

Inquest into the Deaths at Ballymurphy
Opening Statement by Counsel to the Coroner on 12th and 13th November 2018
Sean Doran QC

1. The Deceased

This is the inquest into ten deaths that occurred in Ballymurphy in Belfast in 1971. The events from which the deaths resulted took place between the 9th of August and the 11th of August 1971.

The deceased were:

1. Father Hugh Mullan. He was aged 38 at the time of his death.
2. Francis Quinn. Aged 19.
3. Joan Connolly. Aged 44.
4. Joseph Murphy. Aged 42.
5. Noel Phillips. Aged 19.
6. Daniel Teggart. Aged 44.
7. Edward Doherty. Aged 30.
8. Joseph Corr. Aged 43.
9. John Lavery. Aged 20.
10. John McKerr. Aged 49.

At the outset of the inquest, on behalf of the Coroner's legal representatives, I wish to express condolences to the next of kin and their wider families on the loss of their loved ones.

I have said that the events from which the deaths resulted occurred over a three day period from the 9th to the 11th of August 1971. In order to examine the deaths, it will be necessary to consider, in particular detail, five incidents that occurred in the Ballymurphy area over that three day period.

The five incidents are as follows.

First, the shooting on the evening of the 9th of August that resulted in the deaths of Father Hugh Mullan and Francis Quinn in an area of waste ground that lay between Springfield Park and Moyard Park.

Secondly, the shooting on the 9th of August shortly after the first incident that resulted in the deaths of Joan Connolly, Joseph Murphy, Noel Phillips and Daniel Teggart. Those deaths occurred at a location known locally as "the Manse" on the Springfield Road. Mr. Murphy died later of his injuries on the 22nd of August 1971.

Thirdly, the shooting of Edward Doherty on the Whiterock Road in the late afternoon of the 10th of August 1971.

Fourthly, the shooting of Joseph Corr and John Laverty at another location in the Whiterock Road area, close to Dermot Hill Park, in the early hours of the 11th of August 1971. Mr. Corr died subsequently of his injuries on the 27th of August 1971.

Fifthly, the shooting of John McKerr on Westrock Drive, close to Corpus Christie Church, in the late morning of the 11th of August 1971. Mr. McKerr died of his injuries on 20th August 1971.

I will be saying more about the circumstances of the deaths in due course. Three of the incidents resulted in more than one death. Two of the incidents each resulted in a single death, the death of Mr. Doherty and the death of Mr. McKerr. Examining the deaths by reference to the five incidents will assist us in organising the evidence to be heard in the inquest. I must, however, emphasise that it is also incumbent on the inquest to analyse each death individually.

I wish to assure the next of kin that the examination of the deaths by reference to the five incidents will in no way diminish or lessen the attention that will be focused on the individual circumstances of the death of each of their loved ones.

Properly interested persons have been issued with a booklet of materials to accompany the opening. I shall refer to the contents of the booklet in the course of the opening. There is a basic outline of the opening at Tab 1 of the booklet. I will be addressing the various topics in the order listed in the outline.

2. Context

Before I say something more about the circumstances of the deaths, it is worth noting that, by any standards, the task facing this inquest is difficult and complicated. The Court is investigating deaths that occurred more than 47 years ago.

Many relevant witnesses have passed away. Others are too infirm to give evidence. A number of potential witnesses have not been traced. Those who *do* give evidence to the Court will face the usual challenges of recollection that occur in historical investigations of this kind. These events happened a long time before the digital age. In 2018, major incidents that are the subject of forensic scrutiny will often have been recorded by means of an onlooker's smartphone. This Court does not have the assistance of a video recording of the fatal moments at which these deaths were caused.

In this case, the difficulties facing the Coroner have also been exacerbated by a loss of records. I am referring to records that would enable the names of military witnesses to be matched to statements that they made back in 1971 and 1972, prior to the original inquest proceedings. That information is missing. I will say more about that problem - and how the Coroners Service has addressed it - later in my opening.

It is also, I think, important at the outset to remind ourselves briefly of the context in which these deaths occurred. The prevailing situation in Belfast in 1971 was far removed from the relative stability to which we have become accustomed in the second decade of the 21st century.

The deaths at Ballymurphy occurred over a three day period following the introduction of internment in the early hours of the morning of 9th August 1971. The internment operation was code-named Operation Demetrius.

The operation had been proposed by the Northern Ireland Executive under the leadership of the then Prime Minister of Northern Ireland Brian Faulkner. Mr. Faulkner proposed the use of internment powers at a meeting with the then Prime Minister of the United Kingdom, Edward Heath, and other senior Ministers. That meeting took place on Thursday the 5th of August 1971. Mr. Heath acceded to the proposal and made a commitment to ensure the necessary military support.

The main target of the operation was said to be members of the Irish Republican Army. It was to be a planned operation, carried out under Regulations pursuant to the Civil Authorities (Special Powers) Act (Northern Ireland) 1922. The operation commenced at around 4am on the 9th of August 1971. The operation involved large numbers of British soldiers going directly to the homes of those targeted and carrying out arrests. Those arrested in Belfast were ultimately taken to the Girdwood Holding Centre in the north of the city.

Following the introduction of internment, there was widespread tension and civil disorder throughout Northern Ireland. The disclosed papers contain copies of the old RUC duty officer's reports for 9th and 10th August 1971. These reports give some insight into the scale of unrest at the relevant time. A cursory reading of the reports for Monday 9th and Tuesday 10th August 1971 reveals that, across Belfast alone, there were approximately:

- 12 explosions;
- 59 shooting incidents;
- 17 reported deaths;
- 25 reported injuries;
- 13 incidents of rioting;
- 18 reports of arson;
- and numerous other reports of civil disorder of various kinds.

I draw attention to those statistics simply to make the point that, when examining the deaths through a forensic lens in 2018, the inquest ought not to lose sight of the context in which the deaths occurred.

That is not to say, however, that context should provide a shield or a buffer against scrutiny. It is indeed the duty of these inquest proceedings to scrutinise objectively, independently and fearlessly, the resort to force that resulted in the deaths and the broader circumstances in which the deaths occurred.

3. Circumstances of the deaths

As I have mentioned, it is proposed to examine the deaths as a series of five incidents that occurred between the 9th and the 11th of August 1971. In opening the case, I want to provide an introduction to the incidents and how it appears they unfolded.

This will not be a fully comprehensive survey of the evidence relating to the deaths. The process of obtaining evidence for the purpose of the hearings is still ongoing. This applies to both military and civilian witnesses. I will say more about that in due course. The result of this is that any survey of the evidence at this stage will necessarily be incomplete. It should also be noted that the many disparate strands of material that have been gathered in preparation for the inquest do not lend themselves to easy summary.

There is a significant volume of source material, including military and civilian statements, dating from the time of the original inquests that were held in 1972. There is also evidence, in the form of statements and transcripts of interviews from potential witnesses, that was gathered at different times in subsequent years on behalf of the families for the purpose of seeking a new inquiry or investigation into the deaths.

Statements are also being taken on an ongoing basis from both military and civilian witnesses on behalf of the Coroner for the specific purpose of these inquest proceedings.

As well as evidence bearing directly upon the deaths, there is material obtained from the Public Records Office for Northern Ireland. The HET review of the deaths produced almost forty lever arch files of material that has been disclosed to properly interested persons.

All of this material will potentially be subject to scrutiny as the inquest proceeds. In introducing the circumstances of the deaths, I am also highly conscious of the risks of a partial or selective survey, in particular the risk of placing undue emphasis on one account of an incident to the exclusion of another. The Court will see that many of the accounts of the incidents that led to the deaths are in conflict with each other and that the evidential picture painted by the written accounts is often far from clear.

