casualties as opposed to a number of persons being put into cars, Mr Winchester replied that it was certainly more than four. He was asked regarding his use of the word "casualties" was he able to discern

that the people had visible injury or did they appear to be people who distressed as well as persons who had injuries. His answer was as follows:

> "I cannot say that I saw blood on all of them, so it is conceivable that some just could have been distressed and were getting out of the area, yes".

20.8.10.9 Both the above witnesses are clearly relating an incident in the St Columb's Wells/Joseph Place area where it is known that two casualties were removed by car to hospital. In the light of the events that they had both just witnessed, Mr Wade and Mr Winchester have clearly formed a mistaken impression. This is a fact amply demonstrated by the changing estimates of numbers given by both witnesses even though they apparently witnessed the same incident in each other's company,

20.8.10.10 At **AO75.2**, **John Barry** had recorded the following:

> "Only one anecdote of interest. He says that he arrived in St Columb's Wells having walked slowly and deliberately down the road from Butcher's Gate behind the flats (which rather knock the firing from the walls theory on the head). And got to the Wells as they were in the process of collecting bodies.... Say a bloke called Tony Harken was directing this transportation of bodies across the alleyway and screaming at everyone else to get back for fear of getting shot. K says he saw 5 or 6 people being carried across that road of whom at least 2 dead".

20.8.10.11 This is a story reported to Mr. Barry. In itself it is clearly incorrect in the detail of what occurred at either Joseph place or St. Columb's Wells. There may be a number of explanations for this. The story in itself may be a complete fiction. It may be a description of events occurring somewhere other than that particular location. It may be an incorrect description of the scenes witnessed with regard to what were described as "bodies". However John Barry himself in the note described it as an "anecdote". It is

submitted that the Inquiry ought not to be invited to rely on an "anecdote" to establish the truth on this issue.

20.8.10.12 Mr Barry was asked about this matter at **Day 193/169/5 to Day 193/169/5**. His evidence was that he could not help because he could not remember. He did offer the following comment:

> "...if it were something different as opposed to the collecting of the bodies that everyone knew were lying around, as it were, if indeed something different, I would have made much more of it than this, I would have made some note to inquire who the bodies were and so on." **Day193/168/25 to Day 193/169/5**.

20.8.10.13 Quite clearly, at the time, John Barry saw nothing in this story which required or even suggested further investigation. It is clear also he never found anything to make him return to the story. This is perhaps yet another indication that the fiction of Missing Casualties had yet to find any credible supporters in the aftermath of Bloody Sunday.

20.8.10.13 **Anthony Harkin** gave a statement to Eversheds at **AH11.6 paragraph 32**. There, he described having arrived in St Columb's Wells and could hear shouting coming from the area of Joseph Place. People were shouting and there were wounded and injured and they were asking for help. There was a large number of other people already in St Columb's Wells with his brother when he arrived but none of them made any move to go and help the wounded. After a while he decided to go and help. He carried a hankie and he retraced his steps North until he was standing in the middle of the open ground between Joseph Place and St Columb's Well. As he stood there the people who had been hiding at the back of Joseph Place dragged or helped about 3 or 4 wounded people over the open space and into St Columb's Well. At **AH11.6 paragraph 33**, he continued that he did not remember very much about the wounded or exactly how many there were, although he did remember in particular an old man of between 40 and 45 who was carried by the arms and legs as if he was in a chair:

"I think he had been hit in the back or the hip though he still looked alive."

20.8.10.15 He also remembered a woman being one of the wounded and he took it for granted that one of the others was the body which he had seen lying prone between the Rossville Flats and Joseph Place. Once all the wounded were over the road he followed them back to St Columb's Well and watched as they were put into cars and driven away. He did not remember anything about the cars or the people carrying the wounded.

20.8.10.16 It is notable that in his 1972 statement at **AH11.19** he had said the following:

> "I helped lead a crowd of panicking people along the Wells. A priest pulled up in a Red Cross car. He was looking for injured people.... We waited for ten minutes and then went away to safety. I helped to put about seven of the injured into cars."

He mentioned only injured people not wounded as he had done to Eversheds. There were seven in his 1972 account but in his Eversheds statement he only then remembered three or four.

20.8.10.17 When the witness gave evidence on **Day 177/39/1 to 177/42/9** he was asked which number was more accurate. He answered:

" Well, I could say five or six, I am just, I just could not be sure."

The witness also indicated that he found out that the name of one of the injured people was Alex Nash. He then went on to say that he there was a house in St. Columb's Wells that somebody was taken into. This was not additional to the people brought into St. Columb's Wells. When shown **P747** the witness confirmed it looked like the man he saw being carried. It was Patrick Campbell.

20.8.10.18 It seems that the witness saw the movement of Patrick Campbell and those giving him assistance to St. Columb's Wells. His reference to seeing Alex Nash would appear to indicate that he has accumulated various pieces of knowledge about the day after initially mistaking the number of people in actually saw wounded in the area of St. Columb's Wells.

20.8.10.19 **Noel Doherty,** at **AD91.7 paragraph 36**, also described reaching St Columb's Well. He stood there for about two or three minutes. While he was standing there he saw people being carried across Fahan Street from Joseph Place and some of them seemed to be injured. He saw two or three people being put into cars which drove off in the direction of the hospital. He could not recall what colour cars they were nor what make they were. He recalled particularly one man who seemed to have been injured in the hip. He would say he was about 40 – 50 years old, he was placed on his stomach in the car and driven away. Given the description of the injury Mr Doherty is in all likelihood describing Patrick Campbell. It is wholly understandable given the passage of time that precise locations and numbers of people who were actually being assisted as opposed to giving assistance may be inaccurate.

20.8.10.20 **Thomas Ralph Dawe** described at **AD5.5 paragraph 29** seeing the back door of a car open with two bodies in it. One was in the well of the car and the other one was in the back seat propped up on the left-hand side of the seat. Another person was put on the right hand side of the back of the car. The witness gave evidence to the Inquiry at Day 94. He accepted that his statement in 1972 had not mentioned this issue. The Inquiry is referred in particular to the examination of the witness by Mr Finnegan QC at **Day 094/152/19 to Day 094/173/14**. The witness accepted it as a possibility that he had amalgamated the sighting of the car driven by Mr Bernard McGonagle taking Patrick Campbell to the Regimental Aid Post and the car which was driven by Mr. Raymond Rogan containing the body of Gerard Donaghey.

20.8.10.21 **Mr Colm O'Domhnaill**, who was in the same location as Mr. Dawe, had described, at **AO19.4 paragraph 23**, a car, which was a Cortina, possibly a Mark II. The witness described what was obviously the body of Gerard Donaghey and he had also said that the car did not go fast and he was able to look in. At **Day 094/169/18** it was put to Mr. Dawe that this was the car that apparently did not stop. He was asked "Is that close to what you are remembering?" Answer "It is similar". It is clear that what the witness saw was the car containing the wounded Patrick Campbell in the St. Columb's Well's area and the car driven from the Well's area containing the body of Gerard Donaghey. Mr Glasgow asked the witness a further question about this matter at **Day 094/177/2 to Day 094/177/9**: "Is it still your recollection that the car you saw had a body which you believed to be dead lying in the well of that car in front of the passenger seat?" Answer, "There were 2 people in the back of the car, one was lying across the well and one was in a certain position at the far side of the car sort of sitting angle". The answer again reflects perhaps the difficulty that the witness had in placing events from 1972 in the context of his current recollection.

20.8.10.22 **Ciaran Gill**, whose statement appears at **M105.9 paragraphs 39 to 44** described making his way towards St. Columb's Wells and was near Fahan Street. He observed a teenager with a leg/thigh wound being carried by several men into the street, one of those carrying the wounded man shouting loudly: "Has anyone got a car to take him to hospital?" Eventually a car was found and he was driven away. The witness gave evidence on this issue at **Day 203/142/1 to Day 203/146/2**. The witness saw him in a position at "the entrance to the street" which would be the "Free Derry Corner or Rossville Flats end." The teenager seemed to be "late teens, early 20's". The witness confirmed that he did not actually see the wound but somebody was shouting "be careful about his leg, he has been wounded." **Day 203/143/9 to Day 203/143/13**. Although the witness described a teenager the injury described and the location and circumstances of this incident suggest it may be a report of the movement of Danny McGowan.

20.8.10.23 The witness then described in his statement at **M105.9 paragraph 41** "another wounded young man was brought into the street by two or three men moving as fast as they could with cries of help us " The witness stated that he had walked across the street and supported this young man as he was manoeuvred into a car. The man was wearing blue jeans, a dark sweater, and in his late teens. He was unconscious but saw no visible signs of injury on him at all. The witness did not recognise any of the men carrying him. It was his "assumption" that the young man had been wounded by gunfire. In his Eversheds statement the witness described three people being put into cars but referred to "five" in his article in 1972. At **M105.9 paragraph 44** the witness acknowledged that some of those being placed in cars might not have been wounded by gunfire. When asked to put his "assumption" aside the only one he saw with visible injuries was:

"The first one, where I saw blood" **Day 203/146/2**.

20.8.10.24 However just a short time before in the course of his testimony the witness had said the following:

" When you say a leg/thigh wound, did you actually see blood on him?

A No, somebody was shouting "be careful about his leg, he has been wounded. I have not said that in the statement, but that is what they were saying." **Day 203/143/9 to Day 203/143/13**.

20.8.10.25 That the witness gave such a completely contradictory answers in the course of a short period of oral testimony must suggest significant doubt about the reliability of his testimony on this issue. It would appear on his first answer he did not personally see a deceased or wounded person in the course of these events.

20.9 Conclusions

20.9.1 The deceased and wounded were all shot whilst they were unarmed and were not engaged in any unlawful activity on Bloody Sunday. They were shot when they presented no threat of any kind to soldiers. They were the only persons shot in Sector 5. The soldiers have only admitted a total of 2 shots being fired into this area. This in itself renders the military evidence in this sector wholly unreliable and wholly untruthful. This can only be because the military activity in this area was unjustified and unlawful.

20.10.1 Role and responsibility of individual soldiers

20.10.1.1 Soldier F wounded Patrick Campbell and Danny McGowan. Shortly afterwards he murdered Patrick Doherty and Barney McGuigan. In all probability, following these shootings, other members of the Anti-Tank Platoon fired shots in the direction of the rear of block 2 of the Rossville Flats and Joseph Place.

20.10.1.2 Some of the soldiers on the walls gave a partial description of these events. Their accounts were at the very least defective in that they failed to provide a full account of the murder of two men and the wounding of two others in an a confined area. Given the sight lines and visual aids available it is remarkable that not one soldier gave a full account of these shootings.

21. ARRESTS

21. 1 Introduction and Summary of Submissions

21.1.1 According to the Soldiers' case, the sole purpose of the Paratroopers' incursion into the Bogside on Bloody Sunday was to arrest those engaged in rioting at Barriers 12 and 14. If General Ford is to be believed, the intention was to arrest 300 – 400 rioters. However, the operation was launched at a time when the rioting had largely subsided and the 56 arrests that were made by 1 Para were patently bogus. In our submission, the evidence concerning the arrests establishes the following:

21.1.2 None of those arrested was lawfully arrested and the vast majority had not even been present at Barriers 12 and 14, let alone involved in rioting there or anywhere else. No more than 6 people were even arrested by being "snatched" in open ground. Most of the arrestees were marchers and bystanders doing nothing more than sheltering either at the gable end at Glenfada Park North (25) or in 33 Chamberlain St. (20) when they were arrested.

21.1.3 There was never any plan or genuine intention to carry out a major arrest operation in which 300 - 400 rioters would be detained and prosecuted, as Ford suggested. The Army had clearly given no consideration to the logistics of arresting even 50 since they only had two lorries available for transporting prisoners to Fort George and one of these had to do two runs. It is also clear from the evidence of Sergeant Graham and Constable Black in particular that the RUC was not informed of such a plan and was not prepared for the 50 or so who arrived at Fort George.

21.1.4 Masquerading as an arrest operation, the Army's action amounted to a general assault on the civil rights march and an attack on the Bogside. Devised by General Ford and implemented by 1 Para, the operation had a number of related and overlapping objectives: to demonstrate a new "get tough" policy in Derry; to appease Unionists by satisfying their demands for more repressive measures against the "Derry Young Hooligans" as well as civil rights marchers and Nationalists generally both in Derry and in Northern Ireland as a whole; and in the process to show 8th Brigade how public disorder and civil protest should be dealt with in future. It was for this reason that the operation was launched even though the rioting at the barriers had subsided, the rioters had largely dispersed and there was no effective separation between rioters and the general mass of civilians in the area. By the time the Paratroopers went in, there was little prospect of apprehending any of those who had been engaged in rioting at the barriers, let alone 300-400, and if that had been the true objective the Paratroopers would not have been deployed at all.

21.1.5 Quite apart from the shooting of innocent civilians, the general conduct of the Paratroopers in the Bogside and at Fort George is an indication that they had in effect a licence to use gross and excessive force against civilians in the area. As was anticipated and intended by General Ford, once the Paratroopers were let loose into the Bogside they meted out gratuitous violence to the civilians they encountered, including journalists, first-aiders and middle-aged bystanders. As they debussed, soldiers fired baton rounds indiscriminately into the fleeing crowd. They then chased and clubbed civilians with batons and rifles, sometimes showing little interest in carrying out arrests at all, as demonstrated in the sequence of Coleman Doyle's photographs at **EP24.1**, **EP24.2**, **EP24.3** and **EP24.4** showing a soldier striking a civilian with his rifle and then leaving him motionless on the ground before moving on, apparently in search of another target. Their conduct towards those civilians they did arrest ranged from verbal abuse to various forms of inhuman and degrading

treatment and torture. **INQ179**, a Major in the Coldstream Guards on duty at Fort George when the arrestees were brought there, described the treatment of the arrestees by the paratroopers as "most appalling" (**C179.3 paragraph 15**) and "very brutal" (**C179.3 paragraph 21**). He was so appalled by what he saw the paratroopers do to the civilians that he told his commanding officer, **INQ598**, and then wrote a lengthy report detailing specific instances of brutality that he had witnessed. (**C179.3 paragraph 17**) This report has not been disclosed by the MOD.

21.1.6. The paratroopers systematically lied about the identification of marchers as rioters as well as the location of and reasons for the "arrests", to the extent that they made formal statements of (fabricated) evidence for the purpose of supporting criminal charges against the marchers - charges that, if proven, would have led to mandatory 6-month prison sentences. Soldier F, for example, made a statement alleging that he had seen Father O'Keefe rioting. He also identified Patrick M Norris as a rioter when we know that he was going about his lawful business as a taxi driver[1], picking up a fare in the Bogside after the shooting was over, when he was arrested. The soldiers' readiness to invent evidence for this purpose also undermines their credibility generally and their evidence concerning their roles in the shootings. Incidentally, not one of the soldiers suggested that any of the persons arrested had been firing a weapon or throwing nail or petrol bombs.

21.1.7. The Royal Military Police colluded and participated in this systematic fabrication of evidence concerning the arrests.

21.1.8 RUC officers also participated in the processing of prisoners at Fort George. Apart from being in a position to witnesses the brutality of soldiers towards their prisoners, it was they who charged the prisoners on the basis of statements they must have realised or believed were false. As one of the

[1] **AN28.1 paragraph 1**; **Day 150/119/20 to Day 150/120/6**

Police officers in question readily conceded, if he had tried to arrest a Paratrooper or even report to the outside world that paratroopers had assaulted the prisoners, he would have been ostracised within the RUC. He agreed that the Paratroopers were above the law in the sense that they were able to carry out assaults with impunity. (**Day 211/155/24 to Day 211/156/2**) This and other evidence indicates that the RUC as a body cannot be trusted to tell the truth about what they witnessed on Bloody Sunday. The reality is that they were a sectarian force whose members had not only been engaged themselves in direct conflict with Bogsiders (for example, during the Battle of the Bogside) but had a track record of closing ranks and suppressing evidence (for example, in the "conspiracy of silence" that the Chief Constable of the day said blocked the internal investigation into the attack on Samuel Devenney[2]).

21.1.9 The civilian evidence of the events concerning arrests is to be preferred in every material respect.

21.2. Documentation

21.2.1 The Army's plans for arrests were stated in the Operational Order No.2/72 (Op Forecast) as follows

(i) Under the heading "Concept of Operations" and the sub-heading "Dispersal of the Marches" it was stated:

(1) Initially we intend to deal with illegal marches in as low a key as possible and for as long as possible. Generally speaking the front men will be moderate and non-violent – the second rank will be those to start any violence that may erupt. The security forces are to take no action against the marches until either:

(a) an attempt is made to breach the blocking points

[2] E6.0025 to E6.0026 (Report of Professor Arthur)

(b) violence against the security forces, in the form of stone, bottle and nail bombing, takes place.

(2) Illegal marches are to be halted and dispersed on ground of our own choosing. If possible, ring leaders are to be arrested on the spot. Where it is impracticable to make such arrests, photographs of ring leaders and participants are to be taken, for identification and arrest at a later stage." (**G95.567**)

(ii) In the same section, under the sub-heading "Hooliganism", it is stated:

"..... . an arrest force is to be held centrally behind the check points and launched in a scoop-up operation to arrest as many hooligans and rioters as possible".(**G95 568**)

(iii) In section 9 ("Tasks"), 1 Para is characterised as the Brigade arrest force with the task of conducting a scoop-up operation of as many hooligans and rioters as possible. The operation was only to be launched, either in whole or in part, on the orders of the Brigade Command and was expected to be conducted on foot. (**G95.570**)

(iv) In the same section under the heading "Arrest Procedures" it was specified that "if arrests subsequently become necessary the following form of words should be used when the arrest is made: "I arrest you for having committed acts prejudicial to the peace" (**G95.573**)

(v) In paragraph 3(a) of the Notes to Col Wilford's orders (under "Execution") at **G94.562**, the General Outline is specified as follows:

".. .. If the march takes place and confrontation becomes hostile the Battn will deploy fwd to break up the rioters and make the max number of arrests.. At this stage I cannot give a detailed technical plan. I will give the coy deployment in our FUP and then give my concept of how I think the battle could go."

(vi) Also in Col Wilford's Notes is the following provision for the arrest procedure:

".....The arrest team of RMP with RSM and Paddy Wagon and escort will move Fwd to a loc in Great James Street. Normal

arrest procedure, will then take prisoners and documentation to Fort George or to Craigavon Bur (sit) (**G94.563**).

21.2.2. The suggestion that the army intended to deal with the march in "as low a key as possible and for as long as possible" suggests that the arrest operation would only be launched if necessary to prevent either a breach of the blocking points or serious violence against the security forces. However, it is clear from the Order as a whole that some form of violent disorder was regarded as inevitable and that 1 Para would be deployed into the Bogside whatever the scale of violence or objective need for their deployment. There is no indication in the documentation that any special plans were made to cater for an unusually large number of arrestees. The head of the Royal Military Police in Northern Ireland (INQ1383, the Assistant Provost Marshall) made no specific arrangements for the march. (**Day 304/78/11 to Day 304/78/13**) Although INQ 1383 initially claimed that he was aware that it had been proposed that up to 300 to 400 people might be arrested (**Day 304/77/21 to Day 304/77/23**) he eventually conceded that he had "no idea .. .. that there would be 300 or 400, there could be any number" (**Day/304174/9 to Day 304/194/17**). According to Col. Steele, the Brigade Major who drafted the Op Order, he and the Brigadier had already agreed at some stage before the Order Group Conference that the proposed figure of 300 – 400 was "ridiculous" (**Day 266/87/11 to Day 266/87/21**). General MacLellan said that General Ford had initially suggested 300 – 400 but he himself "speculating on far less" (**Day 262/9/10 to Day 262/9/15**).

21.2.3 The Soldiers' counsel have produced a document entitled "**Transportation of Detainees to Fort George**" at **OS7.55-57**, discussed further below.

21.2.4 The Inquiry produced an **Arrests Bundle** consisting of:

(i) the Army **Schedule of Arrests** (**ARR1.1 to ARR1.10**);

(ii) a list of 44 names of arrested persons who appeared at Londonderry Petty Sessions on 3rd February 1972 (ARR2: there are 24 people on the

"A" list, i.e. those released on police bail, and 20 on the "B" list, those released without recognisance) (**ARR2.1 to ARR2.10**)

(iii) a letter from the police to the DPP about prosecution of the arrestees (**ARR3.1 to ARR3.4**);

(iv) an internal memo to the DPP about the prosecutions (**ARR4.1 to ARR4.10**); and

(v) 53 individual files (ARR5.1 to ARR57.4) containing, in relation to each arrested person, a photograph of the arrestee with his "arresting officer", a Royal Military Police pro forma statement form in which the soldier explains the circumstances of the "arrest" and a police arrest report form.

21.2.5 The Army schedule contains the personal details of 51 arrestees and purports to show the location and time of each arrest, reasons for the arrest and the identity of the arresting soldier. The names of John Barry Liddy and Myles O'Hagan appear as numbers 52 and 53 respectively but no other details are given in relation to these two individuals.

21.2.6 The Petty Sessions list (ARR2) contains the personal details of 44 arrested persons, the names of the arresting soldiers and the names of the Police Officers who processed each prisoner.

21.2.7 Exhibited to the statement of Inspector Gardner is a list of the **RUC personnel** involved at Fort George (**JG1.11**). At **JG1.3 paragraph 20** of Inspector Gardner's statement, he says that he interviewed the arresting soldiers at Palace Barracks and that a contemporaneous note would have been taken of the interviews which would have been typed into statements. Neither the notes nor the statements are available.

21.2.8 Christopher Clarke's opening statement concerning arrests is transcribed at Days 40 and 41. Our case concerning the arrests is set out in Arthur Harvey's opening statement at Day 46.

21.2.9 Some **photographs** showing arrested persons at or near Rossville St are contained at **Tab 12 in Bundle P5 (P503.1 to P503.47)** and **at Tab 5 in Bundle P8 (P1069-1083)**.

21.2.10 On the basis of the above documentation and the civilian evidence, we have prepared a number of **tables** for ease of reference, as follows: **Appendix 1** shows the names of all those arrested on Bloody Sunday, both recorded and unrecorded, grouped by the **location** of their arrest, with details also of the soldiers who arrested them and the stated reasons. There were **63** arrests in total but only **53** were recorded and of these only **46** were made by 1 Para at the material time. The tables show the **46** recorded arrests and a further **10** unrecorded arrests by 1 Para. The other 7 recorded arrests were made in the Long Tower area by the Royal Anglian Regiment either before or after the main "scoop-up" operation.

Appendix 2 shows the *recorded* arrests arranged by reference to the arresting soldiers grouped by platoon, with details of the location of arrest (alleged and actual) and reference numbers of relevant photographs or video footage.

Appendix 3 is a summary of the evidence of some of the soldiers who refer to mistreatment of prisoners at Ft George.

21.3. Overview

21.3.1 According to the Army Schedule (**ARR.1**), **53** people were arrested by the Army.

21.3.2 There are **63** names listed in **Appendix 1** as persons arrested but this list includes Winifred O'Brien, Denis Bradley and 8 others who are not on the

Army list because they were released at an early stage or, in at least one case, escaped. The full list of those arrestees who are **not recorded** as such is as follows:

Denis Bradley (Arrested at Glenfada Park North, released at Little James St) **H1.14 paragraph 33 to H1.15 paragraph 36**

Patrick O' Donnell (Arrested at Glenfada Park North, wounded, released at Lt James St) **AO35.3 paragraph 21**

Winifred O Brien (Arrested at Glenfada Park North, released at Ft George: AO.4) **AO4.3 to AO4.4**

Leo Deehan (Arrested 33 Chamberlain St, escaped in ambulance: **AD 178.2**)

"Mr Campbell"(Arrested33 Chamberlain St, per Thomas Meehan **AM393.1**)

William Leo Carlin (Arrested at 33 Chamberlain St: **AC40.2 paragraph 14 to AC40.4 paragraph 26** and see **P501**)

Kevin Leonard (Arrested at 33 Chamberlain St: **AL 7.3**)

Thomas Meehan (Arrested at 33 Chamberlain St: **AM 393.2**)

John Morrison (Arrested at 33 Chamberlain St, per Thomas Meehan **AM 393.2**)

Patrick O Hagan (per Joe McColgan: **AM 123.13 paragraph 14**)

21.3.3 From the total of **53** recorded arrests, the following **7** persons should be deducted as not relevant since they were not arrested in the Rossville St area at the material time:

Eugene O'Donnell (arrested by Soldier 150, Royal Anglian Regiment. at Barrack St in the car taking Joe Friel to hospital)

CIV 1 (arrested by Soldier 150 at Barrack St in the car taking Joe Friel to hospital)

Hugh Young (arrested by Soldier 150 at Barrack St in the car taking Gerry Donaghey to hospital)

Raymond Rogan (arrested by Soldier 150 at Barrack St in the car taking Gerry Donaghey to hospital)
Martin Gallagher (arrested in Longtower St by Soldier 104, a Royal Anglian)
James Gallagher (arrested in Barrack St at 1 p.m. by INQ 2142, probably Royal Anglian)
Daniel Esler (arrested in Henrietta St for being in possession of a rubber bullet and *Militant*)

21.3.4 This leaves **46** people **recorded** as arrested by paratroopers in or around the Rossville St area at the material time. In his opening statement, Christopher Clarke said there were **45** people arrested by 1 Para and taken to Fort George. We are not sure which arrestee was not included in his total but it may have been Barry Liddy, who was "arrested" by Soldier E, or he may simply have been wrong about the number. Of his **45,** he said that:
13 were arrested by **C Company** in **33 Chamberlain Street,**
7 were arrested by the **Mortar Platoon** at the **Rossville Street wasteground,**
22 by the **Anti-Tank Platoon**, mostly from **Glenfada Park North**, and
3 by the **Composite Platoon**, i.e. Soldier 229 (Joseph Lynn at Rossville Street and Patrick McGinley and Denis McLaughlin at Glenfada Park North).