Of course, I must emphasise that nothing said in my opening constitutes evidence. The formal oral and written evidence will commence at the beginning of next week and will continue to be heard over the forthcoming months. It will ultimately be for *the Court* to determine, on the basis of that evidence, where the truth lies and to make findings as appropriate on the balance of probabilities.

In the aftermath of the internment operation, as I have indicated, there was unrest and disorder at various locations in Belfast and across Northern Ireland. The focus of this inquest will be on the events that unfolded in Ballymurphy on the evening of the 9th of August 1971 and in the following days.

Hopefully to avoid confusion, I want to say something very briefly at this stage about ciphers being applied to the names of soldiers. When outlining the incidents, I will occasionally refer to a soldier by letter, for example Soldier A, Soldier B etc. Those were ciphers allocated to individual soldiers who made statements to the Royal Military Police after the incidents. Those statements were taken in 1971 and in some cases 1972. I have already mentioned the difficulty caused by the loss of information that would enable the identification of ciphered soldiers. I will be dealing with that matter in greater detail later in my opening.

The Court will also hear me using the letter M followed by a number when referring to military witnesses, for example M3 or M380. This refers to the cipher number allocated to soldiers whose actual names appear in the voluminous papers that have been produced to the Coroner, *or* soldiers whose names have been obtained by the Coroner in preparation for the inquest.

As I will explain, preparation for the inquest has involved tracing and communicating with many hundreds of potential military witnesses. Some of them have made statements to the Coroner and some of them will be called to give evidence at the hearings.

So, just to recap, when I refer to a cipher by letter, that relates to the *old* statements made to the RMP in the 1970s. The M numbers are the cipher numbers that have been allocated *recently* to soldiers for the purpose of these inquest proceedings.

In the course of the inquest, as we examine each incident, we will be using maps that were produced after the incidents and also some photographs of the area that were taken at the time. The Coroner has also commissioned a visual 3d model of each of the incident sites. That has been constructed using the old maps and photographs in conjunction with contemporary materials. It will hopefully assist witnesses in indicating their approximate location and the location of events that they witnessed at the time. The next of kin have also obtained an engineer's report from Mr. Brian Murphy of TBM Consultants in respect of the various locations at which the deaths occurred.

In advance of the hearings regarding each individual incident, the Coroner's representatives will liaise with the other representatives to agree on what material can best be used to assist the witnesses in giving their accounts.

For the purpose of this opening statement, I am going to adopt a simple approach. I have asked for a single map to be produced by PSNI Mapping Department. This is an Ordnance Survey map from 1971. The approximate locations of the five shooting incidents are flagged on the map.

This is, I think, particularly helpful for the opening. It provides us with a useful overview of the area in which the deaths occurred. It highlights the five key locations and where they are situated in relation to each other.

This map does not purport to identify the precise locations at which each of the Deceased was shot. When the evidence is heard in respect of each incident, there will be greater focus on the precise location from which firing may have been directed. There will also be greater focus on the precise points on the map at which fatal shots may have been sustained. It is anticipated that those matters may be a source of contention. For present purposes, I hope that this map will assist in simply highlighting the locations that will be the subject of particular attention as the hearings proceed.

Incident One: Father Hugh Mullan and Francis Quinn

The first two incidents to be examined occurred within a very short time of each other. The precise timing of the incidents is difficult to ascertain; it would appear that they occurred a short time after 8.30pm. The first incident resulted in the deaths of Father Hugh Mullan and Francis Quinn in an area of waste ground or a field that lies between Springfield Park and Moyard Park. This is flagged on the map as the "incident at Springfield Park".

The second incident resulted in the deaths of Joan Connolly, Joseph Murphy, Noel Phillips and Daniel Teggart in an area that (as I have said) was known locally as The Manse on the Springfield Road. This is flagged on the map as the "incident at Springfield Road". It was so called because it had been the location of an old Presbyterian manse that had been demolished. It was also referred to by one of the witnesses as "Rev Courtney's old manse".

Three other locations of particular significance to these incidents are, first, the Henry Taggart Memorial Hall, secondly, the Vere Foster School and, thirdly, Springmartin Flats. The Henry Taggart Memorial Hall was being used in August 1971 by the Second Battalion of the Parachute Regiment, primarily B Company, as a base for its operations in the area.

In the course of the internment operation in the early hours of the morning of the 9th of August, the Hall had been used as a stopping off point to which detainees were brought by the arresting soldiers. They were then transferred to the detention centre elsewhere. The Court will hear that throughout the day, the Hall had been the focal point of disorder.

It should also be noted that the predominantly Catholic area of Ballymurphy is adjacent to the predominantly Protestant Springmartin. This was, as I have mentioned, a time of heightened tension in the early days of the troubles. The Court will hear that, on 9th August, in addition to the altercations between the local nationalist population and the army, there was also inter-factional fighting between nationalist and loyalist crowds in the area of the Springfield Road.

The Court will see from the map that another location of significance that I have mentioned, the Vere Foster School, is located a short distance away from the Henry

Taggart Hall. The School was also being used by the Second Battalion of the Parachute Regiment at the relevant time for operational purposes.

The Court will hear in particular of soldiers taking up observation duties on the roof of the school. The Court will also hear of soldiers taking up position in the area of newly built flats between Springmartin Road and Springfield Park. Those included members of the Queen's Regiment as well as the Second Battalion of the Parachute Regiment. The precise timing of the deployment of the two regiments in that location will require further scrutiny in the course of the evidence.

The soldiers in Vere Foster School referred in their written depositions to a number of episodes of gunfire being directed at the army in the course of the evening. Their accounts included reference to coming under fire from the direction of Moyard Park and the return of fire by the military in that direction. Soldiers in the flats at Springmartin and their vicinity also described an exchange of fire with gunmen in the location of Moyard.

Now, whether the army *was* being engaged by gunmen at this time and, if so, the *extent* of any such engagement, will be a matter for examination in the course of the evidence in these inquest proceedings. What can be said is that, in the course of this shooting incident, Father Hugh Mullan and Francis Quinn lost their lives.

The Court will hear that Father Mullan was shot while performing his spiritual duties as a priest. Earlier in the evening, it was reported that he had tried to defuse the growing tensions between Catholics and Protestants. As a result of the unrest that had occurred in the vicinity on the evening of the 9th of August, a number of people in the Springfield Park area left their homes with their families with a view to finding safer surroundings. For some, this involved moving from Springfield Park across the waste land or field to which I have referred in the direction of Moyard.

A local civilian from Springfield Park, a Mr. Robert Clarke, was shot at one point in the evening as he made his way across this waste land. The Court will hear evidence that Father Mullan, who lived in Springfield Park, responded to shouts to go to the assistance of a wounded man. He made his way across the waste ground towards the wounded man to attend to him spiritually. Witnesses refer to him waving a white handkerchief above his head as he went.

There are differing accounts in the papers as to whether he was shot while moving towards the injured man or after having tended to the injured man. The Court will have the opportunity of assessing the evidence in relation to this matter. Importantly, however, it was in the course of this episode of firing that he was fatally wounded.

In his written deposition for the Father Mullan inquest, the injured man Mr. Clarke also described another man who was trying to attend to him being shot, after Father Mullan had been struck. He said he thought this other man was shot in the head. In his oral deposition at the inquest into the death of Mr. Quinn, he referred to a man

being hit and his head falling back to the ground. These are, of course, matters that the inquest will have to explore in evidence.

In the aftermath of the shooting, other witnesses referred to seeing the body of a man who had been shot in the head. The body was on the waste ground in the vicinity of where Father Mullan had been shot. The shooting did not stop at the time that the two men were struck by gunfire. Witnesses describe a highly dangerous situation in the area of the shooting. It was not until several hours later, after 10.30pm, that the bodies were conveyed from the field.

The body of Mr. Quinn was brought from a house in the Moyard area to the Royal Victoria Hospital at around 8am on the morning of 10th August. Mr. Quinn's body was then conveyed to Laganbank Mortuary. When the ambulance arrived at the hospital, a doctor was called to the ambulance. The ambulance driver was initially given another name for the deceased (Frank O'Neill), but he was later told that it was the body of Mr. Quinn.

The doctor who was called to the ambulance confirmed the man to be deceased. Mr. Quinn's father identified the body at 12.30pm that day at the mortuary. The autopsy was conducted by Dr. Carson at 2.30pm. The cause of Mr. Quinn's death was recorded in the autopsy report as being due to laceration and bruising of the brain due to a single gunshot wound to the head.

There is no statement in the papers relating to Father Mullan being brought to hospital by ambulance. However, the doctor who was called to the ambulance on its arrival at the hospital at 8am stated that the body of Father Mullan was in the same ambulance as the body of the other deceased. The doctor confirmed that life was extinct.

Father Harper and two other priests (Father Murphy PP and Father McCall) attended the mortuary at noon on the 10th August 1971 and identified the body of Father Mullan. The autopsy was conducted by Dr. Carson at 3.30pm. The autopsy report recorded the cause of the death of Father Mullan as: lacerations of internal organs due to gunshot wounds of chest and abdomen.

As with each of the deaths, the inquest will in due course examine in detail the precise cause of death, with reference to the original autopsy reports and also more recent pathological analysis.

Incident Two: Joan Connolly, Noel Phillips, Joseph Murphy, Daniel Teggart

In examining the second incident, we need to look again at the Henry Taggart Memorial Hall. As I have indicated, the Hall was being used as a base by the Second Battalion of the Parachute Regiment. It was at the centre of protests that had followed on from the introduction of internment in the early hours of the morning of 9th August. There is evidence in the papers, that the inquest will have the opportunity to examine, of disorder throughout the day including rioting and

sporadic shooting. The second incident with which the inquest is concerned occurred in or around 8.45pm to 9pm. It is anticipated that the Court will hear conflicting accounts of the events that unfolded at that time.

The military accounts of the incident that are available to the Coroner say that, in or around 9pm, the military based at Henry Taggart Hall came under a heavy burst of gunfire coming from the direction of Divismore Park and from the general area of the Manse – or, as they described it, waste ground to the front and left of their position in the Henry Taggart Hall. In summary, they described being involved in a gun battle with armed men who were firing at their position. Two of the soldiers described firing at a woman said to be armed. Several soldiers described hitting the persons said to be firing at them.

There are some accounts by civilians of gunfire coming from multiple directions in or around the relevant time. There is also an account from a witness at the original inquests who said that he had been speaking to Mrs. Connolly and Mr. Teggart at the Manse when all of a sudden the army at the Henry Taggart Hall opened fire on them. He said that subsequently he heard Mr. Murphy and Mrs. Connolly shout that they had been struck.

The evidence in respect of the matter is not straightforward. As I have already indicated, I am conscious of the risk of selective treatment of the evidence in this opening statement. The original accounts of the incident and subsequent accounts will be the subject of thorough forensic examination in these inquest proceedings. The inquest will hear oral and written evidence from civilians and the military and also from forensic and pathology experts.

Whatever the actual position was as regards the suggested gunfire faced by the military, the next of kin have maintained at all times that their loved ones were entirely innocent victims of the shooting. That is a matter on which it will be open to the Coroner to make findings at the conclusion of these inquest proceedings.

At a later stage of the evening, five wounded men were taken by the military to the Henry Taggart Hall to be seen by a medical orderly. The soldier in charge of the recovery of the injured described in his written deposition coming across a woman in the waste ground. He said: “She was obviously dead so I left the body there until later”.

The medical orderly obtained details of the five men. They included Mr. Teggart, Mr. Phillips and Mr. Murphy. The medical orderly described administering medical aid. He recorded that Mr. Teggart and Mr. Phillips died while at the Hall. He also recorded that the dead body of Mrs. Connolly was brought to the Hall in the early hours of the 10th of August 1971. It would appear that the deceased and wounded were conveyed by military ambulance to the Royal Victoria Hospital.

There are statements from a doctor indicating that on the 9th of August 1971 he examined two un-named men who had been brought to the hospital by ambulance and certified life extinct. The deceased were then conveyed to the mortuary.

The body of Mr. Phillips was later identified at the mortuary by his brother Robert on the 10th of August 1971. According to a police statement in the papers, the body of Mr. Teggart was identified by Mr. Teggart's brother Gerald, also on the 10th of August 1971.

The autopsy on Mr. Phillips was conducted by Dr. Carson at 7.30pm on the 10th of August 1971. The report recorded gunshot wounds to the neck, upper limbs and lower limbs. One of the bullets had entered the right chest cavity and lacerated the lung. That wound resulted in fatal internal blood loss.

The autopsy on Mr. Teggart was conducted by Dr. Marshall at 11.15am on 12th August 1971. The report recorded numerous penetrating wounds to the right shoulder and back, right upper limb, left buttock and both thighs. The cause of death was recorded as "bullet wounds of trunk and limbs".

The medical orderly to whom I referred indicated that Mrs. Connolly was conveyed to the Royal Victoria Hospital. There does not appear to be a statement in the papers from a medical practitioner recording the arrival of Mrs. Connolly's body at the hospital although there is another statement in the papers in which her body was said to be at the hospital at 4am on the 10th of August. Mrs. Connolly's husband Denis Connolly identified her body at the mortuary later that day.

The autopsy was performed by Dr. Marshall at 3.30pm on 11th August 1971. The cause of death was recorded as "bullet wounds to the face and right thigh". Dr. Marshall observed that both the facial and thigh wounds would have been associated with severe shock and haemorrhage and that it was their combined effect which caused the death.

Mr. Murphy was admitted to the Royal Victoria Hospital at 11.15pm on the 9th of August. The doctor admitting him observed that he had a wound to the right thigh and also referred to a bullet detected on x-ray in front of the pubic joint. The doctor stated that the operation was deferred to the following day as Mr. Murphy was so ill. On the 10th of August, the thigh wound was treated and cleaned. The bullet in the pubic area was not removed.

Mr. Murphy remained in hospital. On the 20th of August 1971, he was operated upon and it was considered necessary to perform a guillotine upper thigh amputation. Two days after the operation, however, at 12.50pm on Sunday the 22nd of August, Mr. Murphy died in intensive care.

The autopsy was conducted by Dr. Press at 4.15pm on the 23rd of August 1971. The cause of death was recorded as septicaemia due to gunshot wound of the right thigh. The report referred to the infection and multiple serious conditions brought on by the wound. The combined effect of this was to precipitate Mr. Murphy's death 13 days after he had been shot.

The reference in the papers to the bullet detected on x-ray at the time of Mr. Murphy's admission to hospital - and the fact that it was not removed in 1971 -gave rise to an application by the next of kin to the Coroner in 2014. The application was for the body of Mr. Murphy to be exhumed. The application was granted by the Coroner. The exhumation was conducted in October 2015.