21.3.5. The Army lists cannot be relied upon for accurate information about the number or location of the arrests. As appears from **Appendix 1,** 1 Para arrested **56** people in total, as follows:
20 at **33 Chamberlain Street,**
6 on **Rossville Street,**
25 at **Glenfada Park North**, and
4 at **William Street.**

21.3.6 It is common case that those arrested at 33 Chamberlain Street were inside the house when soldiers entered and arrested them as a group. Those arrested at Glenfada Park North were sheltering behind the gable wall when Soldier F

and others arrived and arrested them also as a group. In other words, the vast bulk of those arrested were rounded up in two groups when they were taking shelter from the soldiers and were clearly not engaged in any riotous behaviour.

21.3.7. Lt. 026 of C Company says in his Eversheds statement that he went into 33 Chamberlain Street and saw no fewer than 30 occupants. He radioed back to his Company Commander (Major 221a). He was ordered to detain the occupants and take them back up Chamberlain Street. **B1545.003 paragraph 26**. This officer does not suggest that any of them were identified rioters but other members of C Company later identified them as such at Fort George. The group arrested at the gable end of Glenfada Park North included 2 priests (Fr. O'Keefe and Fr Bradley - Fr Bradley was released in William Street), a woman (Winifred O'Brien, who was released without charge from Fort George), a boy (Myles O'Hagan, who was also released from Fort George without charge) and one of the wounded (Patrick O'Donnell, who was released with Father Bradley). Barry Liddy was also released without charge after being seriously beaten.

21.3.8 As appears from the Soldiers' document, *"Transportation of Detainees to Fort George"*, prisoners were transported to Fort George in three trips. The first group (including persons arrested at Glenfada Park North) were taken by the 1 Para Regimental Police (Provost Sergeant and Provost Detachment, as opposed to the Royal Military Police) from the wire fence by the GPO Sorting Office in Little James Street to the Provost Sergeant's lorry which was parked in Sackville Street and from there to Fort George. This detachment of regimental police then returned to collect a second group from Little James Street. According to INQ1335, a Lance Corporal in the 1Para Regimental Police, there were only half a dozen Regimental Police to each Battalion. They were not trained as Police like the RMP but were soldiers with special

police duties. **C1335.1 paragraph 2**. None of the 1 Para Regimental Police admits to seeing any ill-treatment of any prisoner.

21.3.9. Although it is no more than a technical point in the context of what happened on Bloody Sunday, it should noted in passing that, put at its lowest, the method by which civilians were rounded up, transported to Fort George and then herded into pens there whilst awaiting identification was even in breach of their own procedures and instructions, according to the head of the RMP in Northern Ireland, INQ1383 Assistant Provost Marshall (**Day 304/170/23 to Day 304/173/11**). The "arresting" soldiers from 1 Para did not accompany either of these two groups to Fort George. The third group consisted of those arrested at 33 Chamberlain Street and they were taken in a "C" Company lorry by the C Company soldiers who arrested them.

21.3.10. Because they were accompanied by their "arresting" soldiers, the third group was processed first. The first two groups were processed when the "arresting soldiers" from Support Company arrived later in the evening. The Soldiers' document suggests that these "arresting soldiers" got to Fort George about 9.00pm. This corresponds with Father O'Keefe's evidence but, according to Constable O'Neill's notebook, one of the first group (William John Doherty) was processed by him at 7.45 pm and another (Christopher James Doherty) was processed at 8.30 pm. (**JO2.6 paragraph 26**) We have not yet seen Constable O'Neill's notebook but he refers to its contents in his statement.

21.3.11. It appears from the Civilian evidence that the first two groups of prisoners were made to run the gauntlet by soldiers. If these were the soldiers who had accompanied the prisoners in the lorry, they would appear to have been 1 Para's own regimental police. The third group of prisoners does not appear to have been required to run the gauntlet in the same way. On arrival in the hangar at Fort George, the prisoners appear to have been herded into holding pens surrounded by barbed wire. Many of the civilians allege that they were

subjected to various acts of brutality including being beaten with batons, punched, kicked, required to hold the barbed wire, made to stand spread-eagled against the wall and forced to stand close to heaters (later in the evening).

21.3.12. Support for at least some of the allegations of rough treatment can be found in the statements of **INQ1224** and **INQ 18**. Constable Black (**Day 211/173/17**) also confirms the presence of barking dogs and the intimidating atmosphere. The evidence of soldiers who refer to ill-treatment of prisoners at Ft George is summarised in **Appendix 3**.

21.3.13. The exact processing procedure followed by the police and army in Fort George is not entirely clear. There is even disagreement in the evidence about the physical layout of the hangar and the location of various processing rooms. However, the procedure seems to have been as follows. On arrival, the police took names and particulars of the prisoners in the pens, the "arresting" soldiers (at some stage) picked out prisoners from the holding pens, made them stand against a wall until they were ready to be photographed, statement forms were filled in by the Royal Military Police (as opposed to the Parachute Regimental Police) after the photographs were taken, prisoners were presented to Sergeant Graham and a number of constables then filled out arrest report forms, following which prisoners were charged and released either on police bail or otherwise.

21.3.14. According to the Soldiers' document "**Transportation of Detainees to Fort George**", Fort George was manned by the Coldstream Guards and the processing of prisoners was carried out by 6 soldiers from the Royal Military Police.

21.3.15. Log entries indicate that between 5.04 pm and 7.02 pm three attempts were made from Fort George to secure the attendance of the 1 Para arresting

personnel. When they arrived, they appear (from the Civilian evidence) to have picked out prisoners at random and claimed to have witnessed them engaging in various forms of riotous behaviour, mainly throwing stones. The Civilian evidence of random identification is confirmed in his own case by David Longstaff (INQ 23) (**C23.7 paragraph 41**) and Sergeant Graham (**Day 188/60/7 to Day 188/60/11**) was prepared to accept that this may have happened in a number of cases.

21.3.21. All the prisoners from Fort George appear to have been released late in the evening or in the early hours of the following morning. As appears above, 44 of the 46 recorded prisoners were prosecuted. Myles O'Hagan and Barry Liddy were never charged. All the charges were eventually dropped.

21.4. Civilian Evidence

21.4.1 As appears from Appendix 1, twenty civilians were arrested at the Nelis' home at 33 Chamberlain Street. These arrests were all carried out by members of 8 Platoon of C Company, who had come through Barrier 14. The householders and many of those arrested at 33 Chamberlain Street made statements to the Police about the conduct of the soldiers who entered the premises and arrested them. These are summarised in the Police Report at **AN9.21 to AN9.18**. By way of example, James McDermott, a 52 year old retired man, stated: "a wee Scots soldier came into the house and used dirty language about all and every F.. ... Irish pig of an Irishman was under arrest". **AN9.18** He remonstrated with this soldier, who immediately attacked him with his baton, striking him several times about his shoulders. Similar accounts are given by other civilians arrested in the house.

21.4.2. Twenty-five civilians were arrested at the southern gable end of the east block of Glenfada Park North. Among them were Terence O'Keefe and Denis Bradley, both then Catholic priests. Father O'Keefe was also a lecturer in

Philosophy and Dean of the School of Humanities at the New University of Ulster. On 20th February 1972 he wrote a letter of complaint to the GOC, General Tuzo, reproduced at **H21.27 to H21.29**. His contemporaneous account reflects the experience of this group of arrestees:

> "I was then placed against the wall of a maisonette, being struck several times in the process. I saw many people being savagely beaten by your troops for no apparent reason. I was then taken in a line of civilians to the foot of Rossville Street. We were forced to run with hands on head, while soldiers ran beside us, striking us with rifles and screaming the most foul abuse. (At this stage let me say that your soldiers seemed quite beside themselves and in a highly elevated mood). After being placed in line against a wire fence – again with threats, beatings and abuse – I was batoned into an Army lorry in William Street. There were 29 people in the lorry (28 males and 1 female). One soldier came to the foot of the lorry, loaded a baton round and said: "I want you fuckers in half that space". We were forced to kneel facing the front of the lorry, crushed against one another. Those at the back of the lorry (where I found myself) were struck repeatedly in the back and on the head. .. .. When we arrived at the Army Centre in the Strand Road, I, along with the others, was kicked from the lorry and forced to run between two lines of Paratroopers wielding batons, hoses and rifles. Each soldier struck a blow at me as I ran to the door, and most of these blows connected. We were then forced to stand for several hours in a search position against the walls. Anyone who shifted position was threatened and at times beaten. After members of the R.U.C. had taken names and particulars of the prisoners, we were forced alternately to hold barbed wire, hold our hands behind our heads or to stand in search positions against the wall, over long periods of time. [During the period after 9.00 pm when soldiers from the Parachute Regiment arrived] I witnessed conduct that was both sickeningly brutal and a disgrace to any uniform. Assaults were committed in a sadistic manner on a number of

people, particularly youths aged from about 15 to 19 years. These assaults continued over a period of 1 to 1½ hours. These consisted of:

(1) Deliberate and systematic provocation of the prisoners by the paratroopers by verbal means and by physical assault, such as stamping on feet, kicking shins, kneeing on the thigh or in groin, severe hair-pulling, striking with fists in the body, stomach and groin etc. Such actions occurred continuously over this period.

(2) More serious examples of physical assault place. One youth (aged about 21 or 17 years) was struck in the groin and lower abdomen twice with such severity that he collapsed. On being kicked and hauled to his feet, he was unable to stand upright and fell backwards, striking his head on the concrete floor. He was kicked to his feet again and had to be placed against the wall in order to keep him upright.

(3) There were also cases of deliberate torture. Two youths were forced to hold their heads back in an unnaturally strained position, in order to bring their faces as close as possible to the electric heaters, which were on stands about 6'6" above floor level. They were forced to keep in this position for about three-quarters of an hour and were struck if they shifted position. The smaller youth was forced to stand on the taller youth's feet during this time, in order to raise his face nearer the heater. When one youth was asked if he wanted a drink, he replied that he did and was told to open his mouth. The paratrooper then spat into his mouth."

21.4.3 Included among the seven civilians arrested in or around Rossville Street was Joseph Lynn, who was arrested by Soldier 229. In his statement (**AL39.1**), Mr Lynn describes Soldier 229 as a sadist who repeatedly kicked and punched him in Fort George. "Throughout the beating, the RUC and the other paras were standing in the same room and were watching. The RUC took no part in the beatings but that was the point, they didn't even try to stop it. They did

nothing" (**AL 39.6 paragraph 28**) Indeed the RUC "seemed highly amused by the whole thing" (**AL 39.7 paragraph 32**).

21.4.4. General Tuzo promised to investigate Fr O'Keefe's complaint but no investigation was carried out. As for the complaints to the police, the Chief Inspector in charge of the investigation felt that "it would be in the best public interest at this stage not to bring prosecutions against the members of the military concerned, therefore I would recommend no further action". (**AN9.19**)

21.5. The Police at Fort George

21.5.1 The Police team consisted of Inspector Gardner, Sergeants Grey and Graham and 9 constables. Eversheds took statements from Gardner, Graham, Grey, Hutchinson, Black and O'Neill. We are unsure of the position concerning the remaining constables. The prisoners processed by the three constables who gave oral testimony are set out below together with the "arresting" soldier in each case:

Constable Black:

Civilian No	Civilian Name	Soldier	Ref
A1	Otto Schlindwein	007	ARR.54
A2	James McDermott	007	ARR.38
A6	Eamon McAteer	112	ARR.30
A7	Joseph McColgan	E	ARR.35
A17	John Gormley	J	ARR.23
B7	William Duddy	007	ARR.17
B17	Anthony Coll	J & INQ301	ARR.10

Constable Hutchinson:

Civilian No	Civilian Name	Soldier	Ref
A14	George Roberts (ARR58)	INQ23	ARR.51
A 20	James Kelly (ARR 26)	INQ 23	ARR.26
A24	William Dillon	037	ARR.13

Constable O'Neill:

Civilian No	Civilian Name	Soldier	Ref
A21	Patrick Joseph Norris	G	ARR.45
B18	Christopher Doherty	G & INQ301	ARR.14
B19	William Doherty	O & T	ARR.21

The other constables processed the remaining prisoners as follows:

Constable	Processed	Remarks
Bohill	5	
Eade	6	
Christie	6	Inc F (twice) & G
Curran	4 inc O'Keefe	Inc F
Calvert	5	
Simpson	5	Inc INQ12 4 times

21.5.2 None of the Police Officers admitted witnessing any ill-treatment. Constable Hutchinson does not even recall seeing or hearing dogs even though Constable Black said it was bedlam with the noise of barking dogs echoing round the building.

21.5.3 Sergeant Graham was one of the Police Officers in charge of the processing of prisoners at Fort George. He gave his evidence on 11th February 2002 (**Day 188**). Like Constable Black, he was taken aback by the numbers of prisoners that arrived. He agreed that he was not prepared for the 50-60 prisoners that arrived and he would have been hopelessly ill-prepared for 300 – 400. (**Day 188/46/1 to Day 188/46/9**) He claimed that the police were running the compound at Fort George, they were responsible for what was going on there and they were allowed to walk around inside the hangar.(**Day 188/48/5 to Day 188/48/21**) From the offices used by the police, he was able to hear what was going on in the holding areas and he also saw some prisoners arriving

(**Day 188/51/8 to Day 188/52/24**) He accepted that a number of prisoners were picked out at random by soldiers (**Day 188/60/7 to Day 188/60/11**) and that, in particular, the soldier (F) who claimed to have identified Father O'Keeffe as a rioter was telling lies (**Day 188/59/9 to Day 188/59/13**). He agreed "with the benefit of hindsight" that the procedure of filling in statements to the effect that Paratroopers had arrested the prisoners and brought them directly to Fort George and then personally handed them over to the police appeared to constitute a systematic deceit (**Day 188/64/5 to Day 188/64/8**) but he claimed not to have been aware of that at the time (**Day 188/65/1 to Day 188/65/6**). He did not admit to seeing any ill-treatment of prisoners. When pressed to admit that he did witness brutality on the part of Paratroopers, he replied: "I am not denying that. I cannot recall it. Thirty years is a long time unfortunately". (**Day 188/75/5 to Day 188/75/6**)

21.5.4 **Constable Hutchinson (Day 211)** claimed in his Eversheds statement (**JH14.3 paragraph 12**) that he could not recall anything in particular happening at Fort George to suggest that prisoners were treated badly by the military, even though he said at **JH14.2 paragraph 10** of his statement that he saw prisoners "leaning forwards holding on to barred wire" and he accepted that they would not have been in that position voluntarily (**Day 211/104/20 to Day 211/104/23**).

21.5.5 **Constable O'Neill** said in his statement to Eversheds (**JO2.4 paragraph 19**) that the Paras were very angry and the place (Fort George) was "very unpleasant". They exhibited their anger "the very opposite to the way you should be dealing with matters in my view" (**Day 211/149/22 to Day 211/150/6**). He saw an incident where a small ginger-haired man was struck in the groin with the butt of a rifle by a young paratrooper. (**Day 211/150/15 to Day 211/150/18**) This was done in full view of quite a number of police officers and soldiers. (**Day 211/151/12 to Day 211/152/1**). He did not see any "high-ranking commissioned officer ventilating any instructions at all" and

did not see any NCO's making any attempt to restrain the soldiers who were exhibiting their anger (**Day 211/152/8 to Day 211/152/17**). When asked why he did not arrest the paratrooper responsible for the unprovoked assault on the ginger-haired man, he said: "Well, the realities would have been that it would have been very impractical for me to proceed with an arrest against an Army man who had brought in a prisoner from the Bogside following a march". (**Day 211/154/11 to Day 211/154/14**). The questioning continued as follows (**Day 211/155/14 to Day 211/156/2**):

"Q. If you had tried to arrest this Paratrooper or indeed report to the outside world that this had happened, you of course would have been ostracised, would you not, within the RUC?

A. You could possibly say that, yes.

Q. Of course, the upshot of that was that the Paratroopers were effectively above the law on this day, were they not?

A. They were running the show in – on that particular day, yes.

Q Not just running the show in a proper legitimate sense, but they were obviously above the law in the sense that they could commit acts of assault with impunity?

A. Well, yes."

When it was put to him that what he witnessed was soldiers committing acts of brutality without being restrained in any way by NCO's or other senior officers he replied: "I did not see anyone being restrained".

21.5.6. Constable O'Neill was the only police officer who gave his evidence with any degree of candour. More typical of the standard of evidence of former police officers was that of Constable Black who said he saw no evidence of misconduct by paratroopers, heard no evidence of misconduct by paratroopers and never even heard tell of any misconduct by paratroopers. The first he

heard of any such suggestion was at the Inquiry. (**Day 211/182/4 to Day 211/182/9**)

21.6. Soldiers' evidence

21.6.1. The table at **Appendix 2** provides a breakdown (by platoon) showing the arresting soldiers, the pig they were in (where known), the civilians they arrested, the alleged location and time of the alleged riotous behaviour, the location suggested by the arrestee and (where available) the reference numbers of the best photographs or video clips of the civilians before and at or near the point and/or time of arrest.

21.6.2 As appears from this table, the **53** arrests recorded by the Army were claimed by **23** soldiers, viz Soldiers O, E, F, G, J, U, 150, 007, 104, 37, 229, 33 and 112 and INQ's 1918, 2143, 2000, 2142, 23, 635, 2194, 627, 12 and 1237. Four of these soldiers were Royal Anglians (104, 150, 2143 and 2142). 21 of the 53 arrests were claimed by 5 soldiers. INQ 12 claimed 6, INQ 2000 claimed 4, Soldier 150 claimed 4 (Barrack St), Soldier F claimed 4 and Soldier E claimed 3. Incidentally, this pattern must have been detected by the processing police officers. INQ12 claimed to have arrested 4 of the 5 prisoners processed by Constable Simpson. Soldier 007 claimed to have arrested 3 of the 7 prisoners processed by Constable Black. INQ 23 claimed 2 of the 3 processed by Hutchinson. Soldier G claimed 2 of the 3 processed by Constable O'Neill.

21.6.3 **Lance Corporal 003** was a member of 7 Platoon, C Company. As such he was one of the very first soldiers through Barrier 14. He gave evidence on **Day 309**. With regard to the question whether it was necessary for the Paratroopers to go in at all, Soldier 003 accepted that at the time the Paras went through Barrier 14 the crowd had moved back up the street to the junction of William Street and Rossville Street. (**Day 309/107/2 to Day 309/211/13**) In answer to the specific question whether at the time of the

Paratroopers' deployment there was any pressure on the barrier, in the sense of crowds rioting there, he replied "No, the crowd had moved back" (**Day 211/110/9**). He agreed that there was no prospect of Paratroopers catching anyone because they had moved so far away from the barrier (**Day 211/110/14 to Day 211/110/17**).

21.6.4. All the arrests in **Chamberlain Street** were made by members of 8 Platoon, C Company: 6 by Private INQ 12, 4 by Sergeant INQ 2000 and 3 by Corporal 007.

21.6.5. The commander of 8 Platoon was **2nd Lieutenant 026**. He claims to have sent an NCO to check the occupants of 33 Chamberlain Street and discovered that no fewer than 30 people were gathered at the location. He radioed back to the Company Commander (Major 221A) and was ordered to detain the people and take them back up Chamberlain Street. (**B1545.003 paragraph 26**) He did not suggest that the occupants of the house had done anything to justify their arrest or that they resisted arrest. In his oral testimony to this Tribunal, he initially tried to suggest that the people withdrawing along Chamberlain Street were throwing stones at soldiers (**Day 315/127/17 to Day 315/127/21**). He had to resile from this when it was pointed out to him that he had said in his 1972 statement that "nothing was thrown at us" (**Day 315/128/2 to Day 315/128/5**).

21.6.6 The Platoon Sergeant, **INQ 2000,** claimed in his Eversheds statement to have "absolutely no recollection of the events of 30th January 1972" (**C2000.1 paragraph 1**). Although he confirmed that the signatures in the RMP statements relating to William McCloskey, Charles McCarron, James Patrick Ferguson and OIRA 8 were his, he had no recollection of making any arrests that day or signing or completing any of the documents (**C2000.1 paragraph 5**). In his 1972 RMP statement (**C2000.2**) he makes no reference to being ordered into 33 Chamberlain Street but claims that a woman came out of the

house and asked if they could call an ambulance for a person who had been shot. He then detailed Corporal 007 and Private INQ 12 to enter the house and they reported that it was full of people. Those people, he said, were the ones they had chased up Chamberlain Street after having seen them throwing stones at Security Forces in William Street. He claimed to recognise them and had them taken to Fort George so that they could be "screened and positive identifications made". On arrival at Fort George, he positively identified OIRA 8, Charles McCarron and William McCloskey as people he had seen throwing stones. He signed statements to this effect. OIRA 8 and William McCloskey were in the house because they had carried Michael Bridge there from Rossville Flats courtyard.

21.6.7. **INQ 12** arrested more civilians than anyone else. Notwithstanding this, when first interviewed by Eversheds, he had pretended not to remember having any role in arresting civilians (**OS.1.819 paragraph 18**). Once the arrest documentation was produced, he said that he now "vaguely" recalled the patrol being approached by a woman who asked them to call an ambulance as there was an injured person in her house. He remembered that he and the Platoon Corporal (007) were detailed by the Platoon Sergeant (INQ 2000) to enter the house and when he did so he saw approximately 20 – 30 people, some of whom he recognised as having been involved in the Civil Rights demonstration and rioting. (**C12.4 paragraphs 18 to 19**) He also remembered going to Fort George, although this had also been left out in his draft statement. Apart from accepting that he swore at civilians in the house, he denied the allegations made by Mr Nelis and the other civilians in their statements to the RUC.

21.6.8 INQ 12 gave oral evidence on Day 351. Ad the beginning of this evidence he said that although he claimed in paragraph 1 of his Eversheds statement that he had not been out of Belfast before going to Derry on 30th January 1972, he had in fact been at Magilligan the previous weekend. He had been "caught on

television" kicking a civilian on the ground and was subjected to a disciplinary inquiry. His recollection of his excuse differed from that of Col Wilford given at the Widgery Inquiry. (**Day 351/5/11 to Day 351/6/19**). He claimed to remember petrol bombs being thrown at Barrier 14 despite being shown the evidence of Major INQ 2079, the OC of A Company of 2 Royal Green Jackets, the company manning the barrier, to the effect that "no bombs of any description were thrown." (**Day 351/6/19**)

21.6.9 INQ 12 claimed that when he went into number 33 Chamberlain he recognised some of the occupants as having been involved in the Civil Rights demonstration and rioting. He recognised them by their clothing and their "general description" (**Day 351/29/15 to Day 351/29/21**). When asked whether he believed he was entitled to go into a private house and just order everybody to get out of the house, irrespective of whether they had been breaking the law or not, he replied: "We were in an area that was (*sic*) an illegal riot going on and there was 22 people in a house that was – well everybody was jammed in like sardines, sir" (**Day 351/30/12 to Day 351/30/14**). Among the six occupants he later identified at Fort George as rioters were Joseph Hutchman and Maurice McColgan, who had also helped carry Michael Bridge there.

21.6.10. Another of those he identified at Fort George as a stone-thrower was George Nelis. During oral testimony, he could not explain why he had made this statement in circumstances where, on 10th March 1972, he made a statement to the police (**C12.9**) in which he said that he could ***not*** identify Mr Nelis as one who had been throwing stones. (**Day 351/36/20 to Day 351/36/25**). In a statement to the RMP on 19th May 1972, he had recounted how he positively identified George Nelis, among others, as persons he had seen throwing stones, without saying that this was untrue (**C12.11**) but in a further statement on 17th November 1972 he reverted to the position that he could *not* "say

positively that Mr Nelis was throwing stones." (**C12.14**). INQ12 could not explain these discrepancies.

21.6.11 When it was pointed out to him that he did not say in any one of the six statements he made about the six persons he purported to identify that he had seen the individuals in question engaged in a riot or as part of a riotous crowd in William Street or anywhere else, he explained that this was because "they were not arrested as such, they were arrested to be screened." (**Day 351/42/24 to Day 351/42/25**)

21.6.12. Allegations of brutality and ill-treatment on the part of INQ 12 were made by a large number of civilians including George Nelis (**AN 9.4**), Joseph Hutchman (**AH91.7**), Maurice McColgan (**AM124.5**), Matthew Campbell, a 50 year old docker (**AC140.1**), William Carlin (**AC40.4**), James McDermott a 52 year old retired person (**AM184.2**), the late Thomas Meehan, then a 44 year old cable joiner (**AM393.2**), Mrs Bridget Nelis, the householder at 33 Chamberlain Street (**AM26.1**), George O'Neill, a 43 year old docker (**AO77.1**) and Otto Schlindwein, a 44 year old pharmacist (**AS2.3**), among others. He denied all the allegations even though he fitted the description given by each complainant. One of the allegations made by Mr Nelis was that INQ 12 had told him he had been wounded in Belfast and had then got his revenge by killing four Irishmen and he was going to kill Mr Nelis that day. INQ 12 agreed that he had been wounded in Belfast and could not explain how Mr Nelis could have known this unless he had heard INQ 12 say it. (**Day 351/48/1 to Day 351/48/6**)

21.6.13. INQ12's evidence was demonstrably false. He lied even about peripheral matters. For example, he claimed in **C12.2 paragraph 8** of his Eversheds statement that there were thousands of people about 8 feet from Barrier 14 as he looked at it. He said he was positive about this but in his 1972 RMP statement (**C12.9**) he had said that there were approximately 60 people about

25-30 yards away from the barrier. He claimed in **C12.2 paragraph 11** of his Eversheds statement that only two men from his platoon carried rifles but the best photograph of his platoon (**P253**) shows most, if not all, of the soldiers pictured carrying rifles at the junction of Chamberlain Street before they entered Chamberlain Street. To explain this, INQ 12 had to suggest that this picture was taken after all the shooting had stopped. (**Day 351/85/9 to Day 351/85/10**) In support of this, he suggested that his platoon had not stopped at this junction after they crossed the barrier but had gone directly into Chamberlain Street even though the video footage shows otherwise. (**Day 351/86/9 to Day 351/86/23**) He even suggested that the photograph had been taken after he had come back from Fort George (**Day 351/88/3 to Day 351/88/8**). He also claimed in paragraph 12 of his Eversheds statement (**C12.3 paragraph 12**) that he came under fire as he went in but he made no reference to coming under fire in any of the three statements made in 1972, either to the police or to the RMP.

21.6.14 When pressed about the circumstances in which he had failed to mention his involvement in arrests at 33 Chamberlain Street, he first of all said that it was just a question of forgetting about having anything to do with the prisoners (**Day 351/104/14 to Day 351/104/18**) and then he said that there were about 5 previous draft Eversheds statements in which he did say that he went to the end of Chamberlain Street and arrested some prisoners (**Day 351/106/5 to Day 351/107/5**).

21.6.15 With regard to the circumstances in which he arrived at 33 Chamberlain Street, INQ12 had said in his police statement on 10th March 1972 (**C12.9**) that he and other members of his snatch squad followed George Nelis along William Street and up Chamberlain Street and saw him run into the house where he (INQ 12) then found 2 injured people and 22 other male persons. However in his statement to the RMP on 19th May 1972 (**C12.10**) he said that the soldiers gave chase to a group of rioters who ran into Chamberlain Street

and on their arrival in Chamberlain Street the group had disappeared. "The patrol continued along Chamberlain Street in an effort to locate the rioters but without success", he had said. It was only as a result of being approached by a woman from 33 Chamberlain Street that they went into the house. When asked which of these diametrically opposed statements was true, he replied "both of them really." (**Day 351/110/9**).

21.6.16 As for the conduct of the civilians in 33 Chamberlain Street, INQ 12 justified his own coarse language in the house by alleging that the civilians in the house had been aggressive and abusive to him. However one of his companions, Corporal 579, said that the civilians in the house were "quiet and they did not give me any trouble .. .. everyone was calm and not threatening" (**C579.4, paragraph 19**).

21.6.17 **Soldier 007** went into 33 Chamberlain Street with INQ 12 and arrested 3 civilians: William Duddy, James McDermott and Otto Schlindwein, who was there administering medical assistance. He conceded that although he signed arrest forms at Fort George stating that they had been engaged in riotous behaviour, he had not in fact seen them throwing stones but had only seen them in the crowd. Presence in the crowd was enough, he said, to warrant arrest. (**Day 310/41/9 to Day 310/44/7**). He agreed that the soldiers would have manhandled the prisoners but he did not recall any physical abuse. He was one of the soldiers in the lorry taking prisoners from Chamberlain Street to Fort George. Among the events that occurred in the lorry, according to William McCloskey (**AM120.4 paragraph 25**) was an incident when one of the prisoners was shot by a paratrooper in the face from very close range with a rubber bullet. He denied that anything like that happened. (**Day 310/48/14 to Day 310/48/21**)

21.6.18 Soldier 007 agreed that by the time he went to the barrier the crowd had already dispersed some distance away from them (**Day 310/64/12 to Day**

310/64/17). At Fort George, Soldier 007 signed three statements alleging that each of his three arrestees had thrown stones when this was not true. As was pointed out by the Chairman, he knew this to be untrue in 1972 because on 19th May 1972 he made a statement to the RMP saying that he did not see any of these three people actually throw any stones. (**B1384.10** and **Day 310/73/18 to Day 310/74/12**).

21.6.19 As appears from Appendix 2, the arrests in **Glenfada Park** were carried out mainly by members of the Anti-tank Platoon. Of the nine members of the Anti-tank Platoon involved in these arrests, three are now deceased: Soldier E (who claimed 4 arrests), Soldier G (who claimed 3) and INQ 2194 (who also claimed 3). It is not seriously disputed by the Soldiers' counsel that the civilians arrested at Glenfada Park North were simply rounded up as a group and eventually transported to Fort George.

21.6.20 **Soldier 229** was a member of the Composite Platoon and "arrested" two civilians who had been at the gable wall of Glenfada Park North (Patrick McGinley and Denis McLaughlin) and also Joseph Lynn, whom he and soldier L apprehended at a derelict building in Rossville Street. With regard to Joseph Lynn, Soldier 229 made a statement to the RMP on 15th February 1972 (**B2211.014**) in which he had said he chased Joseph Lynn but made no suggestion that he had seen him do anything wrong. When he was asked about this during his oral testimony to this Inquiry, he accepted that it was possible that he had just debussed and gone after anyone he could catch in the area (**Day 341/33/8 to Day 341/33/10**). With regard to Denis McLaughlin and Patrick McGinley, he accepted that although he had signed formal statements to the effect that he had seen both throwing stones, he had not and simply arrested them because they were "part of a group" (**Day 341/53/21 to Day 341/54/10**, **Day 341/57/8 to Day 341/57/11**, **Day 341/100/11 to Day 341/100/17**). **Solider 112**, who was in the waste ground as a member of Mortar Platoon, claimed to have arrested Eamon McAteer in Rossville Street

(**ARR30.2**; **ARR30.3**) even though Eamon McAteer is clearly seen in the photographs at Glenfada Park North (**P638**).

21.6.21. The civilians arrested in Glenfada Park North were not escorted to Fort George by their "arresting" soldiers. The soldiers from Support Company who purported to carry out arrests arrived at Fort George some time later. **INQ 23** claimed two arrests, those of James Kelly and George Roberts. In his Eversheds statement (**C23.7 at paragraph 41**) he described the process of identification at Fort George as follows:

> "I remember the military police pointing at one or two people and asking me if I remembered them. The gist of what they said was "You remember them don't you". Frankly, they all looked the same to me and I probably said no, I did not remember them. There were hundreds of them. However, I probably agreed in the end that I had arrested some of them and probably signed something although I do not know remember the details".

21.6.22 This, we suggest, gives a true flavour of the way in which the civilians detained in Glenfada Park North were identified and then charged as rioters.

21.6.23 Only 6 civilians were arrested in open ground in Rossville Street. The details are set out in Appendix 1. It is apparent from the civilian evidence that each of those arrested was simply arrested because they were running away across the waste ground. Again, the "arresting" soldiers have made little effort to justify these arrests.

21.6.24. Nearly all the soldiers and police officers who were present in Fort George deny witnessing any ill-treatment of prisoners. Some, such as INQ18 (**C18.6 paragraph 40**) are prepared to concede that prisoners were treated "roughly" but only one, INQ1224, has given a candid account of what he witnessed at Fort George. This soldier was a guardsman in the 1st Battalion of the

Coldstream Guards. In his Eversheds' statement he describes how, on arrival at Fort George, the prisoners were made to run the gauntlet of paratroopers who were striking them with batons and were threatening them with Alsatian dogs which were at the full extent of their leashes and "going bananas." (**C1224.1 paragraph 8**) Inside Fort George, Paras were hitting prisoners with batons on the arms, legs and head. What shocked INQ1224 about the running of the gauntlet and what stuck in his mind about the conduct of the Paratroopers was not just the brutality exhibited by them but the fact that it was systematic. It seemed to be the style and attitude of the Paras as a unit, he agreed, to engage in this sort of brutality towards civilian prisoners and it was plain in the hangar for all to see. (**Day 304/220/24 to Day 304/221/13**) The fact that no police officer and no other soldier admits to having seen such systematic brutality by the Paras as a unit at Fort George speaks volumes for the reliability of their testimony on this issue.

21.7 Conclusion

21.7.1 The evidence concerning the circumstances in which civilians were arrested and subsequently detained is in many ways the least contentious of the evidence received by the Inquiry. In our submission, the Tribunal should have little difficulty determining that the submissions summarised at the beginning of this section are well-founded.

Appendix 1

FS1.2733

21 APPENDIX 1

ARRESTS

33 CHAMBERLAIN STREET

The persons listed below were recorded as having been arrested at the Nelis' home, 33 Chamberlain Street.

No	NAME	SOLDIER	REASON ON RMP STATEMENT OF ARRESTING SOLDIER
1	Brady, Robert	INQ 12	"being in a group in a house"
2	Breslin, Noel	INQ 12	"he was in a group in a house"
3	Duddy, William	Soldier 007	"I entered a house…he threw stones at the military"
4	Ferguson, James	INQ 2000	"he was in a group in a house"
5	Hutchman, Joseph	INQ 12	"he was in a group in a house"
6	McCarron, Charles	INQ 2000	"I entered a house…he threw stones at the military"
7	McCloskey, William	INQ 2000	"I entered a house…he threw stones at the military"
8	McColgan, Maurice	INQ 12	No reason stated
9	McDermott, James	Soldier 007	"I entered a house…he threw stones at the military"
10	McGurk, Henry	INQ 12	"he was in a group in a house"
11	Nelis, George	INQ 12	"he was in a group in a house"
12	Schlindwein, Otto	Soldier 007	"I entered a house…he threw stones at the military"
13	OIRA 8	INQ 2000	"I entered a house…he threw stones at the military"

The following were not officially recorded as being arrested at 33 Chamberlain Street, but there is evidence of their arrest at that location:

No	NAME	NATURE OF EVIDENCE
1	*Campbell, Mr*	*Statement of Thomas Meehan,*
2	*Carlin, Leo*	*Eversheds Statement, AC 40. AM393.1*
3	*Deehan, Leo*	*Contemp. Statement AD 178.*
4	*Leonard, Kevin*	*Statements to RUC and Eversheds, AL7.*
5	*Meehan, Thomas*	*Contemporaneous Statement, AM 393.*
6	*Morrison, John*	*Contemp. Statement of Thos Meehan, AM 393.*
7	*O'Hagan, Patrick*	*Statement to BSI mentions that McColgan saw him at Fort George.*

FS 1·2734

GLENFADA PARK

The following persons were officially recorded as having been arrested. All were arrested in and around the Glenfada Park area. See note below re Eamon McAteer.

No.	NAME	ARRESTING SOLDIER	REASON ON RMP STATEMENT FOR ARREST
1	Bradley, Eugene	Soldier F	"throwing stones at my patrol"
2	Coll, Anthony	Soldier J	"throwing stones"
3	Devine, John Noel	Soldier G	"throwing stones at my patrol"
4	Doherty, Christopher	Soldier G	"throwing stones at my patrol"
5	Gormley, John	Soldier J	"throwing stones at my patrol"
6	Irwin, George	INQ 635	"throwing stones at my patrol"
7	Kelly, James	INQ 23	"throwing stones at Security Forces"
8	Liddy, James	Soldier E	"throwing stones at Security Forces"
9	Liddy, John Barry	Soldier E	No RMP statement present
10	McAteer, Eamon	Soldier 112	"throwing stones"
11	McAteer, Fergus	Soldier E	"shouting abuse and throwing stones"
12	McDermott, George	INQ 1237	"throwing stones at my patrol"
13	PIRA 1	Soldier 033	"throwing stones at the Security Forces"
14	McGinley, Patrick	Soldier 229	"throwing stones at the Security Forces"
15	McLaughlin, Denis	Soldier 229	"throwing stones at the Security Forces"
16	McNulty, James	INQ 635	"throwing stones at the Security Forces"
17	Norris, Patrick J	Soldier G	"throwing stones at my patrol"
18	O'Boyle, Hugh	INQ 1694	"throwing stones"
19	O'Hagan, Miles	INQ 1694	No RMP Statement present
20	O'Keefe, Terence	Soldier F	"throwing stones at my patrol"
21	Roberts, George	INQ 23	"throwing stones at the Security Forces"
22	Wallace Robert	INQ 1694	"throwing stones"

Soldier 112 claims to have arrested Eamon McAteer in Rossville St but we know from photographic and video evidence that he was arrested in Glenfada Park North. Soldier 112 was a member of Mortar Platoon and was nowhere near the Glenfada Park area. Soldier 229 was a member of Composite Platoon. E and F also purported to carry out arrests in William St. E, G and INQ 1694 are now deceased.

In addition, we know that the following persons were arrested at or around the southern gable of Glenfada Park North:

No	**Name**	**Nature of Evidence**
1	*Bradley, Denis*	*Photographic, Video, Various Statements. Released on William Street.*
2	*O'Brien, Winifred*	*Photographic, Video, Statements. Released at Fort George*
3	*O'Donnell, Patrick*	*Video, Various Statements. Released with Bradley*

FS1 ·2735

ROSSVILLE STREET

The following persons were *officially recorded* as having been arrested in the Rossville Street area, but see notes below re John Rogers and Eamon McAteer.

No.	Name	Arresting Soldier	Reason on RMP statement of arresting soldier
1	Canning, Charles	Soldier U	"Throwing stones and bottles"
2	Clarke, Duncan	INQ 1918	"Throwing stones at Security Forces"
3	Dillon, William J	Soldier 037	"kicked a soldier"
4	Doherty, James C	INQ 627	"Throwing stones"
5	Doherty, William	Soldier O	"Prisoner assaulted Sergeant O with a bottle"
6	Lynn, Joseph	Soldier 229	"throwing stones at Security Forces"
	Rogers, John	*INQ 635*	*"seen throwing stones at the Security Forces in Rossville Street"*
	McAteer, Eamon	*Soldier 112*	*"throwing stones"*

As noted above, Soldier 112 claims to have arrested Eamon McAteer in Rossville St but he was arrested in Glenfada Park North and should not therefore be counted in this list. It should also be noted that John Rogers was arrested from a taxi in William Street with Patrick M Norris.(**ARR4.7**)

OTHER LOCATIONS

The persons listed below were recorded as being arrested in other locations:

No	Name	Arresting Soldier	Location	Reason on RMP Statement of Arresting Soldier
1	Glenn, Charles	INQ 1237	William Street	"throwing stones at my patrol"
2	McCallion, Michael	Soldier F	William Street (Taxi)	"throwing stones at my patrol"
3	McColgan, Joseph	Soldier E	William Street	"throwing stones at Security Forces"
4	Norris, Patrick Martin	Unknown	William Street (Taxi)	No RMP Statement.
5	Rogers, John	INQ635	William Street (Taxi)	"seen throwing stones at the Security Forces in Rossville Street"

It should be borne in mind that Patrick Martin Norris gave oral evidence to the Tribunal on Day 150, 1 October 2001. There is no mention of his arresting soldier in the documents, but we do know from the Londonderry Sentinel of 9 February 1972 that he was charged with Riotous Behaviour.

In his oral evidence he stated that there were three persons in the back of his taxi who were arrested, none of whom he knew. As appears from the police report John Rogers (ARR4.7) and Michael McCallion (ARR4.9) were the other two passengers.

The *Londonderry Sentinel* of 9 February 72 lists all those (24) who appeared at Derry Petty Sessions on that day on charges of Riotous Behaviour, with the exception of a 16 year old juvenile (who is likely to have been Patrick McGinley).

The above tables show the **46** recorded arrests and a further **10** unrecorded arrests by 1 Parachute Battalion on Bloody Sunday. The other 7 recorded arrests were made in the Long Tower area by the Royal Anglian Regiment either before or after the main "scoop-up" operation, as follows:

ARRESTS NOT MADE BY 1PARA

No	Name	Arresting Soldier	Location	Reason for Arrest on RMP statement
1	CIV 1	Soldier 150	Barrack St	Evading Arrest
2	Esler, Daniel	INQ 1643	Henrietta St	Possession of Rubber Bullet and *Militant*
3	Gallagher, James	INQ 2142	Barrack St	Assault on Security Forces
4	Gallagher, Martin	Soldier 104	Long Tower St	Throwing Stones
5	O'Donnell, Eugene	Soldier 150	Barrack St	Evading Arrest
6	Rogan, Raymond	Soldier 150	Barrack St	Evading Arrest
7	Young, Leo	Soldier 150	Barrack St	Evading Arrest

Appendix 2

FS1. 2738

21 Appendix 2

ARRESTING SOLDIERS

(I) MORTAR PLATOON

SOLDIER	PIG	CIVILIAN ARRESTED	ALLEGED LOCATION	TIME	WHETHER CIVILIAN ACCEPTS ALLEGED LOCATION	PHOTOS REF
1. INQ 1918	1	Duncan Clarke	Rossville Flats (throwing stones & bottles)	16.10	No, junction of Chamberlain Street and High Street (NB Put in army vehicle on Eden Terrace with elderly man- William Doherty?).	**P1016**, **P488**, **P489**
2. O	2	William Doherty (Aged 55)	Rossville Street (throwing stones & bottles).	16.00-16.30	Yes (NB Put inside Saracen by Scottish soldier & assaulted by arresting officer.)	
3. U	2	Charles Canning	Rossville Street (throwing stones & bottles).	16.15	Yes, in front of Block 1 Rossville Flats.	**P496**, **V1/6.12** **V48/ 12.30**
4.Soldier 112	2	E McAteer	Rossville Street (throwing stones).	16.15	No, arrested at gable end Glenfada Park North.	**P638**
5. Soldier 037	2	W Dillon	Rossville Street (kicking a soldier).	16.10	Yes.	**P495.002**, **P496** **AD46.9,** **AD46.10** **AD46.11** **V1/5. 38** and **V1/6.12** **V48/12.31**.

FS 1. 2739

(II) ANTI-TANK PLATOON

SOLDIER	CIVILIAN ARRESTED	ALLEGED LOCATION	TIME	WHETHER CIVILIAN ACCEPTS ALLEGED LOCATION	PHOTOS REF
1. F	Patrick M Norris	William Street (throwing stones).	16.15	Yes, but taken out of taxi and arrested.	
	M McCallion	William Street (throwing stones).	16.15	Yes, but taken out of taxi and arrested.	
	Eugene Bradley	William Street (throwing stones).	16.15	No, gable end Glenfada Park North	P640
	Fr O'Keefe	William Street (throwing stones).	16.15	(GPN).	P490, P493, P497,
				No, gable end (GPN)..	P500, P635, P635a
2. J	Anthony Coll	Rossville Street (throwing stones).	16.10	No, arrested behind car in (GPN).	
3. G	P J Norris	Glenfada Park (throwing stones).	16.15	Yes.	AN24.16
					AN24.17
	John Devine	Glenfada Park (throwing stones).	16.15	Yes (behind a car).	
	C J Doherty	Glenfada Park (throwing stones).	16.15	Yes, gable end.	P639, P640
4. E	Fergus McAteer	Rossville Street (throwing stones).	16.15	No, arrested at gable end G/fada Pk N	P641
	James Liddy	Rossville Street (throwing stones).	16.15	No, William Street.	
	Joe McColgan	Rossville Street (throwing stones).	16.15	No arrested in William St, Stephenson's Bakery.	
	Barry Liddy			Arrested at gable end G/fada Pk N.	P639, P638, P497
5. INQ 635	G A Irwin	Rossville Street (throwing stones).	16.15	No, gable end, (GPN).	P497.001 P491
	J McNulty	Rossville Street (throwing stones).	16.15	No, gable end, (GPN).	
	J Rogers	Rossville Street (throwing stones).	16.15	No, Taxi, William Street	
6. INQ 23 David Longstaff	J Kelly	Rossville Street (throwing stones).	16.15	No, gable end, (GPN).	AK12.19 AK12.20 AK12.25 AK12.26 AK12.28 AK12.31 AK12.32
	G Roberts	Rossville Street (throwing stones).	16.15	No, gable end, (GPN).	P596.001 AR13.9
7. INQ 1237	C Glenn	William Street	16.00	Junction of William Street and Francis Street (time incorrect since arrest occurred after removal of Jackie Duddy's body to Harvey Street).	AG43.12
8. Soldier 033	PIRA 1	Rossville Street (throwing stones).	16.15		P640
9. INQ1694	Hugh O'Boyle	Rossville Street (throwing stones).	16.15	No, behind a car in Glenfada Park North. (GPN)	P640
	Myles O'Hagan			Gable end of GPN	AO43.10
	R Wallace	Rossville Street (riotous behaviour).	16.15	No, behind a car in (GPN)	AW3.06

FS 1 2740

(III) C. COMPANY

SOLDIER	CIVILIAN ARRESTED	ALLEGED LOCATION	TIME	WHETHER CIVILIAN ACCEPTS ALLEGED LOCATION	PHOTOS REF
1. INQ 12	Robert Brady	33 Chamberlain Street (in a group in a house).	1600	Yes.	
	Noel Breslin	33 Chamberlain Street (throwing stones) (in a group in a house).	16.00	Yes.	
	J Hutchman	33 Chamberlain Street (in a group in a house).	16.00	Yes.	
	M McColgan	Chamberlain Street.	16.00	Yes.	**P742**
	Henry McGurk	Chamberlain Street.	16.00	Yes.	
	G Nelis	Chamberlain Street (in a group in a house).	16.00	Yes.	
2. 007	William Duddy	Chamberlain Street (throwing stones).	16.00	33 Chamberlain Street.	**P742**
	James McDermott	Chamberlain Street (taking part in riot in street).	16.00	33 Chamberlain Street.	
	Otto Schlindwein	Chamberlain Street (taking part in riot in street).	16.00	Yes, arrested in 33 Chamberlain Street.	**P748**
3. INQ 2000	J P Ferguson	Chamberlain Street (in a group in a house).	16.00	Yes, 33 Chamberlain Street.	
	C McCarron	Chamberlain Street (throwing stones at military).	16.00	33 Chamberlain Street.	
	W C McCloskey	Chamberlain Street (taking part in riot in street).	16.00	33 Chamberlain Street.	
	OIRA 8	Chamberlain Street.		33 Chamberlain Street.	

FS 1. 2741

(IV) HQ COMPANY – COMPOSITE/GUINNESS FORCE

SOLDIER	CIVILIAN ARRESTED	ALLEGED LOCATION	TIME	WHETHER CIVILIAN ACCEPTS ALLEGED LOCATION	PHOTOS REF
229	J Lynn	Rossville Street (throwing stones).	16.15	No, arrested inside building whilst seeking refuge.	P496, V1/6.12 V48 12.34
	P McGinley	Rossville Street (throwing stones).	16.15	No, gable end Glenfada Park North.	P491, P495.001, P497
	D McLaughlin	Rossville Street (throwing stones).	16.15	No, gable end Glenfada Park North.	P493, P 495, P497.001

(V) ROYAL ANGLIANS

SOLDIER	CIVILIAN ARRESTED	ALLEGED LOCATION	TIME	WHETHER CIVILIAN ACCEPTS ALLEGED LOCATION	PHOTOS REF
104	Martin Hugh Gallagher.	Longtower Street (throwing stones from Barrack Street).	16.30	Yes	
INQ 1643	Daniel Esler	Henrietta Street (in possession of rubber bullet & militant paper).	16.30	St. Columb's Wells.	
INQ 2142	James Gallagher	Barrack Street (kicking soldier)	13.00	Near, St. Columb's Church.	