A small distorted metal fragment was recovered from Mr. Murphy's remains. The Coroner obtained a number of expert reports in respect of the matter, including reports from a forensic anthropologist and a ballistics expert. It was the opinion of the ballistics expert that the metal fragment was the "boat tail" from a jacketed rifle bullet. The Court will have the opportunity of assessing all of the expert material relating to the exhumation in due course, when the death of Mr. Murphy is being considered in evidence.

Before I move on to consider the death of Mr. Doherty, it is important to note that the evidence in relation to the first incident cannot be divorced entirely from the evidence relating to the second.

The statement of a Soldier A in respect of the death of Mr. Quinn stated that one of the areas from which the school had come under fire was Springhill. Springhill is located adjacent to the Manse. He said that he and other soldiers fired shots in the direction of some waste ground on the southerly side of a right hand bend in the Springfield Road. What he appears to be describing therefore is military firing from Vere Foster School in the direction of the Manse. He said that occurred immediately *before* he turned his attention to firing in the direction of Moyard Park.

While the separation of the first two incidents will assist the inquest in organising the evidence, there is a close nexus between the two incidents in both time and location. That is a matter to which careful attention will be given as the evidence in respect of those incidents is heard.

Incident Three: Edward Doherty

The third incident to be investigated in the inquest resulted in the death of Edward Doherty on the 10th of August 1971. The death of Mr. Doherty occurred in the late afternoon on the Whiterock Road close to the junction with Brittons Parade. This is flagged on the map as "the incident at Whiterock Road".

Soldier B, whom we will also refer to in the inquest as M3, was a Royal Engineer. He made a statement to the Royal Military Police on the 12th of August 1971. A statement, containing some but not all of the detail in that RMP statement, was presented to the original inquest on the 4th of May 1972. He also gave an account of the incident on camera that was broadcast on the Panorama programme on the BBC in 1971 or 1972. That recording is available to the inquest. He was interviewed by the HET in June 2010. Soldier B told the HET that he attended the original inquest but did not give evidence at the inquest. He has also made a statement for the purpose of these inquest proceedings and he will be called to give evidence.

He was a Royal Engineer but he was attached at the relevant time to the Second Battalion of the Parachute Regiment. On the afternoon of the 10th of August 1971, he was driving a military tractor (medium wheeled Tractor Allis Chalmers). He was engaged in the clearing of barricades that had been erected in the streets by protesters. He had been clearing barricades in other parts of West Belfast. He drove down from the direction of Andersonstown and turned left into the Whiterock Road. He drove up the Whiterock Road and came across a large barricade.

In summary, he said that he attempted to break through the barrier several times at the centre but did not manage to do so. He described an explosion of some kind that buckled the wheel of the vehicle. The vehicle remained operative. He said that he broke through part of the barrier on the right hand side. He said there were hundreds of people throwing missiles at the army. He said that he drove into the barrier on the right hand side. He said that this left the vehicle fronting towards a fence at the right hand side of the road, with the rear of the vehicle in the centre of the road.

He described kicking open the left hand cab door and firing at a man who had thrown a petrol bomb at him and who was in the act of throwing a second petrol bomb at him. He said the man fell immediately and he estimated that he had hit him in the upper part of the body. He was about 20 feet away. He reversed the vehicle. Soldier B said that he received a blow to the right hand side of the head injuring his eye. He was brought to Musgrave Park Hospital. Another soldier, ciphered originally as Soldier A, saw the firing but did not see who or what Soldier B was firing at.

Soldier B's original RMP statement from 12th August 1971, which is contained within the disclosed MOD papers, will also require to be considered. That included a description of the person he said was carrying a petrol bomb. It also included an account of his shooting of a second man who, he said, was carrying a rifle. He said that the blow he received to the right hand side of the head occurred while he was taking aim at that person. He said that, as he fired at that person, he must have inadvertently engaged the lever on his weapon to the automatic position. He said that he emptied the magazine. That detail was not contained within the version of the statement that was presented to the original inquest.

In the statement that was presented to the original inquest, he purported to identify a man depicted in a photograph marked on the reverse with Edward Doherty's name and address. He identified the person in the photograph as the man who had thrown the petrol bombs at him and whom he had shot. The identification was said to have occurred on the 13th of August 1971.

Seven civilian witnesses gave accounts of what occurred at the time of the incident in a *pro forma* questionnaire. Those accounts were given to the solicitor acting for the next of kin, in advance of the original inquest. As with the written accounts that we have in respect of the other incidents, these accounts are going to require careful scrutiny in conjunction with the oral evidence in these inquest proceedings.

One of those witnesses, a Mr. Joseph McAreavey, gave oral evidence at the original inquest. According to the handwritten note of his deposition, he said that he saw the attack on the military but that no petrol or nail bombs were thrown before Mr. Doherty was shot. He described Mr. Doherty as running away from the barricade. Mr. McAreavey has not yet been traced for the purpose of the present inquest.

There is a lack of detailed contemporaneous evidence as to the recovery of Mr. Doherty's body from the scene. In the questionnaire accounts to the solicitor, witnesses described tending to Mr. Doherty and bringing him to a house nearby in Whiterock Drive.

There is a statement from an ambulance driver. He said that, as a result of a message he received, he left his depot at the Royal Victoria Hospital at about 5pm on the 10th of August and went to the Whiterock. He said he could not, however, go up the Whiterock Road because of shooting that was going on.

There is a statement from an undertaker who said that he collected Mr. Doherty's body from 7 Whiterock Drive at 7pm that evening and brought the body to Laganbank Mortuary. There is a statement from a doctor who says that he formally pronounced life extinct that evening. The statement of Thomas Doherty says that he formally identified his brother Edward's body at the mortuary on 11th August 1971.

The autopsy was conducted by Dr. Marshall at 6pm on the 11th of August. Dr. Marshall recorded as follows: "Death was due to a bullet wound of the chest. A bullet had entered the left side of the back of the chest ... It had fractured the eleventh left rib, perforated the left lung, the aorta, and the right lung before leaving the body through the right side of the chest ...". The track of the bullet was said to be "from back to front with a deviation to the right side of 45 degrees and a slight inclination upwards."

The police report to the Coroner concerning death dated 9th September 1971 contains the following entry for "circumstances relating to death": "Was shot in exchange of fire between Army and snipers in Whiterock Road area".

As with the other incidents, the Court's ability to examine all relevant accounts through oral evidence is going to be affected by the passage of time. Aside from Mr. McAreavey, the other six witnesses who gave the pro forma accounts are believed to be dead. Those included a Mr. William Whelan, who gave a more detailed account about the incident and its aftermath in 2009 to a lawyer acting on behalf of the Ballymurphy families. Mr. Whelan also made a statement to the HET on 10th August 2009. In that statement, he said that he was with Mr. Doherty when he was shot. He said that Mr. Doherty was facing him with his back to the barricade when he was shot by the driver of the digger.

It will be necessary for the Court to consider all of this written material in the round in conjunction with the oral evidence for the purpose of examining the circumstances of the death.

Before I move on to the fourth incident, I want to draw attention to an issue regarding the location of the barricade at which the incident occurred. The civilian accounts referred to the barricade as being close to the junction of Britton's Parade. I have also said that Mr. Doherty's body was brought to Whiterock Drive, which as can be seen from the map is close to that location.

The statements of Soldier A and Soldier B, however, referred to a location further up the Whiterock Road. Soldier B referred to a large barrier erected just past the school in Corrigan Park on his right hand side. Looking at the map, that appears to be a reference to St. Thomas' School. Soldier A referred to the barrier being 100 metres past the junction with Whiterock Gardens. A map in the papers [HET 4, page 84], that appears to have been produced by the Royal Military Police at the relevant time, also appears to locate the barricade further up the Whiterock Road.

This is a matter that will need to be considered carefully in the course of the evidence. I simply flag it up at this stage.

Incident Four: Joseph Corr, John Laverty

The fourth incident resulted in the death of Joseph Corr and John Laverty in the early hours of the morning on the 11th of August 1971. This is flagged on the map as the "incident at Dermot Hill Park". Once again, the documentary evidence that is available to the Court in respect of these deaths is going to require very careful scrutiny. If one reads the original inquest papers in conjunction with the HET reviews of the deaths, it is apparent that there are difficult matters of fact to be resolved. This observation applies not only to the question of how the deaths occurred, but also to the subsequent obtaining of evidence by the Royal Military Police.

For the purpose of the opening, I will provide an overview of the factual matrix to be examined by the Coroner. This will require a somewhat more detailed survey of the original documentation than in respect of the other incidents. I will be referring both to original ciphers and new M cipher numbers. It can be rather difficult to follow the different military personnel involved in this incident. I will try to keep it as simple as possible.

The military medical personnel who made statements can be positively identified from the papers relating to this incident. Their names appear in the original documents. The names are redacted in the papers that have been disclosed to properly interested persons, but known to the Coroners Service. It has been possible to trace some of them. They have been allocated M cipher numbers for these inquest proceedings.

Mr. Corr lived at 24 Divismore Crescent. Mrs. Eileen Corr, the deceased's wife, said in a statement that at approximately 4am to 4.30am on the 11th of August, soldiers were coming in to Ballymurphy from the direction of Dermot Hill. Bin lids were

rattling and this woke the family. They got out of bed and went up the street towards Springfield Road. Shooting started. She said she believed this was coming from the soldiers. There was a large crowd of people on the Springfield Road at the top of Divismore Crescent. She left her husband to go home to look after the children. She did not see her husband alive again.

Mr. Laverty lived at 17 Whitecliff Parade. His brother Terence Laverty said in his deposition that he and John left the house at about 11pm on the 10th of August to call with their sister (Matilda Branney), who lived at 106 Norglen Parade. They stayed with their sister until about 4.10 or 4.15am on the 11th of August. They heard the bin lids banging. They left to return to their own house. Outside they had an argument about which way to go home. Terence wanted to go across the fields beside St. Aiden's school. John wanted to go up onto the main Springfield Road. They went their separate ways. Terence did not see John alive again.

In the course of their review of the cases, the HET ascertained that the time of sunrise on the 11th August 1971 was 5.49am. It was therefore still dark at the time when Mrs. Corr went home and when Mr. Laverty and his brother went in different directions.

In the papers, there are depositions prepared for the purpose of the original inquests from a soldier ciphered as Soldier A. Soldier A is M166 for the purpose of this inquest. He has also made a statement for this inquest and will be called as a witness.

Soldier A said that he was a medical orderly to C Company First Parachute Regiment. The Company was operating in the Whiterock Road area. It was based in a static location at a pathway leading to the Black Mountain. He said that he was called forward by a member of his unit to go down the Whiterock Road towards the Springfield Road. He was called (quote) "to attend to two males persons who it was believed had been shot by elements of 'C' Company , 1 Para". The Court will note that, for the purpose of examining this incident, the focus shifts from 2 Para and 2 Queen's to the First Batallion of the Parachute Regiment.

In the deposition, Soldier A described coming across the body of a man lying face downwards on the pavement outside 217 Whiterock Road. He turned the man over on to his back and felt for a pulse but there was none. He said that he cut the man's shirt off and put his ear close to the man's chest. He heard a faint heart beat. He turned the man on to his side and saw a large hole in the centre of his back. He said that he thought the man was beyond revival and that evacuation of the body was impossible due to ongoing gunfire in the area at the time.

He said that he then saw another male person lying on the pavement outside number 211 Whiterock Road. He said he went over and dragged this person up to around twelve feet from the first person. He said that this was the safest position he could find at the time. He said that the man was complaining of pain in his right side. He said that he saw a serious wound in the man's abdominal area. He said that he tended to the wound and placed the man in a comfortable position.

He said that, on 20th July 1972, that is eleven months after the incident, he was shown photographs of two men by a member of the Royal Military Police. He said that he recognised the men in the photographs as the men he had come across on the Whiterock Road.

He said that his Unit Medical Officer, a Soldier C, and Soldier D arrived on the scene shortly after he attended to Mr. Corr. He said that he handed the two persons over to Soldier C.

There is also a deposition from Soldier D for the purpose of the original inquest into the death of John Lavery. His name is on the deposition (redacted in the disclosed papers). Soldier D is cipher M380 for the purpose of these proceedings. The Coroner would wish a statement to be taken from him, but he has raised medical issues and his position remains under review.

Soldier D said that he was the Medical Sergeant of the First Battalion of the Parachute Regiment. He said that he moved with other soldiers down the Whiterock Road towards the Springfield Road from the direction of the Black Mountain. He was informed that there were two persons in front who required medical attention. He walked down and saw two men lying on the pavement on what he described as "the top of a raised bank." The men were in the care of Soldier A.

He said that he had come down with Soldier C of the Royal Army Medical Corps, who was the Unit Medical Officer. There is no statement in the original papers from a Soldier C. Soldier D said that Soldier C examined the men and said one was dead and the other seriously injured. He said that Soldier C administered morphine to the injured man.

The unit ambulance arrived about 30 minutes later. It had been delayed due to gunfire. The men were placed on stretchers to be lifted in to the ambulance. Soldier D travelled in the ambulance to the military wing at Musgrave Park Hospital. On arrival at the hospital he handed the men over to reception staff.

There is also another statement from this Soldier D in the papers relating to Mr. Corr's death. In that statement, he was not given a cipher. He named a soldier who had assisted him in lifting the two men in to the ambulance. That soldier has also been traced. He has been allocated the cipher M438. The Coroner has asked for a statement to be taken from him.

In his statements, Soldier D also said that he recognised the two men from photographs shown to him by the Royal Military Police.

Another Royal Army Military Corps witness said in a statement that he was involved in treating Mr. Corr at the military wing at Musgrave Park Hospital on the 11th of August. He has been allocated the cipher M382 for the inquest. He has been traced and it is anticipated that he will be called as a witness. In the statement, he

gave a detailed description of the medical treatment administered to Mr. Corr. He said that ultimately Mr. Corr's condition required mechanical ventilation. Mr. Corr was transferred to the Intensive Care Ward of the Royal Victoria Hospital on 14th August 1971. Mr. Corr subsequently died from his injuries in intensive care at the Royal at 6.50pm on the 27th of August 1971.

Now I have summarised the accounts given by military medical witnesses of the circumstances in which Mr. Lavery and Mr. Corr were conveyed to hospital on the 11th of August. The Court will, of course, have to consider the question of *how* Mr. Lavery and Mr. Corr actually sustained the wounds that resulted in their deaths.

There is a statement in the papers from a Soldier B that is pertinent to this question. It is worth looking briefly at how that statement came into being. Soldier B did not give evidence at the original inquest. There is a signed and annotated deposition in the papers from a Corporal of the Royal Military Police attached to the Special Investigation Branch at Lisburn. This RMP Corporal is ciphered M338 in these inquest proceedings. He is deceased.

In his deposition, the RMP Corporal stated that he had interviewed a Soldier B on the 21st of July 1972 at Aldershot. The interview was regarding a shooting incident on the Whiterock Road on the morning of the 11th of August 1971. According to the Corporal's deposition, Soldier B made a written statement that the Corporal later read out at the inquest.