(VI) HQ COMPANY (PLATOON UNKNOWN)

SOLDIER	CIVILIAN ARRESTED	ALLEGED LOCATION	TIME	WHETHER CIVILIAN ACCEPTS ALLEGED LOCATION	PHOTOS REF
INQ 627	James Charles Doherty	Rossville Street (throwing stones)	16.15	Slipped on ice at Eden Place	P496, V1/6.12 V48/12.31

FSI. 2142

Appendix 3

FS1 2743

21 Appendix 3

SUMMARY OF EVIDENCE OF SOLDIERS WHO REFER TO THE MISTREATMENT OF PRISONERS AT FORT GEORGE

TAB	REF	COMMENTS
1	INQ 0018	Does not remember making RMP statement attributed to him. Arrived late to Fort George, between 5 and 6pm. Saw prisoners manhandled off lorries and batoned. Mentions having seen dogs with their handlers who were frightening the prisoners. Saw prisoners with bloody noses and other injuries. Heard explosions and HV fire from outside, not sure whether it was an exchange or not. Later saw SAS officer who had been among the prisoners talking to another officer. Can't remember whether he took statements from soldiers but explains what would have been the process if he had. Heard rumours that the Royal Anglians had shot more/had more kills than the paras. Although he saw some arrestees with injuries, he also says some of the prisoners were very aggressive and abusive and were trying to get out of the pen. Although he says he only saw rough treatment of prisoners when they were being pushed off the lorry he goes on to say; "Having said that, I knew things were happening there. People were hit with batons and there are not two ways about it, they were treated roughly".
2	INQ 0179	Was on duty in Operations Room Fort George from 8pm 29/1/72. Paras treated arrestees appallingly, brutal. Informed his CO of what he saw and submitted a report of it to him the next day. Hasn't seen it since but has also written his own personal account in his diary which is attached. Paras shouldn't have been used, set situation back 30 yrs. "Horrifying, appalling slaughter of Irish men, paras a ghastly regiment, legalised murder, military propaganda afterwards, hate Stormont govt and that corrupt little man Faulkner". NB His CO (INQ 598) makes no mention of ever seeing brutality at Fort George or of having any reports made to him by any of his officers but Eversheds did not put INQ 179's account to him.
3	INQ 0522	Working in the officer's mess in Fort George. Saw brutality by paras towards prisoners being detained at Fort George. Saw soldiers with dogs and large batons. Some of the civilians were having a proper go at the army, jumping and kicking and generally putting up resistance, and the paras were hitting back. However, in the tussle the civilians were coming off worse as they were not carrying batons"
4	INQ 0838	He was a mechanical technician. Saw prisoners come in and saw the two lines of paras beat some prisoners as they got off the lorry. Recalls that Coldstream Guards CO wasn't happy with the way the prisoners were treated. He did not see what happened to the prisoners inside the building.
5	INQ 1224	On duty at Fort George guarding prisoners. Mentions prisoners running the para gauntlet upon disembarking lorries. Also says Alsatian dogs were "going bananas". Witnessed brutality by paras. Mentions a prisoner with a broken arm. Talks of the argument in front of the men between the Colonel of the Coldstream Guards and a para officer about the treatment of the prisoners. NB Relevant paragraphs 7, 8, 9, 10, 12 and 14.

FS 1 · 2744

22. Civilian Gunmen and Gunfire

Introduction

22.1 The allegations of the presence of civilian gunmen, gunfire or bombers contained in the Lawton Team's Civilian Gunmen Table, dated 31st May 2002 and attached to Counsel's Report Number 3, have been deliberated upon in so much as they relate to each sector i.e. the main events and shootings on Bloody Sunday. However, those areas outside the sectors in which our clients were killed or wounded have not been considered to be directly relevant to the main events of Bloody Sunday. Whilst they have been included in the Lawton document, it is with the caveat, which indeed, it should be noted, relates to the document in its entirety, that accuracy or completeness is not guaranteed and that there is "no implication as to the weight which the Tribunal may attach to any of the evidence cited." We, therefore, await receipt of the author's submissions in relation to what the Tribunal should consider assists it in relation to its task of finding the truth about Bloody Sunday.

22.2 "Derry Noise"

22.2.1 In addition to the caveat attached to the Lawton Team's document, the Tribunal should be aware that there are other reasons for treating the evidence of those witnesses who make reference to low velocity or automatic fire with caution. The army admits to having fired, at least, 108 7.62 rounds, 324 baton rounds, 15CS grenades and 65CS canisters, many of which were fired in rapid succession during a short period of time. **Day 288/93/10 to Day 288/93/12**. The Tribunal must attach considerable weight to the evidence of Colonel R L Jackson, who, as Commanding Officer of the Royal Green Jackets in Derry since 1970, **Day 285/3/13**, is best placed to proffer the following opinion:

A. Can I say that I had spoken with Colonel Ferguson previously, when he arrived, because I handed over the city to him on 21st December, and it was either on 21st December or before that that I mentioned

the business of the Derry noise? . . . It was very difficult in Derry because of typography and geography to isolate shooting points, or points of explosions, unless you either saw the flash or the smoke. And Derry had this unfortunate echo principle between the castle walls and the Bogside and the Creggan and so on. So he was aware that there was a problem, I am sure. **Day 287/7/23 to Day 287/8/12** (computer version)

22.2.2 Similarly, Soldier 128, a Captain in the Royal Green Jackets describes how:

> "It was always very difficult to identify from where shots were being fired in the Bogside because of the layout of the area and the Rossville Flats which would distort sounds." **B1802.004 paragraph 20**

INQ 831, a Lance Sergeant and Section Commander in the Coldstream Guards, describes how difficult it was, with everything that was going on, to tell from how far away or from what area the single, spaced, high velocity, shots he could hear were fired from because, "Noise used to bounce off the buildings around us which gave a false impression of where the shooting was coming from." **C831.2 paragraphs 13 to 14**.[1]

22.3 ***Blade Slap***

22.3.1 The evidence of Mr David Capper is important in relation to automatic fire. He succinctly explains the mistaken belief that there had been automatic fire on Bloody Sunday as follows:

Q. If we could look at your statement under cross-examination by Mr Gibbens at the Widgery Tribunal, M9.14 -- could we go to the bottom of the previous page, M9.13. You were asked the question: "Question: You did not hear the sound ofautomatic fire?
Answer: No, not at all.

Question: Some of your BBC colleagues did?

Answer: What I did hear about four minutes before the Saracens came in was the sound of a helicopter going overhead. This is also on the tape-recording. Under certain conditions of the rotors, I do not know whether it is when they are opposed, there is a noise not unlike machine-gun fire. This is on the tape-recording, you can hear something like a machine-gun."

Is that still your recollection today?

A. Oh, yes, Mmm. **Day 073/101/11 to Day 073/102/3**

22.3.2 Mr Capper's evidence is supported by that of Mr Chartres, at **WT3.72C** in the following exchange:

Q. I think you are aware that some witnesses have said that they heard automatic fire in the Bogside on this particular afternoon. In your experience is it any rate possible to mix up that noise, namely, the noise of automatic fire, with any other noise?

A. Yes, I think it is. It is very easy to confuse with is with a noise which is made by a helicopter when a certain manoeuvre is being carried out. I first experienced this phenomenon soon after the Army entered the arena and in fact thought I was hearing machine-gun fire. I have frequently noticed that, particularly I think the Army Sioux helicopter. I am informed when the pilot alters the pitch of the blades it emits a noise which is very similar to a burst of machine-gun fire in the distance. In fact on this occasion I did say to a colleague when he heard this noise, "I wish these helicopters wouldn't make that sort of noise".

22.3.3 Mr Edmonds, an RUC Constable based in Belfast but present in Derry on 30th January 1972, not only accepts that he had heard it said by police and soldiers, that a particular type of army helicopter, when it is making a certain manoeuvre, makes a noise like automatic gunfire and can be

[1] INQ 564, a Coldstream Guard on the Walls, concurred with that view, **Day 318/124/23 to Day 318/124/25**, as did INQ 171 at **C171.2 paragraph 8**

mistaken for such, but states that he had directly experienced this noise. **Day 208/41/7 to Day 208/42/1**

22.3.4 Finally, an expert report has acknowledged that helicopters engaged in this type of activity can produce sharply impulsive sounds, a regular series of beats or thumps commonly known as "blade slap". "Blade slap" most frequently occurs during transient manoeuvres and is often associated with steep turns, shallow descents and with the "flare" approaching a hover. **E9.0019**

22.3.5 The report prepared for the Inquiry by ISVR Consultancy Services reached the following conclusion on this issue:

> "Our opinion is that, under conditions where a helicopter or submachine gun is clearly audible above any background noise, their sounds would be sufficiently distinctive that the likelihood of confusion would be small. However, taking into account that the repetition rate of blade slap is similar to the rate of firing of some submachine guns, it might be possible under some conditions for an observer on the ground to mistake a brief period of helicopter blade slap for the firing of a submachine gun at a moderate distance." **E9.0020**

22.4 Examples of Civilian and Military Evidence

22.4.1 The civilian evidence referred to in the Lawton Team's document as evidence of automatic fire should be considered with a significant degree of caution,[2] if, indeed, not disregarded, in this respect, altogether for the following reasons:

---

[2] Shaun Austin – **AA5.3 paragraph 16**, Dermot Carlin – **AC32.3 paragraphs 17 to 18** and **Day 60/56/21 to Day 60/57/11**, Father Carolan – **H3.12** and **H3.3 paragraph 10**, William Doherty – **AD180.4 paragraph 16**, Ciaran Donnelly – **M22.2**, Daniel Dunn – **AD172.8** and **AD172.2 paragraph 10**, Hugh Foy - **Day 146/101/1 to Day/146/106/1** and **AF29.4 paragraphs 19 to 20** and **AF29.9**. Father Mulvey – **H15.2 to H15.3**, Robert Hammond - **M37.1 paragraph 2** , Danny McGowan - **AM255.10 to AM255.11**, Sally Moran – **AM423.2**, Gerald Seymour – **M72.2**, **M72.5** and **M72.6**, Peter Wilkinson – **M82.4** and **M82.2**, David Phillips – **Day 139/10/1 to 139/23/2** and **Day 139/137/1 to Day 139/150/1** (This evidence should be considered with caution as, in light of his close contacts with the army, his neutrality is questionable. He was unable to provide a plausible explanation as to why the purported machinegun fire did not appear on his tape).

i) There is no evidence of automatic fire on any of the available audio material or television footage

ii) Civilians cannot be considered experts in this regard

iii) Senior military figures have acknowledged the confusing effect of the "Derry Sound"

iv) Many of these civilians were involved in what was to be one of the most traumatic experiences of their lives

v) Many of these civilians were, being fired upon themselves, effectively fleeing for their lives

vi) Single shots fired in quick succession from an SLR could be mistaken for automatic fire, a fact acknowledged by INQ 1045, **C1045.2 paragraph 9**

vii) The rapid firing of gas canisters, gas grenades and rubber bullets could be confused for automatic fire

viii) The noise of helicopter blades could have been mistaken for automatic fire

22.4.2 Whilst the above factors contribute to the confusion amongst the civilian and military evidence in relation to having heard automatic fire and or low velocity fire, two further potential reasons must be considered in relation to the military witnesses. One is that a significant number of soldiers have maliciously, in the knowledge that there was no such fire, invented incidents of civilian fire in an attempt to provide some form of justification for what the Paras did that day. Another is that, out of loyalty for the army and in the genuine belief that there must have such fire, despite the fact that they did not hear it, soldiers have invented incidents of civilian fire as explained by Soldier 160 at **B1956.5 paragraph 31**:

> "The thought that the Paras must have been shot at developed like osmosis. The virtues of loyalty and honouring the Code were drilled into us in training and we did not question whether the Paras had been fired upon – that's where the loyalty comes in, we all simply assumed that they had been fired at. We knew that the Yellow Card

did not permit us to fire at anybody unless we positively identified a gunman. To us, it had to be the case that if the Paras fired they had been fired upon."

22.4.3 In light of the above, the following soldiers have been selected as an example of those military witnesses whose evidence in relation to automatic or low velocity fire should be treated with the utmost caution:

22.4.4 **INQ 2016** was positioned on Bishops Street Without and has not previously made a statement about the events of Bloody Sunday. He did not give oral evidence either and therefore his account has not been tested.

He states:

> "Later on between 3.45 to 4.15 pm things began to happen. It may have been 15 minutes either side. I also definitely heard the sound of a couple of nail bombs exploding (I cannot recall hearing many of them), I have no doubt about it I heard more than one during my time in Northern Ireland" **C2016.4 paragraph 14**

It is submitted that this witness may be mistaken when he claims to have heard nail bombs exploding. There are a number of possibilities

i) He may have heard the sound of the discharge of baton rounds and/or;
ii) He may be confusing events that took place on another day with the events of Bloody Sunday.

22.4.5 Whatever the reason for the written evidence given by this soldier we submit that he did not hear nail bombs exploding on Bloody Sunday because none did explode. In addition we have not had the opportunity of testing his recollection and therefore submit that the Tribunal cannot place any reliance on the evidence he gives about this.

22.4.6 **INQ 1298** was positioned at Barrier 24 has not previously made a statement about the events of Bloody Sunday. He gave oral evidence on Day 301.

In his written evidence to this Tribunal INQ 1298 stated that he remembers

> "being somewhere in the area of the City Walls close to the Apprentice Boys Hall (Masonic Lodge) and seeing a number of soldiers posted as lookouts over the Bogside.... I believe that whilst I was in this area I also looked down into the Bogside and saw civilians with weapons moving about in the area. I no longer recall exactly what I saw, it is more of a feeling I have been left with. This was earlier in the day" **C1298.3 paragraph 15**

22.4.7 He also says

> "The other thing I remember which occurred before I took up my position at Barrier 24, was two shots being fired from the vicinity of the Creggan Cemetery...These shots would have been at about 11.15am and were probably aimed at an Engineers Unit. I could identify it as enemy fire." **C1298.3 paragraph 16**

22.4.8 INQ 1298's statement also records that he heard shots at some time during the afternoon. He describes them thus

> "...My memory of hearing the shooting is pristine. The first shots were from a light automatic weapon which I identified as some form of carbine. These weapons have a very distinctive sound which I would describe as "tic-a-tac-tac, tic-a-tac-tac". I could not say how many shots were fired. I could not say exactly where the shots were fired from, but it was from the general direction of the Bogside which was northwest of my

position. I know they were fired away from my position because I heard the "thump" of the weapon but not the "crack" of the bullet travelling through the air. Because of this, and the fact that the weapon sounded like an automatic carbine, I assumed that this was terrorist fire and not army fire." **C1298.4 paragraph 21**

22.4.9 INQ 1298 then says that "Within two seconds I heard the first SLRs start firing" **C1298.4 paragraph 22**. When INQ 1298 gave evidence he confirmed that he was on duty at Barrier 24 at the junction of Foyle Road and Ferguson Street on Bloody Sunday **Day 301/156/20 to Day 301/157/2**. Barrier 24 can be seen on **Q10** as one of the furthest barriers from Rossville Street and the area where the deceased and wounded were shot.

22.4.10 INQ 1298 indicated that he had been with INQ 1030 on Bloody Sunday **Day 301/158/19 to Day 301/159/9**. He also said that he was clear that he had heard two short bursts of automatic fire with two to three bursts in each **Day 301/162/7 to Day 301/162/10**. He had not reported hearing this **Day 301/164/20 to Day 301/164/22**.

22.4.11 When INQ 1298 was questioned by Mr Harvey QC inaccuracies in terms of his timing of some of the incidents were pointed out to him. **Day 301/165/4 to Day 301/167/11**. It is submitted that given that (i) INQ 1298 did not make any statement in 1972 (ii) he was located some distance away from the Bogside at Barrier 24 and (iii) his memory of events and their timings is somewhat muddled, he is mistaken when he says he heard automatic fire from the Bogside.[3]

[3] Similarly, the Inquiry should treat with caution the evidence of INQ 1957, **C1957.2 paragraph 8**, Soldier 164, an administrative soldier with limited experience of gunfire, at **Day 349/50/13 to Day 349/53/11**, INQ 93 at **C93.3 paragraphs 10 to 14** and Soldier 153 at **B1926**. The evidence of INQ 1259, who also claims to have heard a burst of Thompson submachinegun, pistol shots and the explosion of petrol and nail bombs should be discounted outright. **C1259.2 paragraphs 11 to 16**

22.4.12 Further there is no report of "civilians with weapons moving about in the area" of the Bogside and given the vagueness of his memory it is submitted that this evidence cannot be relied on. Finally, there is no report in the logs of any shots being fired at any Army position at 11.15 in the morning so INQ 1298 is, at the very least, mistaken about the timings of those shots and therefore for this reason, and the reasons outlined above his evidence in this regard cannot be relied on either.

22.4.13 **INQ 0960** was tasked with escorting the commanding officer Lt Col 1512 has not previously made a statement about the events of Bloody Sunday. He did not give oral evidence either and therefore his account has not been tested.

22.4.14 He claims to have heard civilian gunfire

i) At about midday when he was at "Tactical HQ" at Craigavon Bridge. It was difficult to say where they were coming from but it sounded like the Creggan/Bogside area **C960.2 paragraph 8** and;

ii) While he was at the Masonic Hall car park (perhaps between 1 and 2 pm) where he heard shooting going on which was nothing but low velocity. Also at this position he claims to have heard a couple of explosions **C960.2 paragraph 10**.

22.4.15 That this witness' evidence is confused is clear. He later gives an account of seeing a body half on half of the back seat of a red vehicle at the "Tac HQ" location **C960.3 paragraphs 14 to 16**. However, when the witness was shown photographs of Mr Rogan's car and Gerard Donaghey's body he said that it was not the car he saw and he could not be sure if that was the body he saw **C960.4 paragraph 17**. In our submission his evidence that he heard low velocity gunfire and explosions is wrong and cannot be relied upon.

22.4.16 **INQ 767**, who was on standby and located in a Pig in the car park of the Masonic Hall, has not previously made a statement about the events of

Bloody Sunday. He did not give oral evidence either and therefore his account has not been tested.

22.4.17 He states "At some stage I heard shots. I cannot remember precisely when but it was certainly a good number of hours after we had gone on duty, perhaps in the late afternoon. I heard both automatic fire and single shots. I cannot remember whether I heard both together or one before the other and I cannot say what types of weapons were being fired. I cannot remember how long the shooting lasted for, nor whether it was sporadic or all came at the same time. I formed no impression as to where the shooting was coming from, whether it was in front of me, behind me, to my left or to my right. I expect I assumed, however, that it came from wherever the marchers were. I cannot remember how many single shots I heard, nor whether they appeared to me to be from high velocity or low velocity weapons. I don't remember if I formed any impression as to who was firing; I do not expect I would have been able to tell from my position in the Pig." **C767.2 paragraph 11**

22.4.18 It is submitted that INQ 767's memory of events is so vague that his evidence cannot be relied upon. In addition, he is not clear that it was non-army fire that he heard. In any event it may be that the "Derry sound" distorted what he heard or that INQ 767 has mistaken the large number of army shots the Tribunal knows was fired simultaneously on the day for automatic gunfire.

22.4.19 INQ 2025 was positioned on the City Walls from where, having seen the Paras deploy down Rossville Street, he heard SLR fire. **C2025.5 paragraph 16**. The firing seemed to be constant; someone said the Paratroopers had opened fire. At that stage he claims that he could hear SLRs and some small arms. "Everything was going very fast. Up on the walls there was a sense of panic as if something was going wrong. I knew the Paras were firing their SLRs as I could hear them." It is not clear from the evidence of this soldier, wheat he meant by small arms fire. It may be

a mistaken reference to rubber bullets being fired. It would have been difficult in any case, given the amount of SLR firing he describes, to have made the distinction between that fire and small arms fire. This witness was not called to give oral evidence. His reference to some small arms fire has not, therefore, been tested.[4]

22.4.20 **INQ 707** was a soldier in the 22nd Light Air Defence Regiment positioned on the City Walls. He places himself in and about his vehicle at Bishops Street Within, which means that he would in effect have been located under the Walls with no view of the Bogside and with an extremely limited ability to hear what was going on. **C707.1 paragraph 5, C707.2 paragraph 8**

22.4.21 He claims to have heard gunfire, some automatic and some single shots, but was unable to identify the type of weapon, nor how many shots were fired. **C707.2 paragraph 10** He also claims to have heard explosions. **C707.2 paragraph 11**

22.4.22 He expressly states that he does not recall anything coming over the radio at this time. **C707.2 paragraph 12**. His evidence about hearing automatic fire and explosions should be regarded as inherently unreliable given his location.

22.4.23 **INQ 947** was a soldier in the 22nd Light Air Defence Regiment positioned on the City Walls. He places himself to the right of the Platform on the City Walls at the position marked A on his attached map. **C947.4**. However this witness was located at or near his Pig and was on standby, although other soldiers were manning the post and using periscope-like equipment to observe the Bogside. **C947.1 paragraph 4**

22.4.24 Sometime after seeing a crowd at FDC he claims to have heard people shouting, baton rounds being discharged and 4-5 low velocity shots fired

[4] The evidence of INQ 1883, **C1883.2 paragraphs 16 to 17** and INQ 254, **C254.2 paragraph 12** in

from the eastern part of William Street. **C947.2 paragraph 8** He also claims to have heard nail bombs exploding as well as hearing radio transmissions reporting what was going on. **C947.2 paragraph 9**. Sometime after hearing calls for assistance to the effect that the Barriers were going to be overrun he heard high velocity firing, maybe 2 – 5 rounds. **C947.2 paragraph 10**. The witness is unreliable in relation to civilian gunfire for the following reasons:

i) His location could have placed him in a poor position to distinguish the sounds heard. See Col. Jackson, Soldier 128, Soldier 139

ii) He failed to hear 103 live rounds fired from SLRs. He either deliberately omitted that fact making him a particle witness whose evidence cannot be relied upon. Alternatively he heard those rounds and mistakenly believed that they were low velocity rounds as described by him.

iii) His suggestion about what he heard over the radio is undermined by the radio logs.

iv) There are no reports over the radio of incidents of civilian shooting as described by him.

23. Missing Casualties

23.1 "Missing Casualties"

23.1.1 "I accept that none of the soldiers whom we represent has ever said that he was able to recognise as having been a person at whom he fired any of the individuals who have been publicly identified and named, and accordingly, we are not instructed to contend, and we will not contend, unless of course some new evidence that you produce alters the position, that those individuals who have been identified were armed with lethal weapons. It follows, as has rightly been accepted for a long time, that innocent people were killed on Bloody Sunday."

Day 51/21/14 to Day 51/21/25

23.1.2 Despite this assertion, the Lawton and Aitken teams, representing the majority of the soldiers, do maintain, at **OS7.2/6**, **Day 51/22/17 to Day 51/26/22** and **OS7.34** and **OS8.42** respectively, that gunmen and bombers, who have never been publicly identified, were killed and injured on Bloody Sunday. These people have been labelled 'missing casualties.'

23.1.3 The soldiers have had to resort to this implausible fiction because the alternative was to persist with the case made in 1972 that soldiers were justified in wounding and killing people. Soldiers would thus have their credibility tested against the civilian testimony, the testimony of photographers, journalists and priests and the objective photographic and video footage of the events of the day. The fiction of 'Missing Casualties' enables the soldiers to persist in maintaining that their use of force was justified while not having to challenge the evidence which demonstrates that those killed and injured were innocent. We submit, for the reasons outlined below, that the Tribunal should reject this submission for what it is, a stratagem designed to avoid testing the credibility of soldiers against the credibility of those unjustifiably shot.

23.2 Diverting Responsibility

23.2.1 The document entitled, 'Claimed Hits at Ground Level,' (appended to Counsel Report No. 1), identifies only 23 people to have been, potentially been, hit by army fire in the Bogside, (given that L and M claim to have fired at the same two men crawling from the barrier). Since 25 people were wounded or killed by gunfire on Bloody Sunday in the Bogside, (excluding Alana Burke, who was knocked down by Sergeant O's Humber pig and Patrick McDaid, who was hit by a doctored rubber bullet), the list is already two short. This certainly does not allow for the numerous 'missing casualties' allegedly killed or wounded on Bloody Sunday and necessitates that the soldiers who fired live rounds on Bloody Sunday confess to firing a substantially greater number of shots than they have, until now, admitted. As argued by counsel for the families on a number of occasions, the only 'proof' of the 'missing casualties' theory is the soldiers' word that they fired at identified gunmen and bombers. The Paras have been exposed as unreliable and untruthful witnesses.

23.2.2 The concept of 'missing casualties' was not advanced in 1972. Indeed, whilst for the purposes of the current Inquiry the concept of ''missing casualties'' is being used to 'prove' that the IRA and/or civilian gunmen were active on Bloody Sunday, on the evening of 30th January 1972, precisely the opposite case was being made. The following extract from the SitRep transmitted at 23:59 pm on Bloody Sunday demonstrates the point:

> "As for the 13 civilians killed, there is an obvious discrepancy between the 5+ claimed hit by 1 PARA and the total number dead. A possible explanation lies in the nature of the indiscriminate fire from the gunmen, coupled with ricochets, possibly from both sides." **G99.600**

23.2.3 This suggestion was short-lived and was not advanced to explain the deaths and injuries suffered by the Bloody Sunday victims. In any event,

the ballistic evidence demonstrated that all those killed were killed by soldiers. The army preferred, instead, to tarnish the reputations of those innocent civilians by labelling them gunmen and bombers. Now that such a pretence is no longer sustainable, soldiers have opted for the 'missing casualty' theory in an attempt to divert responsibility for their actions onto the IRA, rather than onto the deceased and wounded. In 1972 it was suggested that additional casualties were caused by the IRA or by soldiers having killed more than one person with the same shot. Now it appears to be suggested that soldiers shot at least twice as many people as those known to have been killed and injured. The desperate readiness with which some soldiers have adopted this fiction serves only to highlight the reality that innocent people were killed on Bloody Sunday without justification.

23.2.4 A number of soldiers who did not fire shots on Bloody Sunday refer to the concept of 'missing casualties' in their statements illustrating, even now, the preparedness of soldiers to close ranks in support of each other and of the army. For example:

i) Captain Conder believes that he was told a few days after Bloody Sunday, by a member of the RUC, that the bodies of several men killed on Bloody Sunday had been secretly buried in Buncrana, **CC1.6 paragraph 33**

ii) INQ 1924 has stated his belief that that more people were shot on Bloody Sunday than were actually recorded and were secretly buried **C1914 paragraph 4**

iii) INQ 1800 infers that he was sent to Altnagelvin in plain clothes to ensure that no bodies were spirited over the border **C1800.2 paragraph 12**

iv) INQ 2023 describes conversations with other soldiers during which it was inferred that IRA men were spirited away **C2023.2 paragraph 11**

v) INQ 486 said that, having discussed the matter with men in his platoon, he ascertained that about ten gunmen were hit and taken over the border. **C486.4 paragraph 19**

vi) INQ 1021 believes that he heard an intelligence report that the IRA were going to try to remove bodies from the morgue in Altnagelvin **C1021.3 paragraph 21**

vii) INQ 2033 gave evidence that he heard a report over the radio from Brigade that a vehicle containing a number of bodies had attempted to cross the border and that the message had been purposely edited from the Porter tape. **C2033.2 paragraph 9**

23.2.5 Only two soldiers purport to have had direct experience of a 'missing casualty'. INQ 2002 says that, having been chased by a helicopter, a car turned back from the border making its way to the city. When the car arrived at the city gate, INQ 2002 stopped it, aimed his gun at the driver and ordered him to proceed to the checkpoint at a walking pace with the window open. The body of a man, who had clearly not died that day, was then found in the back of the car. Conveniently, INQ 2002 is unable to recall the date of this incident". **C2002.7 paragraph 70** This witness was not called to give evidence but, considering that he alleges that the men on the lorry wore masks, **C2002.3 paragraph 15** and that Barney McGuigan was on their wanted list, **C2002.6 paragraph 38**, His evidence is so ridiculous that it requires no further submission from us.

23.2.6 The tendency to adopt similar, farfetched notions is exemplified by the suggestion from soldiers of the 22nd Light Air Defence Regiment, at **W48**, in relation to the body of Jackie Duddy:

> "1 child's body brought out and dumped on street. People accused 14 & 15 of shooting child. Not accurate, may connect with yesterday."

23.2.7 INQ 1766 states that, two days after Bloody Sunday, he was ordered, with a section of men, to dig up seven or eight fresh, unmarked graves in Craigavon Cemetery. The graves contained the bodies of men, all with gunshot wounds! This fact was never recorded by the army and no other member of INQ 1766's section of men has ever come forward with a similar tale. It is clearly fantastical and unbelieveable and no weight can

be given to INQ 1766's testimony. When this evidence was put to Bishop Daly he pointed out that the Cemetery in Derry is called the City Cemetery, **Day 75/53/20 to Day 75/54/8**, and, when asked if he had ever heard of such a thing in the thirty years since Bloody Sunday, stated:

> "No, I have not. I think, if one looks at the distress there are over the disappeared in Belfast for example, that has gone on over 30 years, where a few people have disappeared, one can get the sense of annoyance in families. The part of our culture is to have a grave to go to and to give respects to those who are dead and, um, I think it is unthinkable, it is a figment of the imagination that the type of thing described by this witness could have taken place. I do not think it is credible." **Day 75/54/10 to Day 75/55/13**

23.2.8 The reality is that the concept of bodies being spirited away by the IRA was part of army folklore, 'believed' and/or adopted as a means of justifying what otherwise, were unjustified killings. According to Tony Geraghty, the issue was part of "regimental mythology." **Day 210/87/8** Soldier 021 claims that he later heard, from talking to a member of the RUC, a Captain and a Military Intelligence Officer, that perhaps five people had been taken across the border to hospital with gunshot wounds. **B1509.005 paragraph 36**.

23.2.9 INQ 2225, in his evidence to this Inquiry, denied this stating, during oral evidence, that he never heard the suggestion that bodies had been taken over the border. **Day 384/123/17 to Day 384/124/21** . He was "always somewhat sceptical about the idea that large numbers of bodies were taken across the border. Troops tended to assume that when they fired their weapons and saw targets move that they had hit them. When no evidence emerged of a body, they assumed that they had hit the person and that the body had been spirited across the border," **C2225 paragraph 42**.

23.2.10 Furthermore, there is no suggestion in any Special Branch document that there were any dead people spirited over the border and Martin Ingram

states that he saw no official documentation suggesting that dead bodies had been secretly buried across the border in the Republic."**KI2.4 paragraph 8**.

23.3 Thirty-two year conspiracy of silence

23.3.1 It is implausible to contend that the IRA and its sympathisers managed, in the midst of what was a life-threatening and traumatic situation, to spirit away *all* of the soldiers' 'real' targets on Bloody Sunday, bringing to hospital only those killed by ricochet / mistake. For this to have occurred necessitated a conspiracy involving the randomly selected witnesses to the shooting, the civilians, photographers, journalists and priests, unknown to each other prior to this incident. The conspiracy involving this disparate group was set in motion within minutes of the deaths of these "missing casualties" and has gone uncovered for 32 years. The fact is , however, that nobody could simply disappear from as close-knit a community as the Bogside / Creggan without people knowing about it. Also, as a number of priests and journalists have testified, it would be completely contrary to Catholic ideology to bury people in unconsecrated graves.

Father Denis Bradley states that the idea of bodies being spirited away is not possible for cultural, religious and factual reasons. "In 1972, one young man could not have left the Long Tower parish without me being aware of it within days if it had been in any way under a cloud or shadow." **Day 140/172/6 to Day 140/172/21**. As he also points out, for this to have occurred everyone who knew the deceased, family, friends and acquaintances as well as the priests of the City would have had to maintain a lie. **Day 140/174/13 to Day 140/174/16**. Bishop Daly also found the suggestion incredible, **Day 075/53/13**:

Q. Bishop, that came with the assertion that there are 34 unidentified or untraced or unknown civilian casualties which may include individuals engaged in what was described by Mr Glasgow as "terrorist activity". Bishop, the inference behind that -- is that there were in effect secret and private burials that may have taken place of

people killed by the army that day. The first question: were you aware of any such event taking place?

A. No.

Q. Have you ever been subsequently made aware of any such event taking place?

A. No.

Q. Is the suggestion that it even might have happened a credible one, and I ask you to speak with the experience of 31 years of service to this community?

A. I think it is offensive nonsense. **Day 075/52/10 to Day 075/53/1**

23.3.2 When the concept was put to Eamonn McCann during oral testimony, he dismissed it as "wholly fanciful, patently ridiculous." **Day 87/75/25**. The idea that the people of Derry, including family members, conspired to allow the names of those innocent people who were killed and wounded on Bloody Sunday to remain stained is not considered plausible by Professor O'Keefe:

Q. If I can take you to the point I want you to comment on shortly: if there were untraced casualties, that view must be sustained by persons colluding in hiding and families agreeing to hide or disguise or perpetuate a lie. In your experience, do you think that a likely scenario?

A. No, I think that is what I would find inconceivable, for example in an area like Derry with a very close Catholic community that a number of young men might in fact disappear and never be buried or heard of again.

Q. And that that untruth in consequence could be protected, participated and promulgated for 10, 20 and 30 years thereafter?

A. I would find that very difficult to conceive of.

Day 127/167/11 to Day 127/168/2

23.4 Contrary to Republican Ideology

23.4.1 It is also entirely contrary to Republican ideology to have secret burials, allowing those killed to go unacknowledged or to omit them from the roll of honour.

23.4.2 It should also be noted that the practice of burying IRA members with military trappings is acknowledged in a Special Branch Assessment, dated 16th December 1971 to 4th January 1972, which describes how, on 30th December 1971, an IRA officer named Jack McCabe, who was killed in an explosion in a workshop in Dublin, was buried with full honours near Shercock, Co. Cavan." **G47A.298.6**.

23.4.3 Professor O'Keefe found it "inconceivable" that there would be 'missing casualties', **Day 127/158/1**, because:

> "In Republican ideology the dead are honoured. The paramilitary trappings with which civilians were buried caused many problems with the church. In the 1980s Father Daly led the way in insisting that no burial was to be carried out with any paramilitary trappings or with the Tricolour flag. The IRA would get around this by leading the coffin to the church in a tricolour flag and then taking the flag off the coffin just before it got into the church. The only people the IRA buried without a church service to my knowledge were informers. The Republican dead were always acknowledged. The IRA would also issue a statement claiming that the dead person had been on "active service". . . Accordingly, in 1972, I do not believe that the IRA buried anyone without a church funeral. I also do not think the IRA would have wanted this" **H21.100 paragraphs 98 to 99**

23.5 'Disappeared' as punishment for disobeying orders

23.5.1 The soldiers' representatives, in an attempt to bolster their 'missing casualty' claims, have pointed to the 'disappeared' as a parallel to their scenario of people being spirited away and buried. To counter the indication that only those considered to be informers were shot by the IRA, they have endeavoured to suggest that a similar fate was meted out to those members of the IRA who disobeyed orders. To this end, Mr Glasgow put the case of Patrick Duffy to Father Bradley during oral evidence. **Day 140/243/8 to Day 140/243/12**.

23.5.2 The example was unworkable for two reasons. The first was pointed out by Father Bradley himself, i.e., that, along with the rest of the 'disappeared,' Mr Duffy's identity and disappearance were known to the populace of Derry and to the church at that time. **Day 140/243/12 to Day 40/243/15**. (In fact, far from attempting to hide his death, the IRA put a notice in a local paper announcing that they had killed him, **OS8.45**). Secondly, although Father Bradley was not to know, Mr Glasgow's representation of Mr Duffy as someone suspected of having disobeyed the IRA in 1971 was incorrect and misleading. It is clearly recorded, in Lost Lives, that Mr Duffy was executed for being an alleged *informer* in *1973*.[1]

23.5.3 Mr Glasgow QC also referred to Mr Duffy when questioning Mr Eamon McCann. Mr McCann's memory of the case was also that Mr Duffy was killed by IRA who regarded him as a traitor. Mr McCann knows nothing, however, of such a demise for those who defied an IRA order, for example, by firing on British troops and causing the deaths of innocent bystanders. **Day 087/136/19 to Day 087/138/9**. We can find no record of a case in which the motive given by the IRA for "disappearing" someone was disobeying orders. To suggest that the disappearance of casualties on Bloody Sunday was merely a continuation of this trend is tenuous to the extreme. Moreover, according to Professor Terence O'Keefe, the only

[1] At number 912 on page 382

people to be buried by the IRA without a church service were informers. **H21.100 paragraph 98**.

23.6 Treatment of Bloody Sunday casualties in hospitals in the Republic

23.6.1 There is some evidence to support the suggestion that people were, on occasion, taken over the border to obtain treatment in an attempt to avoid arbitrary detention. The fact remains, however, that, other than Hugh Hegarty who attended Letterkenny hospital on 1st February 1972 and was discharged on the 2nd February 1972, there is no evidence that any other person sustaining any kind of injury as a result of Bloody Sunday attended Letterkenny hospital. Indeed, INQ 2225, a Military Intelligence Officer, states that he had not heard the proposal that one or more people had been taken over the border for medical treatment until recently, when the suggestion was put to him by his legal team. **Day 384/123/17 to Day 384/124/21**.

23.6.2 The Aitken Team, in support of their 'missing casualties' theory quote, at **OS8.42**, an Irish Times report on 31st January 1972 that "one man was taken to Letterkenny Hospital in Co. Donegal suffering from a leg wound. It is believed he will be released today". It is suggested that this report receives corroboration from the evidence of Patrick Clarke at **AC154.4 paragraph 29**.

23.6.3 Mr Clarke's memory is that he was contacted on the Tuesday or Wednesday by Commandant McGonigle, of the Garda Síochana, who told him that he had sent an ambulance to the border which had picked up one man and taken him to Letterkenny Hospital. **Day 204/73/1 to Day 204/73/5**. The Irish Government, however, have informed the Inquiry that, whilst ambulances did go to the border, they returned to base empty because nothing happened. Mr Clarke's evidence in relation to this matter is, therefore, rendered suspect. **Day 204/74/21 to Day 204/75/2**, . The Derry Journal, on 1st February 1972, said that one Derry man was detained

in Letterkenny Hospital with injuries received during Sunday's disturbances." **L130.2**..

23.6.4 The Derry Journal article of the 1st February 1972, **L130.2**, also states that a spokesman for Letterkenny Hospital said that a very small number of people from Derry had been treated on Sunday but that no one treated by them had died. The name of the "spokesman" is not quoted and neither is the number of people treated or the supposed injuries sustained. It is important to emphasise that the article commences with "the rumours were widespread."

23.6.5 Joseph Hanley, the sole surgeon for Co Donegal at the time of Bloody Sunday (and therefore permanently on call), based at Letterkenny Hospital, has told the Inquiry that he has no recollection of any patients admitted on Bloody Sunday or immediately afterwards with gunshot wounds or of being informed by his Registrar or any other member of staff that any such patient had been admitted to the hospital. **AH100 paragraphs 9**. It is Dr Hanley's evidence that the practice of injured people from Derry being taken to hospital in Donegal virtually ceased following the death of Séamus Cusack, who bled to death on his way to Letterkenny Hospital on 8th July 1971. **AH100 paragraph 11**. Rosemary Doyle, of the Knights of Malta, confirms that they were informed that a casualty had to be taken to the most expedient hospital which, in Derry, would have been Altnagelvin. **Day 101/35/15**

23.6.6 In February 1972, the Sunday Times Insight Team examined the possibility of additional casualties being taken to Letterkenny following a suggestion made by the Army to this effect. Philip Jacobson of the Insight Team spoke with a contact at the hospital who told him that no casualties had been admitted as a result of Bloody Sunday **Day 191/107/1 to Day 191/107/25**. Mr Jacobson believed his contact on this matter, given that they had been frank in 1971 in discussing the admission of Séamus Cusack to the same hospital.

23.6.7 Geraldine McIntyre, Consumer Services Officer at Letterkenny General Hospital, conducted research into the theatre register of 30th January to 2nd February 1972 and has told the Tribunal that there is no evidence of any surgical procedures performed relating to gunshot injuries. She was able to locate the case file relating to Hugh Hegarty, **D1108 to D1111**, which confirms that "he was suffering from multiple injuries caused by a gas canister... Mr Hegarty was admitted straight into the main surgical ward and was discharged the following day" **AM475.6**.

23.7 Additional casualties

23.7.1 In addition to the 'official' fourteen dead and thirteen wounded on Bloody Sunday, the Inquiry has established that a number of other people were 'wounded' in some way on the day. These were:

Name	Nature of Injury	Location at which injury was sustained?	Where taken?	Medical treatment?	Mentioned by?
Pius McCarron	Hit on head by falling masonry loosened by a ricochet	Alleyway between Blocks 1 & 2	House in Joseph Place (where Alana Burke was)	?	Eamon Baker (Day 96) James Deeney (Day 75) Patrick Kelly (Day 75) Joseph Doherty (Day 138) Patrick Clarke (AC64.6)
Hugh Hegarty	Hit in the face by a gas canister	Barrier 14 / junction of William St & Rossville Seamus Treacy	Flat on 2nd floor of Block 1	Dr McCabe Letterkenny Hospital (subsequently)	Hugh Hegarty Day 98 Patrick Moore (Day 98)
Patrick Brolly	Grazed on his head by a bullet	Flat on 2nd floor of Block 2	Ambulance in Rossville Street	Altnagelvin	Patrick Brolly (AB90) Celine Brolly (Day 91)
Rosemary Doyle	Hit in face by rubber bullet	Rossville St	N/A	Checked by nurse Robert Cadman	Rosemary Doyle (Day 101) Mary Gallagher (Day 70)
Mary Smith (now Breslin)	Facial injuries and eye injury	?	?	Altnagelvin	
Mickey Doherty	Shot in the leg; bullet graze to face	Derelict house on the corner of Joyce St and Cooke St	Vinny Coyle's house in [redacted]	Dr MacDermott Pauline Ferry Attracta Bradley Hugh Deenan	See section below re: Red Mickey

23.7.2 Official documentation exists relating to the treatment of those shaded in grey in the above table. All of those, save Hugh Hegarty and Red Mickey, feature in the letter written to the Widgery Inquiry by E.T. Watson, the Patients' Services Officer at Altnagelvin on Bloody

Sunday, along with all fourteen of the 'official' wounded, **D1093-1094**, and Geraldine Richmond who was admitted for shock. In other words, other than Red Mickey, those with even relatively minor injuries were taken to hospital and the records of their treatment survive.

23.8 'Red' Mickey Doherty

23.8.1 According to the Inquiry's letter dated 11th March 2004, Mr Mickey Doherty was unable to assist the Inquiry for medical reasons and later died. It appears that Mr Doherty, a member of the "Official" IRA admitted in an interview to Mary Holland during the week after Bloody Sunday that:

> " he was posted in an empty house on the corner of Cooke Street and Joyce Street with orders to cover Bishop Street. He was wounded by a soldier returning fire from a house opposite after he himself had fired at a soldier in the street beneath. He thinks his bullet grazed the soldier's flak jacket, but did not injure him... He was hit in the thigh by one bullet and another ricocheted off a wall to graze the flesh of his eye." **M42**

23.8.2 The incident is also recorded, at 16.35, on the 'Porter Tape,' at **W2** serial 135, and on the Royal Anglian log at 16.41 as follows:

> 54 Alpha (Call Sign of Royal Anglians, located on the Walls): ..."Hello, Zero this is 54 Alpha. Reference report from call Sign 90 Alpha on shooting. Our call sign Quebec 23 has had one low velocity shot fired at them from Charlotte street. Hit one of our soldiers in the flak jacket. Ah, we don't believe he is a casualty. One round was returned. No hit. Subsequent to that our call sign Quebec 21 had one round fired at it and two shots were returned. No casualties on either side. Over. **W137** serial 196

Although she cannot now recall the detail, **Day 200/69/18 to Day 200/69/23** , Ms Holland clarifies at **L182** that, "the marksman I quoted says he fired his shot at 5pm - after the confrontation with the Army had taken place and more than a mile away from where it occurred."

23.8.3 Soldier AA, who was positioned in Barrack Street, states that, about 30 minutes after the arrival of the cars holding Joe Friel and Gerard Donaghey, which he puts at 4.05pm, **B908.006 paragraphs 11 to 13**, he saw a dark haired man standing at the corner of Joyce Street and Windmill Terrace armed with either a rifle or an M1 Carbine. He states that he and the man fired simultaneously and that the gunman's bullet went past his ear hitting Soldier 042 in the flak jacket. **Day 378/168/3 to Day 378/172/17**. Whilst he goes on to assert in his statement at **B908.008 paragraphs 27 to 28**, that he then fired at a second gunman, he accepts, at **Day 378/183/17 to Day 378/184/2**, that it could have been the same person, i.e. the first gunman. Soldier AA fired a total of eight rounds at the gunman, one of which was from the hip, **Day 378/187/21 to Day 378/187/23**, at a time when he could not clearly see his target. **Day 378/191/4 to Day 378/191/17**. Soldier AA has a clear memory of being informed by his Sergeant Major about two weeks after Bloody Sunday that "he had received confirmation from Special Branch that [Soldier AA] had made contact with an IRA gunman and had shot him through the kneecap and in the jaw." **Day 378/194/2 to Day 378/194/10**,

23.8.4 In his 1972 statements, **B909 to B916**, Soldier AB states that, at approximately 16.15, a gunman appeared on at the junction of St Columb's Walk and Joyce Street and fired one round at Soldier AA. He states that he returned one round as did Soldier AA. The round fired by the gunman bounced off the wall and hit Soldier 042's flak jacket. Soldier AB now states that he can remember only two incidents that day, namely that he heard up to ten rounds from a Sterling Submachine Gun and Soldier 042 falling to the ground. **B918.002 paragraphs 12 to 14**. He cannot remember Soldier AA returning fire nor can he remember firing

himself. Soldier AB did not, in 1972, make reference to the fact that Soldier AA had fired eight rounds at the gunman and that one of those rounds was fired from the hip. It could be suggested that he has feigned memory loss to this Inquiry in an attempt to maintain this suppression of evidence. However, we have been unable to test this as he was not called to give evidence. The time at which Soldier AB places this incident is clearly wrong as shown by the logs referred to above; his recollection of machinegun fire is clearly incorrect as he mentions only one round in his contemporaneous statement and it is probable that had Soldier 042 been fired at with a machinegun he would have been killed.

Soldier 042 (hard copy version throughout) states that two shots, then a third and then a fourth were fired at his location from buildings on the wasteground at Charlotte Place, the last of which hit the left hand side of his flak jacket. He did not at any stage see the gunman but it is his memory that Soldier AA fired between the third and fourth shot. **Day 379/97/1 to Day 379/99/18**. He does not recall hearing any Thompson Submachine gun fire, **Day 379/97/12 to Day 397/97/17** contrary to Soldier AA's assertion, **Day 378/189/13 to Day 378/189/25**.

23.8.5 This sequence of events is acknowledged by the Official IRA who, along with witnesses from the Provisional IRA, state that this gunman was the only known member of either wing of the IRA to be injured on Bloody Sunday. Corroboration can also be found in the evidence of Vincent Browne, at **M8.3**, Father Dolan, at **H7.2 paragraph 13**, Antony Fry, **M27.3 paragraph 12**, Kieran Gill, **M105.11 to M105.12 paragraphs 48 to 51**, Simon Winchester, **Day 116/68/24 to Day 116/69/18** ,Nigel Wade at **143/8 to day 109/148/3**, Mr Eugene O'Donnell, **Day 155/199/23 to Day 155/201/14**, Mr Hugh Leo Young, **Day 388/43/1 to Day 388/45/7**, and in a note by the Sunday Times which refers to Red Mickey as "Mary Holland's lad"**AD89.1**. Red Mickey Doherty was treated for the injuries he had sustained to his leg and eye by Jim Deehan, Attracta Simms, both from the Knights of Malta, and Dr McDermott, in Vinny Coyle's house at [redacted], **Day 182/72/1 to Day 182/75/25**, **Day 142/1/7 to Day**

142/3/22 and **Day 176/186/12 to Day 176/194/5** respectively. Ms Pauline Ferry was also in the house, **Day 154/202/1 to Day 154/205/25**.