In this written statement, Soldier B stated that he was "point man" in a foot patrol proceeding down the Whiterock Road at about 4.15am on the 11th of August 1971. The "point man", as I understand it, is the person in the lead or navigator who walks in front of the other members of the patrol. Soldier B said that he took up his position in the pathway of one of the houses with uneven numbers. The uneven numbers are on the right hand side of the road as we look at the map.

Soldier B said that he saw 3 or 4 male persons crawling up the Whiterock Road towards his position. He said that two of them fired past his position straight up the Whiterock Road. One was firing a machine gun, the other a pistol. He said that, when they stopped firing, they stood up and started to retreat from the Whiterock Road towards the Springfield Road.

He said that he stepped out from behind the hedge from which he had been observing the men, intending to call on them to halt. He said that, before he could shout, the man carrying the machine gun brought it up to aim position. He said that he fired six rounds at (quote) "these persons" and that "they all dropped to the ground". He said that, as he did this, he was fired on from the Springfield Road junction. He immediately went for cover.

Soldier B said that he knew he must have hit one of the men because he could hear him moaning and shouting to someone for help.

He said that shortly afterwards, when the firing had stopped, he made his way down to where the persons had fired from. He said he saw one male person lying face down on the pavement at an unspecified location. He said he saw a trail of blood leading away from that spot up a pathway to one of the houses and in to the garden. He said that he went on down the Whiterock Road across the Springfield Road. He said he came under fire from the direction of St Aidan's, but did not return fire as he could not pinpoint the gunman. He continued the operation with his unit until he was stood down at an unspecified time.

He said that on the 20th of July 1972, he was shown a black and white photograph of a male, on the back of which was printed the name Joseph Corr. He could not recognise the person in the photograph.

Regarding the identity of the Soldier B whose statement was read at the inquest, his name does not appear in the original papers available to the Coroner. When the HET was conducting its review of the deaths, investigators spoke to a soldier who has the cipher M167. The conversation took place on the 5th of March 2013. M167 said that a soldier with the cipher M350 had boasted about shooting Mr. Corr and Mr. Lavery. M350 is deceased. Whether it can be concluded that M350 was *in fact* Soldier B will be a matter for consideration by the Court. M167 has been asked to make a statement for the purpose of this inquest. It is anticipated that a statement will be taken from him in early December.

Just pausing for a moment, I have already mentioned the extreme difficulty faced by the inquest in analysing the deaths at a remove of 47 years. The deaths of Mr. Corr and Mr. Lavery occurred in the hours of darkness on the 11th of August 1971. We have an account from a soldier made over 11 months after the deaths. That account has *never* been properly tested. The soldier did not give evidence. The statement was read at the original inquest in 1972 by a Corporal of the Royal Military Police. The soldier's identity is not made known in the documentation.

Over forty years after the deaths, *another* soldier told the HET that he could name the soldier who had shot Mr. Corr and Mr. Lavery. The soldier that he named is dead.

There is another complicating feature of this case. In the papers relating to the deaths of Mr. Corr and Mr. Lavery, there is also an entirely separate batch of statements from *other* soldiers. Those statements were taken by a member of the Royal Military Police (M437) on the 11th of August 1971. The soldiers have the ciphers Soldier A to Soldier I. I must emphasise that these statements do *not* correlate with the statements of the two medical officers, Soldier A and Soldier D, or with the statement of the Soldier B who said that he fired the shots on the Whiterock Road.

It appears from these statements that, on the 11th of August 1971, the First Battalion of the Parachute Regiment was ordered to clear all barricades erected on the entry roads to Turf Lodge, New Barnsley and Ballymurphy. They were also ordered to clear the area of IRA gunmen. The statements contain accounts of several purported engagements with gunmen in a number of areas including Ballymurphy. It is not,

however, readily apparent that any of those accounts relate to the deaths of Mr. Corr and Mr. Lavery.

When the HET reviewed the Ballymurphy deaths, they thought that the statements from Soldiers A to I might have been associated in error with the death of Mr. Lavery. It was possible that the Royal Military Police officer who took those statements (M437) had thought that one of the men those soldiers said they had shot was in fact Mr. Lavery.

These statements of Soldiers A to I will have to be considered in the course of the inquest. The question arises as to whether *in fact* they can shed any light on the circumstances of the death of Mr. Lavery or Mr. Corr. Or was it the case, as the HET supposed, that those statements may have been associated *in error* with the death of Mr. Lavery?

I have said that Mr. Lavery and Mr. Corr were conveyed to the military wing of Musgrave Park Hospital on the 11th of August 1971. There is a deposition, prepared for the original inquest into the death of Mr. Lavery, from a Medical Officer in the Royal Army Military Corps. This is the same officer who described the treatment administered to Mr. Corr at Musgrave. He is ciphered M382 in this inquest. He said that, around 5am on the 11th of August, he examined the body of a person he later learned to be John Lavery. He certified that the person was dead. He said that the body was then taken to the mortuary in an ambulance by members of the First Parachute Regiment. Mr. Lavery's brother Richard identified the body at 10am on the 12th of August 1971.

The autopsy was conducted by Dr. Carson at 4.30pm on the 12th of August. The report recorded that Mr. Lavery had been struck by two bullets. One bullet had entered on the right flank and exited on the back of the left lower chest. The fatal wound was said to have been caused by a bullet that had entered the body on the outer side of the right thigh. It had passed through internal organs upwards and to the left before exiting the left chest cavity. It was recorded that death was due to internal bleeding from the injuries caused by this bullet.

As I have said, the papers record that Mr. Corr was brought to the military wing of Musgrave Park Hospital on the 11th of August, then transferred to intensive care in the Royal on the 14th of August. He subsequently died on the 27th of August 1971.

In her deposition, Mrs. Eileen Corr stated that she went to see her husband in Musgrave on the 12th of August. In another later statement that is available to the inquest, Mrs. Corr described the very anxious time that she spent trying to locate her husband after he had not returned home. During Mr. Corr's time in hospital, the seriousness of his injuries was such that Mrs. Corr could not have a conversation with him. There is also a statement from Patrick Kearney, Mr. Corr's brother-in-law. He said that he identified Mr. Corr's body at the mortuary at 6pm on Saturday the 28th of August 1971.

The autopsy was conducted by Dr. Press at 10.45am on the 29th of August 1971. It was recorded that death was due to acute bronchopneumonia and peritonitis due to a gunshot wound of the abdomen and chest. A bullet had entered the right side of the back of the abdomen and passed forwards, upwards and to the right through internal organs. It had exited to the right side of the lower chest. The injuries gave rise to acute inflammatory conditions that ultimately precipitated Mr. Corr's death.

I have emphasised that the exercise in obtaining evidence for the inquest is not complete. I have also emphasised that it would not be possible in the opening to cover every aspect of the material that is available to the Coroner. This is simply an introduction to the five incidents that will be scrutinised in evidence as the inquest proceeds.

The Court will also hear civilian accounts of the actions of the military on the Whiterock Road on the morning of the 11th of August 1971. Those accounts have been garnered in the years since the deaths. The Court will hear oral evidence from some of those witnesses. The Court will also hear the accounts of other military witnesses who were involved in the movement of soldiers from the Black Mountain and down the Whiterock Road. The evidential picture remains incomplete.

Incident Five: John McKerr

The fifth and final incident to be examined in these inquest proceedings resulted in the death of John McKerr on the 11th of August 1971. This is flagged on the map as the "incident at Westrock Drive". The Court can see from the map that the incident occurred close to Corpus Christie Church. The contemporaneous evidence about this incident is very scant.