23.8.6 Although Mr Doherty was never on what is considered to be the official list of wounded in relation to Bloody Sunday, with such an overwhelming wealth of information about his whereabouts that day, the shots he fired, those returned at him, the injuries sustained by him and their treatment, it is obvious that he cannot be considered to be a 'missing casualty' in the sense outlined by the Lawton Team. The evidence in relation to Red Mickey Doherty also serves to illustrate how inconceivable is the suggestion that it would be possible to conceal from civilians, journalists, priests, soldiers, Knights of Malta, doctors and even Special Branch, the fact that another person in addition to those on the "official" casualty list was injured on Bloody Sunday

23.9 Table of 'missing casualties'

23.9.1 In advance of their opening statement, the Lawton Team provided a map and table of evidence of so-called 'missing casualties.'Mr Glasgow QC said in his opening statement:

> "It is not of course suggested that every one who is marked on that map and who was referred to by my learned friend Mr Clarke in his opening as having been untraced or with some similar description, was a gunman or was necessarily present in the position in which a witness or witnesses have described in their statements. Some witnesses obviously may well have been genuinely mistaken." **Day 51/25/22 to Day 51/26/8**

23.9.2 It is our submission that the witnesses referred to at **OS7.35** are, for all kinds of reasons, mistaken about what they saw.. The 'Missing Casualties' identified in the document by the Lawton Team are examined by Sector and in the table below:

No. on Map	Name of Witness	Reference in Statement	Summary of Response
1	Kevin Barrett	**AB26.5 to AB26.5 paragraphs 27 to 30**	If the person described was indeed wounded it was in all likelihood Joe Friel or Michael Quinn. However, this witness provides insufficient detail to allow the Tribunal to consider the person he describes as a 'missing casualty'. For further detail see Section 19.
2	Paul Coyle	**AC105.3 paragraph 15**	This is a reference to Joe Friel who matches the description and was shot in the chest in the alleyway between Glenfada Park north and Abbey Park. For further details see Section 19
3	Paul Coyle	**AC105.3 paragraph 15**	This is a reference to Michael Quinn who was shot in the face at area referred to. For further details see Section 19
4	PIRA 25	**AG17.3 paragraphs 14 to 16**	During oral evidence this witness explained that the second man he believed was shot was actually Patrick Walsh who was not in fact injured. He stated that he did not see a third casualty who had been shot in the hip/ buttock but had heard people say that Alex Nash had sustined such an injury. For further detail see Section 20
5	John Gormley	**AB46.3 to AG46.4 paragraphs 12 to 14**	This witness makes no reference to this incident in his 1972 statement. Indeed, he does not refer to being in Glenfada Park South in his 1972 statement and is obviously mistaken in this regard. For further details see Section 19
6	Alan Harkens	**AH8.4 paragraphs 12 to 14**	Duplicated in Aitken Team's document. Alan Harkens is the only witness to suggest that there were two bodies in the stairwell of Block 1 and is clearly mistaken in this regard. In all likelihood his memory is of Hugh Gilmore and Kevin McElhinney. For further detail see Section 18
7	Patrick Kelly	**AK21.7 paragraph 20**	Duplicated in Aitken Team's document. The witness's concession that he did not see a wound, merely presuming the person in question was injured, coupled with the lack of corroboration of this evidence, clearly suggests that the man seen by Mr Kelly may not have been shot at all. For further details see Section 19
8	Michael Love	**AL21.3 paragraphs 14 to 16**	Mr Love, without the assistance of a 1972 statement, is obviously confused, not only in relation to this matter, but others including timings and locations. His evidence in relation to this matter cannot, therefore, be relied upon. Either the description is that of Gerard Donaghey, who should have been in his line of sight, or the boy to whom he refers was not shot at all. For further details see Section 19

9	Michael Love	**AL21.3 paragraphs 14 to 16**	Mr Love, without the assistance of a 1972 statement, is obviously confused, not only in relation to this matter, but others including timings and locations. His evidence in relation to this matter cannot, therefore, be relied upon. Either the description is that of Gerry McKinney who should have been in his line of sight, or the man to whom he refers was not shot at all. For further details see Section 19
10	Pearse McCaul	**AM93.3 paragraph 13**	This witness accepted the likelihood that, rather than carrying two people from the Rubble Barricade, he helped carry Michael Kelly on two occasions rather than two separate bodies on two occasions. For further detail see Section 18
11	Derek McFeeley	**AM217.3 paragraphs 11 to 13**	Mr McFeeley conceded in evidence that the man to whom he referred could have been William McKinney. For further details see Section 19
12	Patrick McGlinchey	**AM247.3 paragraph 13**	The memory of a man shouting out and holding his back as seen by a fifteen year old is insufficient to suggest a missing casualy particularly as there is no corroborative evidence. For further detail see Section 20
13	Thomas McGlinchey	**AM250.2 paragraphs 10 to 11**	This witness conceded that one of the men he saw could have been Gerry McKinney. It is, therefore, probable that Mr McGlinchey is referring to the body of Gerry McKinney. For further details see Section 19
14	Thomas McGlinchey	**AM250.2 paragraphs 10 to 11**	This witness conceded that one of the men he saw could have been Gerry McKinney. It is, therefore, probable that Mr McGlinchey is referring to the body of Gerard Donaghey. For further details see Section 19
15	David McIntyre	**AM284.1 to AM284.2 paragraphs 7 to 9**	This witness was 10 on Bloody Sunday and was looking for only a matter of seconds. It is impossible, therefore, to rely upon his evidence. For further detail see Section 20
16	David McIntyre	**AM284.1 to AM284.2 paragraphs 7 to 9**	This witness was 10 on Bloody Sunday and was looking for only a matter of seconds. It is impossible, therefore, to rely upon his evidence. For further detail see Section 20
17	John McIntyre	**AM286.3 paragraph 16**	An unchallenged reference to Jackie Duddy. For further detail see Section 17
18	John McIntyre	**AM286.4 paragraph 23**	The witness accepted that the body he saw was probably that of Michael Kelly. For further detail see Section 18
19	Joseph McKinney	**AM304.5 to AM304.6 paragraphs 23**	This was a description of Paddy Walsh adminstering aid to Patrick Doherty. For further detail see Section 20

20	Denis McLaughlin	**AM326.6 to AM326.7 paragraph 23**	This witness, who was hysterical and traumatised at the time concedes that, while he can only now remember one person fall, three men may have fallen as he said in his statement in 1972. For further details see Section 19
21	Joseph Moore	**AM413.5 paragraph 24**	This witness accepted that the person he saw could have been Paddy Doherty. For further detail see Section 20
22	Joseph Nicholas	**AN17.5 paragraph 22**	A description of Paddy Walsh rendering aid to Patrick Doherty and Danny McGowan helping Patrick Campbell. For further detail see Section 20
23	Joseph Nicholas	**AN17.5 paragraph 22**	A description of Paddy Walsh rendering aid to Patrick Doherty and Danny McGowan helping Patrick Campbell. For further detail see Section 20
24	Sean O'Neil	**AO65.12 paragraph 57**	This evidence is untested. This body was not a "missing casualty," rather may have been one of the three men who fell along the southern side of Glenfada Park. For further details see Section 19
25	Sean O'Neil	**AO65.12 paragraph 57**	This evidence is untested. This body was not a "missing casualty," rather may have been one of the three men who fell along the southern side of Glenfada Park. For further details see Section 19
26	John Porter	**AP11.5D**	Deceased. Given the injury that the man had sustained to his face and the location in which he was seen by Mr Porter it is submitted that this is not a "missing casualty" but rather that the person the witness saw may have been Michael Quinn. For further details see Section 19
27	John Quigg	**AQ1.2 paragraphs 8 to 9**	Giving evidence, Mr Quigg acknowledged that a lot of events have faded in his mind, that at the time he was not familiar with the Glenfada Park area. Indeed, his 1972 statement records that he was in the "Glenfada Park area." It is submitted that the bodies this witness saw were of Gerry McKinney and Gerard Donaghey. For further details see Section 19
28	John Quigg	**AQ1.2 paragraphs 8 to 9**	Giving evidence Mr Quigg acknowledged that a lot of events have faded in his mind, that at the time he was not familiar with the Glenfada Park area, indeed, his 1972 statement records that he was in the "Glenfada Park area." It is submitted that the bodies this witness saw were Gerry McKinney and Gerard Donaghey. For further details see Section 19

29	Michael Quinn	**AQ11.1 to AQ11.11**	Duplicated in Aitken Team's document. Mr Quinn's account of when this witness was shot varies. His description is not corroborated by any witness, military or civilian. We submit that Mr Quinn is mistaken when he says he saw a man shot in the leg. Alternatively this boy is not a "missing casualty" in the sense that is intended by the Lawton team because he was not a threat to soldiers (or anyone else) when he was injured. For further details see Section 19
30	Derrick Tucker Jnr	**AT15.16**	A description of Patrick Walsh, Patrick Doherty and Danny McGowan helping Patrick Campbell. For further detail see Section 20
31	Derrick Tucker Jnr	**AT15.16**	A description of Patrick Walsh, Patrick Doherty and Danny McGowan helping Patrick Campbell. For further detail see Section 20
32	Martin Tucker	**AT17.5 paragraph 32**	A description of Patrick Campbell being assisted by Danny McGowan. For further detail see Section 20
33	Martin Tucker	**AT17.5 paragraph 32**	A description of Patrick Campbell being assisted by Danny McGowan. For further detail see Section 20
34	Robert Wallace	**AW3.2 paragraph 8**	Duplicated in Aitken Team's document. There is no evidence whatsoever to suggest that the man described was wounded even if the witness's recollection were to be considered in any way reliable and the incident is not mentioned by him in 1972. This cannot be relied upon. For further detail see Section 18

23.10 Aitken Document

Those supposed 'Missing Casualties' identified by the Aitken Team, at **OS8.42**, that supplement the Lawton Team document are dealt with according to Sector and in the summary below:

No. on Map	Name of Witness	Reference	Summary of Response
1	Hugh Duffy	**AD156** and **Day 150**	Considering that Mr Duffy did not mention this in his 1972 statement, that he accepted it could be a reference to Joe Mahon and that he did not actually see any injury this cannot be relied upon as evidence of a 'missing casualty'. For further detail see Section 19.

2	Derry Journal, Irish Times & Mr Patrick Clarke	**L69.2**, **L130.2** and **AC154.4 paragraph 29**	This material does not amount to evidence of a 'missing casualty'. See Section 23, i.e. this section, under the title "Treatment of Bloody Sunday casualties in hospitals in the Republic" above.
3	Jim Norris	**AN20** and **Day 147**	The account that this witness gave in 1972 is more reliable than his current memory and is a clear description of Kevin McElhinney. For further detail see Section 18
4	Nigel Wade	**M79.22 paragraph 18** and **109/139/7 to Day 109/139/23**	This witness confirms that time shrinks one's memory. He is inconsistent in relation to whether or not he saw wounds and there is nothing in his account that can be relied upon as evidence of 'missing casualties.' For further detail see section 20.
	Simon Winchester	**Day 116/87/13 to Day 116/88/10**	Mr Winchester's account does not correspond with Mr Wade's, who accompanied him, in terms of location or number of 'casualties.' He accepts that some of these people may have merely been distressed rather than wounded. As such this is not reliable evidence of a 'missing casualty.' For further detail see section 20.
	John Barry	**AO75.2** and **Day 193/168/25 to Day 193/169/5**	This evidence is based upon a story related to Mr Barry that he describes himself as an anecdote which did not merit further investigation. As such it can not be considered as the basis for identifying 'missing casualties.' For further detail see section 20.
	Anthony Harkin	**AH11.6 paragraph 32**	This witness confirmed that the man he saw being carried by the arms and legs looked like Patrick Campbell. It seems that the witness has been confused by the number of people tending to Mr Campbell and by pieces of information he has gained over the years. For further detail see section 20.

	Noel Doherty	**AD91.7 paragraph 36**	Given the description of the timing, location and description of the injury, with understandable inaccuracies considering the time passed, Mr Doherty is, in all likelihood, describing Patrick Campbell. For further detail see section 20.
	Thomas Ralph Dawe	**AD5.5 paragraph 29 and Day 094/152/19 to Day 094/173/14**	Mr Dawe did not mention this incident in his 1972 statement.He now accepts that it is possible that he has amalgamated the sighting of the car driven by Mr Bernard McGonagle taking Patrick Campbell to the Regimental Aid Post and the car which was driven by Mr. Raymond Rogan containing the body of Gerard Donaghey. For further detail see section 20.
	Kieran Gill	**M105.9 paragraphs 39 to 44**	This witness did not actually see a leg wound but states that people were saying to be careful of the young man's leg. Although he describes someone in their late teens, early 20s, this is, considering the timing and location, a reference to Danny McGowan. For further detail see section 20.
5	Soldier AD		See immediately below
6	George Roberts	**Day 151/97/16 to Day 151/97/24**	It is probable that this witness saw John Young, Michael McDaid or William Nash being shot but, due to the distress and resultant confusion has erred in describing their shooting. For further detail see Section 18
	Photographs	**E 14.12 and E14.16**	There is no photographic evidence of what could be termed a 'missing casualty'. For further detail see Section 18
	Forensic evidence	**Day 229/6 to Day 229/7**	This does not amount to evidence of a 'missing casualty'. For further detail see Section 18

23.11 Injured Gunman by Bogside Inn/ Meenan Square

23.11.1 **Soldier AD**, who was positioned in a house in 21 Long Tower Street, fired two rounds at what he claimed was a civilian armed with a rifle in the vicinity of the Bogside Inn at around 16.45. **B943.001**. Soldiers 004 and 022 also place the time at which Soldier AD fired his shots at 16.45, **B1369.004** and **B1510** respectively. Soldier AD accepts that serial 511 on

W137 is probably a record of the shots he fired. **Day 382/99/18 to Day 382/100/23**. It is important to note that, contrary to Soldier AD's claim stated at **B943.003**, this serial records *no* hit as a result of his shots. Very soon after this incident, Soldier AD states that he saw a grey Ford Escort reverse into Meenan Square. Having been shown the Royal Anglian Log, **W106.7** serial 93, Soldier AD accepted that he could have confused Doctor McCabe's car for the grey Escort. **Day 382/101/13 to Day 382/102/5**. Importantly, and in support of Soldier AD's evidence in relation to the time at which he fired his shots, the Royal Anglian Log records Dr McCabe's grey station wagon travelling down the Lecky Road at 16.59.

23.11.2 Soldier AD, in his RMP statement at **B933**, claims that one round was fired by the gunman and that two rounds were returned. This is not what is recorded at serial 396 **W130**: "We have just had four shots at our call sign Quebec 21 on the Walls." Furthermore, Soldier AD was not on the Walls, he fired his two rounds from a house in Long Tower Street. It is, therefore, clear that **W130** and the subsequent references contained in **OS8.42** at **W131** **W132** **W133** do not relate to the shots fired by Soldier AD and that there was no 'missing casualty' in the area of the Bogside Inn.

23.12 Conclusions

i) There are no 'missing casualties' in the sense outlined by the Lawton and Aitken Teams or at all

ii) 'Red Mickey' Doherty is not a 'missing casualty' given that it was known, even shortly after Bloody Sunday, that he had fired shots at soldiers and was injured by return fire. The Tribunal has a large body of evidence about his actions.

24. Military and Police Intelligence after the March

24.1 Introduction and Summary of Submissions

24.1.1 As appears from the INTSUMs and other intelligence documentation generated in or around January 1972, the Army and RUC Special Branch were in receipt of a steady flow of information about the structure of both the Provisional IRA and the Official IRA, their respective structures and personnel, their weaponry, their activities and their plans: see, for example, the 8th Brigade INTSUM 102 of 2 February 1972 G108.653, the HQNI INTSUM 5/72 of 3rd February 1972 G110.673 and the Special Branch assessment for the period ended 3rd February 1972 G112.697. The Tribunal has also been led to believe that Observers B and C provided reliable intelligence to James and Julian during this period. However, intelligence suggesting that either IRA faction, or indeed maverick civilian gunmen, played any significant role in the events of Bloody Sunday is conspicuous by its absence.

24.1.2 Much of the intelligence documentation is redacted but, as far as we can tell, there is literally nothing in the INTSUM's and Special Branch assessments in the weeks following Bloody Sunday suggesting that *any* information had been obtained from informants or other sources to the effect that IRA or other civilian gunmen or bombers had engaged in any material activities during the period of ten minutes or so between the paratroopers' entry into the Bogside and the shooting of the last casualty on Bloody Sunday.

24.1.3 Apart from the Observer B material, dealt with above (12.5.6), the only intelligence claimed to have been received to the effect that the IRA had any involvement in the material events of Bloody Sunday is that attributed to "**Witness X**" and "**Infliction**". The material concerning **Witness X** has been heavily redacted to the extent that only the year (1972) is specified but if this is the material to which Col. Tugwell referred it would appear to have been generated following interviews in or about the summer of 1972 (B133.70 paragraph 48). It was not until **April 1984** that **Infliction** made his allegation about Martin McGuinness. That was not information provided to

either the police or the Army but to the Secret Intelligence Service in the Hague.

24.1.4 Apart from the various features of these accounts that mark them as worthless, it should be noted that neither these nor any other accounts implicating civilian gunmen or bombers emerged in the weeks immediately following Bloody Sunday. The evidence of **INQ2225**, a military intelligence officer at HQNI, is typical of the recollections of those directly involved in intelligence-gathering at the time. Before the Widgery Inquiry took place, he said, there was a lot of pressure on the RUC to find information that would have supported the Army case that the paratroopers were fired on as they deployed in Rossville Street, but "none was yielded". (**Day 384/161/9 to Day 384/161/14**).

24.2 "Infliction"

24.2.1 According to Officer A, a member of the Security Service, he handled an agent code-named "Infliction", who told him during a debriefing in April 1984 that "Martin McGuinness had admitted to Infliction that he had personally fired the shot (from a Thompson machine gun on single shot) from the Rossville Flats in the Bogside that had precipitated the Bloody Sunday episode" (**KA2.2 paragraph 8** and **KA2.6**). It is submitted that even if the documentation is genuine, which is not conceded, the information from Infliction was patently false. First and foremost, the information allegedly supplied by Infliction should be regarded as false because it is completely at odds not only with the civilian evidence but also with the soldiers' evidence. Not one soldier claims that the events of Bloody Sunday were precipitated by a Thompson sub-machine gun on single shot. Apart from the fact that it is difficult to understand why a Thompson should be fired on single shot, those soldiers who refer to Thompson machine-gun firing refer to this as bursts of automatic fire.

24.2.2 Secondly, although Officer A regarded Infliction as a reliable agent (**KA2.1 paragraph 5**), there is compelling evidence that he was quite the opposite. Officer A himself concedes that "some recipients of [Infliction's] information viewed Infliction's reporting with scepticism". (**KA2.1 paragraph 5**) This is

an understatement. According to **David Shayler**, a former member of the Security Service who also worked in T Branch, Infliction was regarded within the Service as "a bullshitter" (**KS2.1 at paragraph 3**, and **KS2.2 at paragraph 7** and **Day 327/78/21 to Day 327/79/2**) According to **Annie Machon**, another former member of the Security Service who worked in T Branch, her predecessor thought everyone in T Branch knew that Infliction was a "bullshitter" (**KM12.1 paragraph 7**) and he was "notorious for being unreliable". (**Day 327/92/12 to Day 327/92/22**)

24.2.3 **Officer E**, who was David Shayler's line manager, said that he had a "general recollection that [Infliction's] reporting was considered by others to be of mixed reliability". (**KE1.2 paragraph 4**) but when he was asked about this during his oral testimony he claimed to be unable to remember anything that could assist the Tribunal in understanding how he gained this impression. (**Day 328/25/18 to Day 328/26/8**). **Officer F** claimed not to recall ever discussing an agent called Infliction with David Shayler or hearing anyone else discuss him. (**KF1.1 paragraphs 3 and 6**) **Officer F** was a friend of Shayler and he regarded him as an honest and straight-forward individual. (**Day 328/43/10 to Day 328/43/13**) Officer **G** was another Security Service Officer who sat opposite David Shayler. He also claimed not to recall ever referring to Infliction as a "bullshitter" or hearing David Shayler ever discussing Infliction's reliability with anybody else. **(KG1.2 paragraph 6)** **Officer N** was Annie Machon's predecessor but he did not recall describing him as a "bullshitter" or indeed, he said, having any view of Infliction's reliability or hearing any other officers referring to him in these terms. (**KN1.1 paragraph 1**) David Shayler believed that any serving officer would be "inclined to plead memory failure or tell outright lies to investigators as they know that telling the truth might embarrass or expose their bosses". (**KS2.4 paragraph 16**) It is respectfully submitted that Officers E, F, G and N were pleading memory failure for such reasons.

24.2.4. Even Officer A had to concede that Infliction had lied on occasions, that he had engaged in "bullshitting" in "a few instances" and that others in the Security Service had suspected him to be a fabricator. (**KA.2.21 paragraph 5** and **Day 327 7/24 to Day 327/8/9**).

24.2.5 Moreover, according to the debriefing notes, Infliction believed it unlikely that Martin McGuinness had made his admission about firing the first shot to anyone apart from himself (Infliction) (**KB3.3 to KB3.4** and **Day 327/35/9 to Day 327/38/19**). The inference that Officer B certainly drew was that either Martin McGuinness had told no one apart from Infliction or that he had told very few people indeed. (**Day 327/38/20 to Day 327/39/2**) If this were true, the disclosure of these debriefing notes would therefore have revealed Infliction's identity since Martin McGuinness would obviously know that Infliction was the only person (or one of the very few persons) to whom he had made this "confession". Since the Security Service have been at pains to protect Infliction's identity, the inescapable conclusion is that they knew perfectly well that Martin McGuinness had not made any such confession to Infliction, so that the release of debriefing notes suggesting that he had would not compromise Infliction's identity at all.

24.2.6 Nor is there any other evidence of any kind to support Infliction's account. The Security Service recognised this themselves when they commented at the time that there was "no collateral" for the report (**KA2.14**). Peter Pringle, an independent journalist who has conducted extensive research into Bloody Sunday, also testified that he found no evidence whatsoever to support Infliction's report. (**Day 190/146/21 to Day 190/147/3**) Nor, apparently, have the RUC heard such a report if any reliance is to be placed on the indirect evidence of a "reliable" "senior Police officer" whose understanding has been transmitted via the journalist Liam Clarke to Martin Ingram. (**KI2.41 paragraph 9**)

24.2.7 Martin Ingram is a former member of the Force Research Unit who had the highest level of security access to Intelligence material in that unit. (**KI2.2 paragraph 4**) He gave evidence that he saw Intelligence documents to the effect that Martin McGuinness was under surveillance on the day, there were records of his activities before and after the march and there were none that suggested that he had a machine gun or that he fired a shot. (**KI2.41 paragraph 7**, **KI2.4 at paragraph 8** and **Day 329/78/12 to Day 329/78/25**)

24.2.8 Finally, in this regard, Martin McGuinness has specifically denied Infliction's claims (**KM3.6**) and explained his movements at the material time. (**KM3.4**) There is no evidence inconsistent with his account. Whereas he has given oral testimony and been subjected to cross-examination on this issue (**Day 390 to Day 391**), Infliction did not even make a statement and did not give oral or any evidence of this claim. On this basis alone, it would be wrong to place any weight on this report.

24.3 Witness X

24.3.1 The primary document concerning **Witness X** (**AX1.1 to AX1.2**) consists of what we understand to be a police officer's note of an interview with a suspect in custody in 1972. It is heavily redacted but it appears that the suspect claimed to have joined the Provisional IRA just after Mr Cusack was shot. Witness X is recorded as saying that he was in action on Bloody Sunday at Rossville Street. He is recorded as saying that he was on a joint operation, that he was firing a carbine from Glenfada and that he used two full magazines.

24.3.2 Witness X has made a statement (**AX1.3**). Apart from pointing out that the date of birth on the police note is not his, he denies ever having been in the IRA or handling weapons. Even if the document were an accurate record of what Witness X told police, it immediately gives rise to a number of questions concerning the reliability of the recorded claims. First, the suggestion (which is made by no one apart from Witness X) that the Provisional IRA and

Official IRA were engaged in a joint operation is difficult to reconcile with all the other evidence about the relationship between these two organisations. Secondly, although Witness X suggests that two identified Provisional IRA members and three identified Official IRA members were in Rossville Street, he did not apparently indicate what, if anything, they were doing or even whether he was with them. Thirdly, the claims are devoid of detail about such fundamental matters as when he fired, where exactly he fired from, the direction he fired, whether he believed he hit anyone and (since we know that he could not have hit any soldier) how he could have failed to hit anyone if he had discharged two full magazines.

24.3.3 Even taking Witness X's recorded claim at its height, there was no suggestion that he fired at soldiers "as the army came down Rossville Street" (as **INQ 2225** believed: **C2225.10 paragraph 58**) or at any time before the last civilian casualty was shot. The related documentation confirms this. In the redacted extract from paragraph 16 of an undated 1972 headquarters INTSUM, the army noted that the information provided by Witness X "does not amount to an admission that the IRA fired first" (**G134C.906.12**). In what appears to have been a subsequent letter from the Col. GS Intelligence at HQ Northern Ireland to a military intelligence liaison officer at RUC Head Quarters, the Army indicated that it would like Witness X to be asked a number of questions, including whether he was in Rossville Flats, whether he opened up as the soldiers got out of their armed vehicles, whether his firing was at the start of the shooting, how many other gunmen were firing at the time, who such other gunmen were and whether nail bombs were thrown. (**G134B.906.9**). It can reasonably be inferred that Witness X had not provided the answers to any of these questions in his initial interview. On foot of this request, a Detective Chief Inspector and Detective Sergeant in the RUC Special Branch did re-interview Witness X but he apparently refused to talk any more about Bloody Sunday and no further information was forthcoming. (**G134B.906.8**)

24.3.4 On the last day of the hearing, the Tribunal announced that Witness X was too ill to attend to give evidence. We have, therefore, been denied the opportunity to subject him to questioning.

24.3.5 On the basis of the material available, it is our submission that

(i) the claims allegedly made by Witness X are false; and

(ii) even taking them at their height, they do not constitute a claim that civilian gunmen fired on soldiers at any time before the last civilian casualty was shot, so that they are largely irrelevant.

25 LEGAL FRAMEWORK AGAINST WHICH RESPONSIBILITIES MUST BE JUDGED

25.1. Introduction

25.1.1. For the reasons set out in section 9 soldiers on active service in Northern Ireland have been able to exercise deadly force with virtual impunity, particularly during the "militarist" phase of 1969-1974.

25.1.2. The apparent absence of a criminal sanction against the use of lethal force by the Army in Northern Ireland has been the subject of sustained and determined criticism by a variety of organisations at home and abroad[1]. Statistical evidence confirms the lack of accountability of members of the military and security forces.[2]

25.1.3. It is the purpose of this section, however, to outline the legal framework within which the culpability of members of the military involved in Bloody Sunday must be assessed, bearing in mind also the general legal and constitutional considerations which applied in 1972 and which have received a detailed analysis in section eight above.

25.1.4. This section will outline the relevant domestic law on the use of force as well as relevant European and International Standards.

25.1.5. It is our submission that:

i) The use of lethal force by soldiers on Bloody Sunday was in contravention of domestic criminal law in that the individual

---

[1] As the Lawyers Committee for Human Rights points out: **"Unfortunately, ongoing concern has been expressed by human rights organizations and others in Northern Ireland in relation to the Judicial treatment of cases involving the exercise of lethal force by members of the security forces subsequently charged with serious offences including murder, manslaughter and grievous bodily harm."** Lawyers Committee for Human Rights, At the Crossroads: Human Rights and the Northern Ireland Peace Process 74 (1996).

[2] See "Shooting with impunity" in section nine for a more detailed account.

soldiers who fired shots were (and remain) guilty of murder and/or attempted murder and/or wounding with intent.

ii) The use of lethal force by soldiers was also a breach of Article 2 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) in that it was not 'absolutely necessary' within the meaning of Article 2.

iii) The use of lethal force by soldiers was a breach of International Treaty obligations and in particular: The Universal Declaration of Human Rights ('Universal Declaration')[3]; the International Covenant on Civil Political Rights (ICCPR)[4] and the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (UN Principles)[5].

iv) The operation was not planned and controlled in a manner designed to minimise to the greatest extent possible the risk of the use of lethal force. The responsibility for planning and controlling the operation lay with 8th Brigade, General Ford and his immediate superiors. The essential elements of Operation Forecast and those which contributed directly to the use of lethal force were sanctioned by both the Stormont and Westminster Governments.

v) In breach of the UN Principles[6], the operation was not planned and controlled in a manner that prevented extra-legal, arbitrary and summary executions. Nor did the respective Governments plan the operation as to prohibit orders from superior officers authorizing or inciting other persons to carry out such extra-legal, arbitrary or summary executions.

vi) The arrest operation and detention of suspects was in breach of Article 3 (ECHR) in that the arrestees were subjected to torture or to inhuman or degrading treatment or punishment.

vii) The arrest operation and detention of suspects was in breach of International treaty obligations and in particular: the Universal Declaration; the ICCPR, the UN Convention Against Torture and

[3] Proclaimed by the General Assembly of the United Nations on 10 December 1948.
[4] Ratified by the United Kingdom Government in May 1976.
[5] Adopted on 24 May 1989 by the Economic and Social Council Resolution 1989/65.

other Cruel, Inhuman and Degrading Treatment or Punishment ('Convention Against Torture')[7], and the Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Declaration against Torture).[8]

25.2. Relevant Domestic Law

25.2.1. The exercise of force in Northern Ireland by members of the Security Forces at the time of Bloody Sunday was governed by **section 3** of the **Criminal Law (Northern Ireland) Act 1967**.

25.2.2. Section 3 provides

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

(2) Subsections (1) shall replace the rules of the common law as to the matters dealt with by that subsection"

25.2.3. In **Re Farrell**[9] the House of Lords held that:

" section 3 (1) of the Criminal Law Act (Northern Ireland) 1967 meant that the question to be determined when such a defence was put forward in, inter alia, a criminal action was whether the accused had used such force as had been reasonable in the circumstances in which he had been placed in the prevention of crime or in bringing about the lawful arrest of an offender or suspected offender."

---

[6] Principles 2 & 3.
[7] Ratified by the United Kingdom on 8 December 1988.
[8] Adopted by General Assembly Resolution 3452 (XXX) of 9 December 1975.
[9] *Farrell v Secretary of State for Defence*; House of Lords, [1980] 1 All ER 166, [1980] 1 WLR 172, 70 Cr App Rep 224, 19 DECEMBER 1979.

25.2.4. This provision came into existence following the recommendations of the Seventh Report of the Criminal Law Revision Committee (CLRC).

25.2.5. Before the concept of 'reasonableness' was imported into the statutory structure as a result of the CLRC Report, the law required 'apparent necessity' before an officer of justice might use deadly force.[10] The move to this broader definition was intended to relax the restrictions on the use of force in that 'reasonableness' as a broad and malleable concept facilitated a broad interpretation in the light of the emergency situation.[11]

25.2.6. When analysing the reasonableness concept, academic writers have partitioned it into two primary subcomponents:[12] first, a proportionality requirement, and second, a necessity element.

25.2.7. Proportionality implies an equality of response to the threat posed between individuals in that the reaction to a threat should not be excessive, but measured to respond to the danger posed. The question is whether, on an objective assessment, the harm that might result from the use of lethal force, i.e. death, is less than the harm that may follow from allowing an individual to escape arrest or continue to carry out an unlawful act. 'Necessity' can be interpreted as meaning that the least violent measures must be used to avert the threat encountered. Glanville Williams argues that the averting theory has two sub-components: the immediacy principle and the non-excessive force principle.[13] The immediacy principle requires that the threat must be actual and at hand whereas non-excessive force implies that minimal rather than maximal force should be exercised.

25.2.8. However generously the requirement of reasonableness is construed, the individual soldiers on Bloody Sunday had no reasonable grounds to

---

[10] *R v Roy Alun Jones* [1975] 2 NIJB 1 at 16.
[11] Derived from Fionnuala Ní Aoláin; *The Politics of Force Conflict Management and State Violence in Northern Ireland*; Blackstaff Press Belfast 2000 p102.
[12] See generally Glanville Williams, *Textbook on Criminal Law* 50 2nd ed., 1983.
[13] Glanville Williams, *Textbook on Criminal Law* 494 2nd ed., 1983.

believe that the use of lethal force was necessary in the prevention of a crime or to effect an arrest. Section 3 of the 1967 Act does not, therefore, provide them with a defence to criminal charges arising from their use of such force

25.2.9. Moreover, it is an elementary principle of criminal law that anyone who aids, abets, counsels or procures an offence is liable to be tried, indicted and punished as a principal offender: **s. 8, Accessories and Abettors Act 1861 and see generally Archbold 2004 at paragraph 18.2 et seq.** Where two or more persons embark on a joint enterprise, each is liable for the acts done in pursuance of that joint enterprise: see generally **Archbold, Criminal Pleading, Evidence and Practice 2004 at paragraph 18.5 et seq.**

25.3. The Right To Life

25.3.1. Article 2 of the European Convention provides:

> 1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
> 2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
> **a** in defence of any person from unlawful violence;
> **b** in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
> **c** in action lawfully taken for the purpose of quelling a riot or insurrection.

25.3.2. Article 2 imposes a positive obligation on the government to protect the right to life. This positive obligation requires domestic legislation to regulate the permissible use of lethal force; the intentional lethal use of

firearms should be compatible with the ECHR and should occur only when strictly unavoidable in order to protect life.

25.3.3. The European Court has held that Article 2 of the Convention does not define situations where it is permissible intentionally to kill an individual, but rather defines situations where it is permissible to use force that may result in deprivation of life as the unintended outcome of the use of force.[14]

25.3.4. Moreover, where death results from the State's use of lethal force, a violation of Article 2 will be established unless the state, and it is the state which bears the onus, shows that one of the exceptions set out in Article 2(2) is met. Any claim of justification under these exceptions must be strictly construed (as is made clear by the "absolutely necessary" test) due to the fact that Article 2 "ranks as one of the most fundamental provisions in the Convention."[15]

25.3.5. The Court has stated that a test of the "necessity" of the use of lethal force includes an assessment as to whether interference with the Convention right was proportionate to the legitimate aims pursued; and that in establishing whether the use of force was "strictly proportionate" regard must be had "to the nature of the aim pursued, the dangers to life and limb inherent in the situation, and the degree of the risk that the force employed might result in loss of life".[16]

[14] *Kathleen Stewart v. U.K.* [1984] 7 EHRR 453; Application No. 10044/82. D.R. 39/162).
[15] *Jordan v. UK.* Application No. 24746/94
[16] *Kathleen Stewart v U.K* (as above)

25.3.6. It is our submission that the actions of those soldiers who fired lethal shots did so in breach of Article 2 of the Convention, in that their actions were not "absolutely necessary" within the meaning of Article 2.

25.3.7. This submission is strengthened by the decision of the European Court in **Gulec v. Turkey**.[17] In this case the Court held that the use of lethal force to disperse demonstrators by state officials in reaction to what they did not deny was a very violent demonstration was not absolutely necessary within the meaning of Article 2. Given that it is our submission that all of those targeted by the use of lethal force on Bloody Sunday were innocent unarmed civilians, the use of lethal force was neither strictly necessary nor proportionate to the NICRA demonstration and ensuing violence.

25.3.8. The European Court in the case of **Ergi v Turkey**[18] considered that, in keeping with the importance of the provision of Article 2 in a democratic society, the Court must, in making its assessment, subject deprivations of life to the most careful scrutiny, particularly where deliberate lethal force is used, taking into consideration not only the actions of the agents of the state who actually administer the force but also all the surrounding circumstances, including such matters as the planning and control of the actions under examination. Furthermore, under Article 2 of the Convention, read in conjunction with Article 1, the state may be required to take certain measures in order to "secure" an effective enjoyment of the right to life.

25.3.9. The concept of planning and control of the use of lethal force was also approached by the Court in the case of **McKerr v United Kingdom**:[19]

[17] Application No. 21593/93
[18] Application No. 23818/94 (28th July 1998 unreported)
[19] Application No. 28883/95/[1996] 21 EHRR 97.

". in determining whether the force used was compatible with Art.2, the Court must carefully scrutinise not only whether the force used by the soldiers was strictly proportionate to the aim of protecting persons against unlawful violence but also whether the anti-terrorist operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force".

25.3.10. Therefore in considering the compatibility of national law and practice with the European Convention and specifically Article 2, the Court has provided that national law must strictly control and limit the circumstances in which a person may be deprived of life by agents of the state. The state must also give appropriate training, instructions and briefing to agents who may use force, and exercise strict control over any operations that may involve use of lethal force.

25.3.11. It is our submission that such strict control, instructions and planning were absent in the period leading up to Bloody Sunday.

Other International Standards

25.3.12. The foundation of the international human rights legal system, the Universal Declaration of Human Rights, provides in Article 3 that

Everyone has the right to life, liberty and security of person.

25.3.13. The International Covenant on Civil and Political Rights elaborates upon the provision for the Right to Life within the Universal Declaration and states in Article 6

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

25.3.14. The UN Principles again elaborate upon the Right to Life provided for in the Universal Declaration:

> **Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody. This prohibition shall prevail over decrees issued by governmental authority.**

25.3.15. Echoing the European Court's emphasis on the importance of proper military control, instruction and planning, Article 2 of the UN Principles provides:

> 2. **In order to prevent extra-legal, arbitrary and summary executions, Governments shall ensure strict control, including a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as**

well as those officials authorized by law to use force and firearms.....

3. **Governments shall prohibit orders from superior officers or public authorities authorizing or inciting other persons to carry out any such extralegal, arbitrary or summary executions. All persons shall have the right and the duty to defy such orders. Training of law enforcement officials shall emphasize the above provisions.**

25.4. The Right To Be Free From Torture, Inhuman or Degrading Treatment.

25.4.1. Article 3 of the European Convention on Human Rights provides:

> **No one shall be subjected to torture or to inhuman or degrading treatment or punishment.**

25.4.2. The prohibition on torture and other forms of inhuman and degrading treatment is absolute and generally enforced by the Court with rigour. There are no exceptions and it cannot be derogated.[20]

25.4.3. The ECHR organs have adopted what can best be described as a 'vertical' approach to Article 3, which is seen as comprising three separate elements, each representing a progression of seriousness, in which one moves progressively from forms of ill-treatment which are 'degrading' to those which are 'inhuman' and then to 'torture'. The distinctions between them are based on the severity of suffering involved, with 'torture' at the apex.

---

[20] European Convention on Human Rights, Article 15; See also Report of the Committee of Privy Councillors Appointed to Consider Authorised Procedures for Interrogation of Persons Suspected of Terrorism.

25.4.4. What is also clear is that mistreatment must attain a minimum level of severity in order to fall within the cope of Article 3. The assessment of this minimum is relative and depends on such factors as duration of the treatment, effects, age, sex and state of health of the injured party.[21]

25.4.5. Moreover, treatment causing mental suffering is sufficient to fall within Article 3, provided a sufficient degree of intensity is reached.[22] Provided it is sufficiently real and immediate, a mere threat of inhuman or degrading treatment may itself violate Article 3.[23]

25.4.6. Owing to their particular vulnerability to assault and violation of their rights, the Court has adopted a necessarily low threshold for the minimum in the case of individuals who have been assaulted by a member of the security forces whether during an arrest or in detention.[24] The Court has repeatedly held that where a person is taken into custody in good health, found to be injured at the time of release, and alleges ill treatment, it is incumbent on the state to provide a plausible explanation as to the cause of his injuries to avoid liability under Article 3.[25] Furthermore, the court has declared that states are:

> strictly liable for the conduct of their subordinates; they are under a duty to impose their will on subordinates and cannot shelter behind their inability to ensure that it is respected.[26]

---

[21] *Ireland v United Kingdom* Application No. 5310/71; [1978], 2 EHRR 25at para 162.
[22] *Kurt v Turkey*. Application No. 24276/94; European Court of Human Rights 25 May 1998. The Court held that a mother who suffered anguish as the result of the disappearance of her son following his detention by the authorities was herself to be regarded as the victim of a violation of Article 3.
[23] *Campbell and Cosans v United Kingdom*. Application No. 7511/76, 7311/76; [1982] 4 EHRR 293, para 26.
[24] In *Ribitsch v Austria* the court stated that any recourse to physical force which has not been made strictly necessary by the applicant's conduct diminishes the human dignity and is in principle a breach of article 3; Application No.18896/91; [1995] 21 EHRR 573 at para 38.
[25] *Tomsai v France* Application No. 12850/87; [1992] 15 EHRR 1.
[26] *Ireland v United Kingdom* (as above)

25.4.7. The term 'strict liability' used in that liability will attach unless it can be clearly shown that all reasonable measures have been taken to prevent such acts occurring, and to investigate and punish where appropriate.[27]

25.4.8. In this context, the European Court has observed that: "the increasingly high standard being required in the area of the protection of human rights and fundamental liberties correspondingly and inevitably requires greater firmness in assessing breaches of the fundamental values of democratic societies."[28]

25.4.9. It is our submission that the arrest, detention and abuse of individuals by soldiers on Bloody Sunday constituted a breach of Article 3. The severity of the assaults sustained by detainees reached the minimum standard required. Moreover it is clear that all reasonable measures were not taken to prevent such assaults occurring and that reasonable measures were not taken to investigate and punish those responsible.

25.4.10. The prohibition contained in Article 3 is closely modelled on the Universal Declaration of Human Rights, Article 5 of which provides:

> **No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.**

25.4.11. Similarly, Article 7 of the ICCPR provides:

---

[27] Derived from Human Rights Law and Practice; Lord Lester of Herne Hill& David Pannick; Butterworths 1999.

[28] *Selmouni v France* [GC] Judgement, 28 July 1999; Application No. 25803/94; 29 EHRR 403, para 101.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

25.4.12. More detailed measures adopted by the International community, including the United Kingdom, to combat torture and inhuman treatment are contained in the United Nations Declaration Against Torture which provides as follows:

Article 2

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

Article 3

No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 4

Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction.

Article 5

The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

Article 6

Each State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

25.4.13. The UN Convention Against Torture again expands upon the right not to be subjected to torture and offers a distinct definition as follows:

Article I

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

25.4.14. The Convention further provides:

Article 2

Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

An order from a superior officer or a public authority may not be invoked as a justification of torture.

25.4.15. Thus according to the Convention, for an act to 'qualify' as torture it must (a) cause severe physical or mental suffering (b) be inflicted for a purpose and (c) be inflicted by, or with the acquiescence of, an official (that is to say, it can be attributed to the state).

25.4.16. Within the Convention Against Torture a separate definition is offered to those actions, which would constitute inhuman or degrading treatment or punishment as:

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the

consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

25.4.17. It is our submission that the actions of the Army leading up to and on Bloody Sunday did not comply with these international standards[29].

25.5. Conclusion

25.5.1. The use by the Army of lethal force on the streets of Derry on Bloody Sunday to control a civilian population entailed taking the lives of 13 people and the wounding of others who were unarmed and who provided no threat to the security forces or anyone else.

25.5.2. The use of such force in the circumstances that prevailed amounted to murder and/or attempted murder and/or wounding with intent in breach of U.K. domestic law. Criminal liability for the offences committed rests not only with the individual soldiers who pulled the triggers but also with the other soldiers who acted in concert with them in their joint enterprise and with those in authority who pulled their strings.

25.5.3. Nor was such force an 'absolute necessity' within the meaning of Article 2 of the European Convention so that the use of lethal force was a flagrant violation of the European Convention, as well as of relevant international obligations.

25.5.4. The arrest operation was not conducted so as to "minimise, to the greatest extent possible, recourse to lethal force". *McCann v. United Kingdom* (1966) 21 EHRR 97

25.5.5. The arrest, detention and ill-treatment of marchers also amounted to inhuman and degrading treatment contrary to Article 3 of the European Convention. The planning and execution of the entire military operation on Bloody Sunday involved wholesale violations of Articles 2 and 3 of the Convention, for which the United Kingdom Government must bear responsibility.

[29] The position of the rights protected by the European Convention in domestic law after the Human Rights Act 1998 has been clarified by the recent decision of the House of Lords in *In Re McKerr* [2004] UKHL 12

26 Allegations against Soldiers in 1 Para

Introduction

This Section contains allegations against the Shooters in 1 Para. It also contains allegations against Lieutenant 119 and Colour Sergeant 002 on the basis of their roles arising out of their command of soldiers engaged in particular shootings. This Section is in addition to the Sections on the Role and Responsibility of Individual Soldiers contained within the Conclusions in each Sector.

26.1 Corporal A

It is alleged as follows:

(i) Corporal A fired at least 2 shots unlawfully, recklessly and without justification. He did not believe that either Damien Donaghy, John Johnston or any other person in proximity to them posed any threat to life. The circumstances in which he claims to have fired do not match any of the circumstances in which victims in the laundry waste ground in William Street were shot. However, his shots may have hit Damien Donaghy, John Johnston or both, in which case his conduct amounted to attempted murder or, at least, causing grievous bodily harm with intent, contrary to Section 18 of the Offences Against the Persons Act 1861.

(ii) Corporal A was, and remains, in collusion with Private B and invented an account of a nail bomber in order to justify the live rounds he fired and those fired by Private B

(iii) In view of the lies told by Corporal A in his subsequent statements, and on oath, in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.2 Private B

It is alleged as follows:

(i) Private B cocked his rifle in breach of the Yellow Card before there was any justification for doing so.

(ii) His action in cocking his rifle in breach of the Yellow Card demonstrated a willingness to use lethal force on the slightest pretext.

(iii) Private B fired at least 3 shots unlawfully, recklessly and without justification. He did not believe that either Damien Donaghy, John Johnston or any other person in proximity to them posed any threat to life. The circumstances in which he claims to have fired do not match any of the circumstances in which victims in the laundry waste ground in William Street were shot. However, his shots may have hit Damien Donaghy, John Johnston or both, in which case his conduct amounted to attempted murder or, at least, causing grievous bodily harm with intent, contrary to Section 18 of the Offences Against the Persons Act 1861.

(iv) Private B was, and remains, in collusion with Corporal A and invented an account of a nail bomber in order to justify the live rounds he fired and those fired by Corporal A.

(v) In view of the lies told by Private B in his subsequent statements, and on oath, in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.3 Private C

It is alleged as follows:

(i) Private C claimed to fire 2 rounds at a man with a rifle at the south-west corner of Block 1 and 3 rounds at a pistol man firing from a window on the third storey of Block 1 Rossville Flats. He fired those shots unlawfully, recklessly and without justification.

(ii) In view of the lies he told subsequently in statements in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.4 Lance Corporal D

It is alleged as follows:

(i) Lance Corporal D claimed to fire 2 rounds at a pistol man firing from a window on the third storey of Block 1 Rossville Flats. He fired those shots unlawfully, recklessly and without justification.

(ii) In view of the lies he told subsequently in statements in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice

26.5 Corporal E

It is alleged as follows:

(i) Corporal E claimed to have fired 1 shot from the Kells Walk Wall in the direction of the southwest corner of Block 1 of the Rossville Flats. He is a suspect for shooting Hugh Gilmore. There was no justification for the firing of these rounds and Corporal E's conduct amounted to murder.

(ii) Acting in concert as he was with other members of his Platoon and members of Mortar Platoon in a joint enterprise, he is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iii) He fired 2 shots towards the southeast corner of Glenfada Park North. He is a suspect for shooting Patrick O'Donnell. There was no justification for this shot. Corporal E's conduct in doing so

amounted to attempted murder and causing grievously bodily harm with intent, contrary to Section 18 of the Offences Against The Person Act 1861.

(iv) In view of the fact that he not only engaged in a joint enterprise with other members of his platoon but was in charge of the brick that entered Glenfada Park, he is also criminally liable for the murders of Gerard McKinney, Gerard Donaghey, William McKinney and James Wray and the attempted murder and grievous bodily harm of Patrick O'Donnell, Joseph Mahon, Joseph Friel, Michael Quinn and Danny Gillespie.

(v) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.6 Lance Corporal F

It is alleged as follows:

(i) Lance Corporal fired 1 shot from the Kells Walk Wall over the Rubble Barricade, hitting and killing Michael Kelly. There was no justification for the firing of this round and Lance Corporal F's conduct amounted to murder.

(ii) Acting in concert as he was with other members of his Platoon and members of Mortar Platoon in a joint enterprise, he is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iii) Contrary to his evidence to the Widgery Inquiry Lance Corporal F fired more than 1 shot from the Kells Walk Wall over the Rubble Barricade, he is a suspect for hitting and killing one of those killed behind the Rubble Barricade. Again this shooting was in concert with other members of his Platoon and members of Mortar Platoon in a joint enterprise and his is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iv) Lance Corporal F also claimed to have fired two shots at a target in Glenfada Park and killed that person. Those shots probably killed Willie McKinney and, having passed through him, injured Joseph Mahon. He fired without justification and therefore murdered Willie McKinney. His conduct in respect of Joseph Mahon amounted to attempted murder and causing grievously bodily harm with intent, contrary to Section 18 of the Offences Against The Person Act 1861.

(v) Since Lance Corporal F was acting in concert with the other members of his platoon in a joint enterprise and also as a junior NCO with a leadership role, he is in any event criminally liable on this basis for the murders of Gerard McKinney, Gerard Donaghey, Willie McKinney and James Wray and the attempted murder and grievous bodily harm of Patrick O'Donnell, Joseph Mahon, Joseph Friel Michael Quinn and Danny Gillespie.

(vi) Lance Corporal F also fired a number of rounds at the window of 12 Garvan Place, Block 1 of the Rossville Flats. Those rounds were fired without justification. Lance Corporal F's firing of those shots, fired as they were at the window of an occupied flat amounted to attempted murder.