There is a deposition from Father Harper, who was at the time a priest working in the parish of St. John's and Corpus Christie. Father Harper indicated that Mr. McKerr had been working as a joiner at Corpus Christie in August 1971. There had been a funeral mass at 10am. After the mass, Father Harper was waiting for the undertaker to arrive at the church. While waiting, he spoke to Mr. McKerr. After their conversation, Mr. McKerr left at around 10.45am. Father Harper saw him walking through the people who were gathered outside the church after the funeral.

A short time later, Father Harper heard what he believed to be two shots followed by two more cracks, which he says may have been echoes of the two shots. There was complete panic. He heard someone shouting at him to come quickly. He ran out of the church gate. He looked down the footpath to his right and on the same side as the church.

He saw a man lying on the footpath. He ran to the man and saw the man lying face down slightly to the right side. The man's head was in a pool of blood. He attended spiritually to the man. A large number of people had gathered around. He left to try and get the army to summon an ambulance. He spoke to a soldier and told him what had happened. The soldier summoned an ambulance that arrived a short time

later. It was only later that Father Harper realised that the man who had been shot was Mr. McKerr.

Mr. McKerr was taken by ambulance to the Royal Victoria Hospital. The ambulance driver said in his deposition that Mr. McKerr was alive but unconscious; that he had a head wound and appeared badly injured.

A statement from a doctor at the hospital recorded that Mr. McKerr was admitted to intensive care at 12.45pm. He was resuscitated and put onto a respirator to help him breathe. He had a blood transfusion. The wound was operated upon on the 12th of August. His condition improved. The doctor stated that he was able to breathe on his own and understood what was going on around him. On the 17th of August, however, his condition deteriorated. He became unconscious. He was put back on the respirator, but he died at 2.30am on the 20th of August 1971.

Mr. McKerr's son, Brian Patrick McKerr, formally identified the body of his father at 1.45pm on the 20th of August 1971.

The autopsy was conducted by Dr. Marshall at 3pm that day. Dr. Marshall observed that Mr. McKerr had sustained a missile wound to the head. The missile had entered the right side of the scalp just above and behind the right ear. The cause of the deterioration in Mr. McKerr's condition, after the initial improvement following the shooting, was the development of meningitis. The cause of death was recorded as "laceration, bruising and oedema of the brain associated with fractures of the skull and complicated by meningitis due to a missile wound to the head".

A police report for the Coroner dated the 24th of August 1971 recorded the following: "The deceased was repairing a door in Corpus Christie Church on 11/8/71. He ceased work when a funeral service ended. As he walked along Westrock Drive he was shot in the head by a sniper. He was removed to the R.V.H and died on 19/8/71." That latter date is clearly in error. The conclusion that Mr. McKerr was shot by "a sniper" does not appear to have been based on any evidential foundation.

There is a formal police report dated the 3rd of May 1972. The report summarised the circumstances of Mr. McKerr's death and noted that no one had been made amenable for the shooting. A further report submitted with reference to the inquest file in May 1972 stated that there did not appear to be any evidence to indicate by whom or from where the fatal shot was fired. The report recorded that there was apparently no military activity in the immediate area and that the deceased was not engaged in any violent activity. It stated that there was, however, "a state of extreme unrest with numerous shooting incidents and this seems to be a case of Mr. McKerr being hit by a stray bullet."

In his deposition to the original inquest on the 25th of May 1972, the police officer in charge of the investigation, DC Irwin, stated that he had made inquiries about the shooting. To date no one had been made amenable for the crime. He had spoken to a potential witness who said that she was in the area at the time and saw the body. DC Irwin said, however, that the woman did not hear any shooting and refused to

make a statement. There is no reference in the original papers to any forensic evidence having been recovered from the scene.

Following on from Mr. McKerr's death, there was therefore no evidence as to the source of the shooting that resulted in his death.

The Coroner is, however, also in receipt of further civilian witness accounts relating to the incident taken in 1999 and 2010. These include accounts from four civilian witnesses. Those witnesses suggest that it was in fact a soldier, a member of the Parachute Regiment, who was responsible for the fatal shooting of Mr. McKerr. The Coroner's Investigator has taken statements from each of those four witnesses. They will be called to give evidence at the inquest.

The representatives of the next of kin of Mr. McKerr have also alerted the Coroner to the statements of Soldiers A to I, made to the Royal Military Police. Those statements, as I have mentioned, appear in the original inquest papers relating to the deaths of Mr. Corr and Mr. Lavery. The next of kin point out that the statement of Soldier A referred to another soldier returning sniper fire at around 0715 on the 11th of August 1971 and reporting the sniper killed at Westrock Drive. The statement of a Soldier H in that bundle of statements referred to an exchange of fire in which he said he was engaged in the early morning of the 11th of August. That exchange was said to be in the vicinity of Westrock Drive. The next of kin's representatives ask the Coroner to note that, while the timings do not match, there is a *possibility* that the statements may have been referring to the shooting of Mr. McKerr.

In examining the death of Mr. McKerr therefore, the Coroner will have to consider the original material relating to the death in conjunction with the more recent accounts. The Court will also be alert to the possibility that the other statements from Soldiers A to I *may* be capable of assisting the inquiry into Mr. McKerr's death.

That concludes my review of the deaths that are the subject of investigation in these inquest proceedings. As I have said, this survey of the facts does not constitute evidence. It is not intended to cover all the ground. Its objective is to provide the Court, properly interested persons and the public with an outline of five incidents that resulted in the deaths at Ballymurphy. The process of obtaining evidence for the inquest is ongoing. There are military statements that have yet to be taken. There are civilian statements that have yet to be taken. There may be other witnesses who come forward with information that will assist the inquest.

From this brief survey of the five incidents, it can be seen that the incidents are different in character from each other. Each individual incident - and indeed each individual death - will require careful scrutiny. I am conscious therefore that to make generalised observations on the task facing the Court can be potentially misleading. I will in due course introduce the document setting out the scope of the inquest. That document sets out in specific terms the issues that the Coroner will address in these proceedings.

I do, however, think that it would be proper to make the following very broad observations on the core issues facing the Court in this inquest, as gleaned from the papers.

The narrative of the military is of the legitimate and justified use of force at a time of heightened tension and in response to specific threats.

The contrary narrative to that of the military is that the Ballymurphy deaths resulted from the illegitimate, unjustified and indiscriminate use of force by the army on civilians.

It will be noted that no firearms or weapons were reported as having been recovered from the locations at which the deaths occurred.

The next of kin say that the military action from the 9th to the 11th August 1971 resulted in the deaths of ten entirely innocent civilians.

The Coroner will be invited, having considered all the evidence, to conclude in relation to each incident and each death - insofar as it is possible to do so - where the truth lies.

Before I move on from the five incidents, I want to mention briefly the death of another man, a Mr. Paddy McCarthy.

It was reported that, on the 11th of August 1971, he was confronted by soldiers in the Ballymurphy area. After that confrontation, Mr. McCarthy collapsed and died of a heart attack. In the media and in other written accounts, Mr. McCarthy is frequently mentioned as one of those who lost their lives as a result of the events at Ballymurphy from the 9th to the 11th of August 1971. His death is not the subject of consideration in these inquest proceedings. It is anticipated, however, that reference may be made to his death in the course of the evidence.

4. RMP investigations

In many of the legacy cases that come before the Coroners' Courts, the Coroner will have the benefit of a comprehensive police investigation file. That file will often provide the starting point for the coronial investigation. Witnesses who were interviewed and who made statements at the time of the original police investigation are likely to be the primary witnesses sought for the purpose of the inquest.