(vii) Lance Corporal F fired without justification in Sector 5, behind block 2 of Rossville Flats. He wounded Patrick Campbell and Danny McGowan. He is criminally liable for the attempted murder and grievous bodily harm of both. He murdered Patrick Doherty and Barney McGuigan.

(viii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.7 Private G

It is alleged as follows:

(i) Private G fired at least 2 shots while on Rossville Street. There was no justification for the firing of these rounds. Acting in concert as he was with other members of his Platoon and members of Mortar Platoon in a joint enterprise, he is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(ii) Contrary to his evidence to the Widgery Inquiry Private G fired shots from the Kells Walk Wall over the Rubble Barricade, he is a suspect for hitting and killing one of those killed behind the Rubble Barricade. Again this shooting was in concert with other members of his Platoon and members of Mortar Platoon in a joint enterprise and his is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iii) Private G claimed to have fired three shots at one target in Glenfada Park. He claimed that after he had fired his shots two people fell. Those shots may have injured Joseph Friel. If so his conduct in respect of Joseph Friel amounted to attempted murder and causing grievously bodily harm with intent, contrary to Section 18 of the Offences Against The Person Act 1861.

(iv) Private G's weapon was conclusively linked to the bullet recovered from Gerard Donaghey. The evidence is clear that the same soldier shot both Gerard Donaghey and Gerard McKinney. Private G therefore murdered Gerard McKinney and Gerard Donaghey.

(v) Since he was acting in concert with the other members of his platoon in a joint enterprise he is in any event criminally liable on this basis for the murders of Gerard McKinney, Gerard Donaghey, Willie McKinney and James Wray and the attempted murder and grievous bodily harm of Patrick O'Donnell, Joseph Mahon, Joseph Friel, Michael Quinn and Danny Gillespie.

(vi) Private G also fired at least one round at the window of 12 Garvan Place, Block 1 of the Rossville Flats. That shot was fired without justification. Private G's firing of that shot, fired as it was at the window of an occupied flat amounted to attempted murder.

(vii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.8 Private H

It is alleged as follows:

(i) Private H fired 22 rounds on Bloody Sunday and claims to have fired all of these rounds in Glenfada Park. It is not accepted that all of the rounds fired by Private H were fired in Glenfada Park North and it is alleged that some of those rounds were fired over the Rubble Barricade. There was no justification for the firing of these rounds.

(ii) Acting in concert as he was with other members of his Platoon and members of Mortar Platoon in a joint enterprise, he is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iii) On the basis of the shots Private H claimed to have fired at targets in the outdoors in Glenfada Park he is a suspect for the murder of Willie McKinney and the wounding of Joseph Mahon and Joseph Friel. If so he murdered Willie McKinney and his conduct in respect of Joseph Mahon and Joseph Friel amounted to attempted murder and causing grievously bodily harm with intent, contrary to Section 18 of the Offences Against The Person Act 1861.

(iv) Since he was acting in concert with the other members of his platoon in a joint enterprise he is in any event criminally liable on this basis for the murders of Gerard McKinney, Gerard Donaghey, Willie McKinney and James Wray and the attempted murder and grievous bodily harm of Patrick O'Donnell, Joseph Mahon, Joseph Friel, Michael Quinn and Danny Gillespie.

(v) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.9 Lance Corporal J

It is alleged as follows:

(i) Lance Corporal J fired 2 shot from the Kells Walk Wall. The first shot was fired over the Rubble Barricade and the location at which Lance Corporal J has placed his first target is the location at which Michael McDaid, John Young and William Nash were killed, shortly after the killing of Michael Kelly. That shot was fired without justification. Lance Corporal J claims not to have hit anyone with that shot. Lance Corporal J is a suspect for the shooting of Michael McDaid, John Young or William Nash and his conduct amounted to murder. In any event his conduct amounted to attempted murder.

(ii) Lance Corporal J's second shot from the Kells Walk Wall was fired in the direction of the south-west corner of Block 1 of the Rossville Flats. That shot was fired without justification. Lance Corporal J claims that he did not hit his target. If that shot hit Hugh Gilmore, Lance Corporal J's conduct amounted to murder. In any event his conduct amounted to attempted murder.

(iii) Acting in concert as he was with other members of his Platoon and members of Mortar Platoon in a joint enterprise, he is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iv) In view of the lies told by Lance Corporal J subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.10 Sergeant K

It is alleged as follows:

(i) Sergeant K fired 1 shot by his own admission and expressed confidence that he hit his target. He claimed to have fired at a man with a rifle who was crawling (behind another man) from the Barricade towards the entrance to Block 1 of the Rossville Flats. He is a suspect for shooting Kevin McElhinney. He fired without justification and therefore murdered Kevin McElhinney.

(ii) Since he was acting in concert with Private L and M in a joint enterprise and also as an NCO with a leadership role, he is in any event criminally liable on this basis for the murder of Kevin McElhinney.

(iii) In view of the lies he told subsequently in statements in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.11 Private L

It is alleged as follows:

(i) Private L cocked his rifle in breach of the Yellow Card. He fired at least 1 round into the rafters of a derelict building in order to terrify a prisoner when there was no justification for doing so. This was a further breach of the Yellow Card.

(ii) Private L claimed to have fired 2 rounds at a man with a rifle who was crawling (in front of another man) from the Barricade towards the entrance to Block 1 of the Rossville Flats. He believed that he may have shot both men. He fired without justification.

(iii) He is a suspect for murdering Kevin McElhinney.

(iv) Since he was acting in concert with Sergeant K and Private M in a joint enterprise he is in any event criminally liable on this basis for the murder of Kevin McElhinney.

(v) He also claimed to fire 2 rounds at a man with a rifle in a burnt out factory on the west side of the junction of Kells Walk and Abbey

Street. The circumstances in which he fired his shots do not match the circumstances in which any of the victims were hit. He fired without justification.

(vi) In view of the lies he told subsequently in statements in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.12 Private M

It is alleged as follows:

(i) Private M claimed to fire 1 round at the first of two men crawling from the Barricade towards the entrance to Block 1 of the Rossville Flats. He then fired a 2nd round at the second of the two men. He believed that he hit both men. These shots were fired without justification.

(ii) He is a suspect for murdering Kevin McElhinney.

(iii) Since he was acting in concert with Soldiers L and K in a joint enterprise he is in any event criminally liable on this basis for the murder of Kevin McElhinney.

(iv) In view of the lies he told subsequently in statements in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice..

26.13 Lieutenant N

It is alleged as follows:

(i) In breach of the Yellow Card, Lieutenant N fired 3 shots at or above the heads of civilians in Eden Place. Apart from being reckless firing that endangered the lives of civilians, these were probably the first shots fired after the paratroopers debussed and probably triggered at least some of the shooting which followed.

(ii) Lt N fired 1 shot towards the Rossville Flats courtyard. He is a suspect for wounding Michael Bridge although it is also possible that he hit Peggy Deery. There was no justification for this shot. Lieutenant N's conduct in doing so amounted to attempted murder and causing grievously bodily with intent, contrary to Section 18 of the Offences Against The Person Act 1861.

(iii) The additional effect of his conduct was to encourage his subordinates to continue firing at civilians. In view of the fact that he not only engaged in a joint enterprise with other members of his platoon but was in charge of that platoon, he is also criminally liable for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(iv) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.14 Sergeant O

It is alleged as follows:

(i) **Sergeant O** fired at least 8 shots at civilians without justification. The circumstances in which he claims to have fired do not match any of the circumstances in which victims in the courtyard were shot. However, at the very least, he is criminally liable for the attempted murder, alternatively causing grievous bodily harm, of civilians in the courtyard.

(ii) Moreover, as in the case of Lieutenant N, he was not only engaged in a joint enterprise with members of his platoon but also occupied a command role and is therefore criminally liable for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(iii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.15 Corporal P

It is alleged as follows:

(i) Corporal P cocked his rifle in breach of the Yellow Card, probably before debussing, but certainly before there was any justification for doing so.

(ii) Corporal P fired 2 shots from the hip at the crowd at the Rubble Barricade. These shots did not cause any casualties. Nonetheless those rounds were fired without justification, in circumstances where they endangered life and Corporal P's actions amounted to attempted murder.

(iii) The additional effect of his conduct was to encourage the soldiers from Anti-Tank Platoon to fire live rounds at civilians. In view of the fact that he engaged in joint enterprise with soldiers from Anti-Tank Platoon he is criminally liable for the deaths of Michael McDaid, John Young and William Nash.

(iv) Acting in concert as he was with other members of Anti-Tank Platoon and Private U in a joint enterprise, he is also criminally liable for the murders of Hugh Gilmore and Michael Kelly.

(v) Corporal P fired at least 4 more rounds at the crowd at the Rubble barricade. These shots probably hit one or more of Michael McDaid, John Young or William Nash. There was no justification for the firing of those rounds. Corporal P's conduct in doing so amounted to murder. Even in the event that the shots fired by Corporal P did not hit and kill Michael McDaid, John Young or William Nash acting as he was in concert with the members of Anti-Tank Platoon in a joint enterprise, he also is in any event criminally liable for their murder.

(vi) Corporal P fired a further 3 to 5 shots over the Rubble Barricade in circumstances which were in breach of the Yellow Card and which were unjustified.

(vii) In view of the lies told by Corporal P subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.16 Private Q

It is alleged as follows:

(i) **Private Q** fired at least one shot by his own admission, and claimed that he hit his target. The circumstances in which he claims to have fired do not match the circumstances in which any of the victims were hit. He fired without justification. However, he is a suspect for murdering Jackie Duddy.

(ii) Acting as he was in concert with the other members of his platoon in a joint enterprise, he also is in any event criminally liable for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(iii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.17 Private R

It is alleged as follows:

(i) **Private R** fired four shots by his own account, one at a civilian in the Rossville Flats courtyard close to Block 1 and three at a civilian between Blocks 2 and 3. He believes he hit his first target on the right shoulder but is not sure whether he hit his second target. The circumstances in which he fired his shots do not match the circumstances in which any of the victims were hit. He fired without justification. Based on the site of the wound he claimed to have inflicted, his first target may have been Jackie Duddy. If so, he is guilty of the murder of Jackie Duddy. Since he acted in concert with the other members of his platoon in a joint enterprise, he is in any

event criminally liable for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(ii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.18 Private S

It is alleged as follows:.

(i) By his own account **Private S** fired 12 shots at a target or targets at the same location between Blocks 1 and 2. He believed that he hit his target on at least 2 occasions. The circumstances in which he fired his shots do not match the circumstances in which any of the victims were hit. He fired without justification.

(ii) Bearing in mind the number of shots fired by him and the fact that he fired a number of them from the hip as he advanced towards the courtyard, he is a suspect for the shooting of any one or more of the victims in the courtyard.

(iii) Since he acted in concert with the other members of his platoon in a joint enterprise, he is criminally liable for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(iv) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.19 Private T

It is alleged as follows:

(i) **Private T** claims to have fired 2 shots at an acid bomber on the balcony of Block 1 but does not know whether he struck his target. The circumstances in which he fired his shots do not match the

circumstances in which any of the victims were hit. He fired without justification.

(ii) Since he acted in concert with the other members of his Platoon in a joint enterprise, he is criminally liable for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(iii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.20 **Private U**

It is alleged as follows:

(i) Private U claims to have fired 1 shot at a pistol man south west of the southern end of Block 1. The man fell backwards and a man behind him fell clutching his head. He is the main suspect for the shooting of Hugh Gilmore. He fired without justification and therefore murdered Hugh Gilmore.

(ii) Acting in concert as he was with other members of his Platoon and members of Anti-tank Platoon in a joint enterprise, he is criminally liable for the murder of Hugh Gilmore, John Young, Michael McDaid, Michael Kelly and William Nash.

(iii) In view of the lies told by Private U subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice

26.21 **Lance Corporal V**

It is alleged that:

(i) Lance Corporal V claims to have fired 1 shot at a petrol bomber at a petrol bomber in the car park and hit his target in the stomach. He is the main suspect for the shooting of Jackie Duddy. He fired without justification and therefore murdered Jackie Duddy.

(ii) Since he was acting in concert with the other members of his platoon in a joint enterprise and also as a junior NCO with a leadership role, he is in any event criminally liable on this basis for the murder of Jackie Duddy and the attempted murder and grievous bodily harm of Peggy Deery, Michael Bridge, Michael Bradley and Patsy McDaid.

(iii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

26.22 **Colour Sergeant 002**

It is alleged as follows:

(i) Colour Sergeant 002 was the Senior NCO in charge of Call Sign 71 Alpha. He was at the Kells Walk Wall along with the other members of the Composite Platoon and as such was able to see that Kevin McElhinney was unarmed. He ordered Soldiers L and M to open fire when there was no justification for doing so. In view of his role as the NCO in charge of this half-platoon he is criminally liable for the murder of Kevin McElhinney. In view of the lies he told subsequently in statements in order to conceal his own and other soldiers' crimes, he is also guilty of perverting the course of justice.

26.23 **Lieutenant 119**

It is alleged as follows:

(i) Lieutenant 119 was the officer-in-charge of Anti-Tank Platoon and briefed his Platoon in a manner designed to encourage the use of lethal force in circumstances which were unjustified. On his own admission he was also one of the first soldiers from Anti-Tank Platoon to reach the Kells Walk Wall and as such was in a position to: see that the crowd behind the Rubble Barricade was unarmed;

and, order his soldiers to stop firing. In view of his role as officer-in-charge of his platoon he is criminally liable for the murder of Michael Kelly, John Young, Michael McDaid, William Nash and Hugh Gilmore.

(ii) Lieutenant 119 did not order his men to advance into Glenfada Park and failed to stop them from entering Glenfada Park and Abbey Park. On his own admission he was present in Glenfada Park when F opened fire and therefore should have been in a position to also see G, E and H firing into a fleeing crowd at unarmed civilians. He did not order his soldiers to stop firing. In these circumstances and in view of his role as officer-in-charge of his platoon he is criminally liable for the murder of Gerard McKinney, Gerard Donaghey, Willie McKinney and James Wray and the attempted murder and grievous bodily harm of Patrick O'Donnell, Joseph Mahon, Joseph Friel, Michael Quinn and Danny Gillespie.

(iii) In view of the lies he told subsequently in statements and on oath in order to conceal his own and other soldiers' crimes, he is also guilty of perjury and perverting the course of justice.

27 ALLEGATIONS AGAINST SENIOR MILITARY OFFICERS

27.1 It is alleged that

1.

a) The senior officers violated their obligation to protect the right to life of the marchers and others and failed to take all feasible measures to vindicate the right to life and to minimise to the maximum possible extent the risk to innocent lives.

b) By their acts and omissions in the planning, organisation, approval and conduct of the military operation on Bloody Sunday the senior officers violated domestic and international law standards protecting the right to life including Article 2 of the European Convention.

2. The legal context in which the acts and omissions of the senior officers fall to be judged has been set out in Section 25.

General Carver

3. General Carver was aware of the number of deaths that had been caused by the military in controversial circumstances in Northern Ireland and failed to take any or adequate steps to ensure there were no others.

4. General Carver knew of and approved the unlawful usurpation by the army of the role of the police.

5. General Carver approved the plans for Operation Forecast and the use of 1 Para in spite of the specific warning communicated to him via Lieutenant Colonel Ramsbotham.

6. General Carver knew within hours of Bloody Sunday that unarmed civilians had been deliberately shot by 1Para. He appraised Sir

Edward Heath, Lord Carrington and the members of GEN47 on the morning of 31st January 1972 that "***only shooting into crowds was directed at hooligans***" (as opposed to gunmen).

General Tuzo

7. General Tuzo was behind the Internal Instructions which illegally supplanted the role of the police with the military and illegally took control of all security operations.

8. General Tuzo illegally entered into an agreement with the Chief Constable to remove soldiers from the criminal justice system and the normal functioning of the criminal law.

9. General Tuzo was aware of the number of deaths that had been caused by the military in controversial circumstances in Northern Ireland and failed to take any or adequate steps to ensure there were no others.

10. General Tuzo was aware of Major General Ford's memo entitled "The Situation in Londonderry as at 7th January 1972" (**G48.299 to G48.301**). There is no evidence that he dissented from its contents, and in fact he brought them to attention of the JSC.

11. General Tuzo approved the plan for Operation Forecast.

12. General Tuzo was aware of all the decisions being made about the arrest operation and the thinking which underlay it.

13. General Tuzo was the source of Major General Ford's hostility to and dismissal of Chief Superintendent Lagan.

General Ford

14. General Ford wanted to break the "no-go" areas and to teach 8 Brigade and the Bogsiders a lesson.

15. General Ford regarded the use of lethal force as legitimate as a method of law enforcement above and beyond circumstances where there was a threat to life

16. Operation Forecast was not planned so as to minimise to the greatest extent possible the risk to civilian life.

17. General Ford made the decision to stop the march in circumstances where he knew that decision carried with it an increased risk of violence. This decision ought to have been made by the local police.

18. General Ford made the decision that the army would police the march in circumstances where he knew:
    a) The army were inadequately trained in a policing role.
    b) He knew that the army were more likely to have recourse to maximal force, including lethal force.
    c) That the army had killed 37 nationalists since internment in controversial circumstances
    d) Significantly 10 of the 14 people killed on Internment night by the army, in disputed circumstances, were killed by members of the Parachute Regiment

19. General Ford made the decision to use 1 Para.

20. General Ford lied about the reason for using 1 Para. 1 Para were used because of their reputation as tough and because he would exert more control over the operation if it was mounted by 1 Para than if it was mounted by local security forces.

21. General Ford wanted to launch a major arrest operation in Derry whether necessary or appropriate in the circumstances on the ground on the Day.

22. General Ford failed to impose restrictions on the use of lethal force (in fact he was of the view that a restrictive use of the Yellow Card was in operation and considered that more extensive use of force than was in fact the practice was justified).

23. General Ford failed to take any steps in the Operational Order **G95.572 Paragraph 4** to consider a disciplined withdrawal in the client that any Soldier formed a belief that there was a threat that justified the response the use of lethal force.

General MacLellan

24. The plan for the arrest operation

    a) did not contain sufficient information as to the circumstances in which an arrest operation could be legitimately launched
    b) did not provide for "separation"

25. The "scoop-up" operation planned was unlawful

26. Separation was developed subsequent to the march to justify the launch of the arrest operation.

27. General MacLellan abdicated control of arrest op to 1 Para.

28. General MacLellan failed to exercise command & control.

29. General MacLellan failed to adequately brief 1 Para on the special characteristics of Derry, the specifics of the march and the locality of the arrest operation.

30. General MacLellan failed to acquaint himself with their plan.

31. General MacLellan failed to respond to Jackson & Welsh re use of 1 Para.

32. General MacLellan failed to address issues raised by Ferguson at Co-Ordinary Conference re use of lethal force and liaison.

33. General MacLellan committed perjury in relation to the importance attached to separation and the order to go in.

34. General MacLellan failed to establish and maintain proper communication with 1 Para.

35. General MacLellan failed to obtain accurate information from 1 Para.

36. General MacLellan launched the arrest operation when he should not have.

General Steele

37. The plan for the arrest operation

    a) did not contain sufficient information as to the circumstances in which an arrest operation could be legitimately launched
    b) did not provide for "separation"

38. The "scoop-up" operation planned was unlawful

39. Separation was developed subsequent to the march to justify the launch of the arrest operation.

40. General Steele committed perjury in relation to separation, the order to go in and the order to withdraw.

Colonel Wilford and Colonel Loden

41. The personal responsibility of Colonel Wilford and Colonel Loden is direct and significant. Their determination to achieve the launch of an arrest operation was at the expense of:

    a) Proper planning;

    b) The provision of current and accurate information to Brigade;

    c) The provision of current and accurate information of the Gin Palace. ;

    d) The exercise of command and control;

    e) The specific orders issued by Brigade;

    f) A controlled arrest operation;

    g) Exercising any measure of restraint upon the soldiers on the ground;

    h) Having any regard to the risk of life of innocent civilians.

42. This comprehensive disregard for their general and specific responsibilities was the immediate cause of the tragedy of the day.

43. Both committed perjury in relation to the order to go in and the events subsequent to the entry of 1 Para into the Bogside.

44. Both assisted the soldiers in their cover up of their criminal responsibility, and in so doing perverted the course of justice.

28 Allegations against the Governments

28.1 It is alleged as follows:

(i) That in the planning, control, organisation, approval and conduct of the military operation on Bloody Sunday, the British Government, by acts or omissions of its servants or agents, violated domestic and international law standards protecting the right to life, including Article 2 of the European Convention.

(ii) That the respective governments violated their obligation to protect the right to life of the marchers and others and failed to take all feasible measures to vindicate the right to life and to minimise to the greatest possible extent the risk to innocent lives.

(iii) No adequate weight or consideration was attached to the right to life of the citizens of Derry and the prevailing culture, politically and militarily, was one which endorsed the perception that the citizens of Derry were hostile to the State and consequently were not to be regarded in the same light as the State would normally regard its own citizens. Rather they were to be treated if not as enemies of the State certainly as persons with no reciprocity of interests with the State.

(iv) Both governments allowed the view to be disseminated without censure that "NICRA was being taken over by the IRA and hooligans" thus, in effect, dangerously conflating these three diverse elements into a common enemy. The failure or refusal to recognise and reinforce the vital distinctions between these disparate groups was dangerous and culpable.

(v) The British Government allowed the Stormont Government, which "shamelessly discriminated" against Catholics, to exercise disproportionate influence over security matters and succumbed to self-serving pressures from the Stormont Government in relation to the use of its armed forces. In the weeks leading up to Bloody Sunday, in the face of mounting pressure from Unionists, who regarded the failure to enforce the ban against Catholic marches as a

"final surrender to the IRA", the GOC was, without censure or disapproval, representing NICRA as "the active ally of the IRA".

(vi) Both governments tolerated, if not encouraged, in Northern Ireland, the use of unlawful violence including lethal force. For example,

(a) Prior to Bloody Sunday there were many instances where lethal force had been used by the army in highly controversial circumstances. Uniquely in this part of the UK, as a matter of practice and policy, allegations of the use of unlawful force against military personnel were not properly investigated because the police duty to investigate was unlawfully delegated to the Royal Military Police for the purpose of rendering military personnel who had been guilty of wrongdoing unlikely to be made amenable to the law. Since the underlying objectives of a proper police investigation are to underpin the right to life it is apparent that the State operated and applied a policy which was incompatible with the respect for the right to life itself;

(b) Prior to Bloody Sunday the British Government and the Stormont Government countenanced and implemented measures which violated fundamental rights and freedoms including the non-derogable rights contained in Article 3 of the European Convention (prohibition of torture, inhuman and degrading treatment).

(c) Prior to and in connection with Bloody Sunday the contemplation and implementation of measures involving the use of unlawful lethal force such as;

i. "shooting of unarmed civilians";

ii. Option 3, as it became known, which, it was acknowledged would "necessarily involve numerous civilian casualties";

iii. Shooting of "selected ringleaders" of what was characterised as the DYH (Derry Young Hooligans);

iv. "a shooting-war";

v. Without censure (31 January 1972) reporting "only shooting into crowds was directed against hooligans";

vi. Without censure (4 February 1972) regarding Bloody Sunday as "an outstandingly successful military operation".

(vii) The military operation on Bloody Sunday was a political decision approved by the Stormont Government and the British Government.

(viii) Both governments foresaw, as a possible outcome, that the military operation might endanger the lives of innocent civilians. This was a risk that, in respect of the lives of the marchers and the citizens of Derry, they were prepared to run.

(ix) If they did not foresee such a risk they ought to have foreseen it and such a failure is culpable.

(x) They permitted an "arrest" operation which should never have been contemplated.

(xi) Alternatively any such operation should have been put on a highly contingent basis subject to stringent conditions and under constant review at the highest level before launching

(xii) Both governments approved the following:

(a) The decision to prevent the march reaching the Guildhall;

(b) The decision to have a major military operation involving British armed forces;

(c) The decision that this would or might involve a significant "arrest" operation;

(d) The decision that the Parachute Regiment would be involved;

(e) The decision to allow a major military operation to proceed in which they foresaw, as a possible outcome, that the lives of innocent civilians might be endangered;

(f) The decision to run the risk that the lives of innocent civilians might be endangered.

(xiii) Both governments neglected to take steps to ensure that the operation was conducted in a manner designed to minimise to the greatest extent possible the risk to the lives of innocent civilians.

(xiv) In the aftermath of Bloody Sunday the British Government were party to a massive cover-up involving, inter alia, the smearing of innocent victims and the shameless promotion of a false case on behalf of the army. They misled both Houses of Parliament and the public.