At the time at which the deaths at Ballymurphy occurred, however, post-incident investigative procedures were subject to an agreement made in 1970 between the Chief Constable of the RUC and the General Officer Commanding of the RUC. The effect of the agreement was that the Royal Military Police assumed responsibility for interviewing and taking of statements from military witnesses in the aftermath of fatal shooting incidents. The taking of statements from civilian witnesses and the gathering of forensic evidence was a matter for the RUC.

The practice whereby the interviewing of military witnesses in such cases was conducted by the RMP was ultimately reversed in 1973. Responsibility for the entire investigation, including the interviewing of military witnesses, thus reverted to the RUC. This appears to have been as a result of concerns expressed by the Director of Public Prosecutions for Northern Ireland that the existing practices for conducting investigations into military shootings were unsatisfactory.

The practice was also subsequently criticised by the then Lord Chief Justice Lord Lowry, who said in 1974 (in the Court of Appeal judgment in *R v Foxford* [1974] NI 171 at 180): “we deprecate this curtailment of the function of the police and hope that the practice will not be revived”.

In any event, the Court will see that the accounts of soldiers following the deaths were gathered by the RMP and not by the RUC. This is a matter that may bear on the Court’s assessment of the contemporaneous accounts given by soldiers following the deaths. It is a matter that is likely to feature in the questioning of witnesses and in submissions as the inquest proceeds.

The Court will also see, as we proceed through the evidence, that the product of police inquiries following on from the deaths is very limited by comparison with an investigation file that one would expect to see in the aftermath of a death in 2018. At the risk of generalisation, there are multiple examples of apparent failure to obtain relevant eyewitness accounts of the events leading to the deaths. There are also many examples that will become apparent to the Court of forensic opportunities being missed. It is, I think, reasonably safe to suggest that the investigations would simply not withstand modern scrutiny.

Having said that, investigative practices generally and the maintaining of records in connection with an investigation were not as developed in 1971 as they are today. In many of the legacy cases before the Coroners in Northern Ireland, particularly from the 1970s, one encounters investigation files that would be deemed entirely unsatisfactory if subjected to contemporary analysis. Moreover, as I have mentioned before, it is important not to lose sight of the context of the deaths. These were turbulent times. Forensic examination of the scene of a shooting, for example, would not necessarily have been a routine procedure, given the heightened security concerns that prevailed at the time.

One challenge facing this inquest will be to attempt to overcome the limitations of the original investigations in order to conduct a robust inquiry into the deaths. I will say more in due course about the steps that have been taken on behalf of the Coroner to meet that challenge.

5. Original inquests

The original inquests into the deaths were conducted in Belfast in 1972 before the Coroner Mr. Elliott. In each of the inquests, the Coroner sat with a jury.

The inquest into the death of Francis Quinn was held on the 17th of February 1972. The inquest into Father Mullan's death was held later in the year on the 26th of October 1972. Although the two deaths occurred in or around the same time and in or around the same location, the eyewitness evidence presented at the first inquest was not commensurate with that presented at the second. This inquest will have the opportunity to consider the circumstances of the deaths in tandem, which is clearly more appropriate having regard to their proximity in time and place.

The inquests into deaths of Joan Connolly, Joseph Murphy, Noel Phillips and Daniel Teggart were held on the 2nd of March 1972.

Edward Doherty's death was the subject of an inquest on the 4th of May 1972.

The inquests into the deaths of Mr. Lavery and Mr. Corr were held on the 12th of October 1972.

The inquest into the death of Mr. McKerr was held on the 25th of May 1972.

The original inquest papers are within the disclosed materials in Folders PSNI 1 to PSNI 5. In each case, the verdict of the jury was recorded as an "open verdict". As the HET commented in their reports into the deaths:

"The terminology 'open verdict' was that used by Coroners Courts in Northern Ireland at the time. It was given when the circumstances of a death had not been considered, in connection with charges brought, in the criminal courts. The Coroner, after hearing the evidence, would not apportion blame in the matter of the death, but would be required to establish the time, day, date and the cause of death. As a result, an open verdict would often have been declared.

The Coroners (Practice and Procedure) (Amendment) Rules (Northern Ireland) 1980 replaced verdicts with the term 'findings' at inquests in Northern Ireland. This allowed Coroners to give more of a commentary on the circumstances of a death than had previously been the case."

In Greer and Leckey's *Coroners' Law and Practice in Northern Ireland*, the authors noted (at paragraph 11-03) that from 1963 until the change in the Rules in 1980, Coroners and juries were advised that, in recording a verdict, they should use one of five forms of wording:

- (1) died from natural causes
- (2) died as the result of an accident/ misadventure
- (3) died by his own act
- (4) execution of sentence of death, and
- (5) open verdict

The fifth option, the open verdict, was to be used where none of the first four options were applicable. In inquests into deaths such as the deaths at Ballymurphy, therefore, the fifth option "open verdict" would have been recorded almost as a matter of routine.

From today's perspective, it seems inconceivable that an inquest into any one of the ten deaths that occurred at Ballymurphy could be held in a single day. The original inquests were conducted long before the enactment of the Human Rights Act 1998. The jurisprudence arising from Article 2 of the European Convention on Human Rights imposes exacting standards on the investigation into deaths that have occurred at the hands of State actors. In order to comply with those standards, this inquest will be hearing evidence into the deaths over several months. These proceedings will bear little or no resemblance to the inquests that were conducted in the year following the deaths.

It is worth highlighting that, at the time of the original inquests, the old Rule 9 of the Coroners Rules provided that a person who was suspected of causing the death, or had been charged, or was likely to be charged with an offence related to the death, did not have to appear at the inquest. This meant that a person thought to be responsible for causing the deaths was not compellable to give evidence at the inquest. This Rule was criticised by the European Court of Human Rights in a number of cases. The old Rule 9 was ultimately replaced in 2002. The new Rule retained the privilege against self-incrimination, but importantly it removed the right of a person suspected of a death not to appear at the inquest. A person thought to be responsible for causing the deaths can therefore now be compelled to give evidence.

When the inquests took place in 1972, the soldiers who had made statements about the firing of shots that resulted in the deaths did not attend to give evidence at the inquest. Instead, it appears to have been the practice that the statements made by soldiers to the Royal Military Police were prepared in the form of a deposition, pursuant to the Coroners Act (Northern Ireland) Act 1959, for use at the inquest. The statements were then usually adduced in the Coroner's Court through an officer from the Special Investigations Branch of the Royal Military Police.

The original inquests did not therefore involve a rigorous examination of the military evidence. Further, the recorded outcome, the "open verdict", did not allow for any findings by the Court as to whether the use of force that resulted in the deaths had been justified. This inquest will not be so limited in nature or in scope.

6. HET reviews

Many years after the original inquests, the deaths were subject to review by the Historical Enquiries Team. The Court will be aware that the Historical Enquiries Team was a body established in 2005 to examine all deaths that occurred during the troubles in Northern Ireland. The HET was accountable to the Chief Constable of the Police Service for Northern Ireland. The HET had been conducting a review of the deaths at Ballymurphy from in or around 2007.

HET reviews of cases with military involvement were, however, suspended following a report by HM Inspectorate of Constabulary in July 2013. That report was critical of the HET's approach to the review of deaths in which there had been State involvement.

In response to the question "Does the HET operate a consistent policy in all cases?", the Inspectorate Report commented (*Inspection of the PSNI HET*, page 27):

"Our inspection found that the HET, as a matter of policy, treats deaths where there was state involvement differently from those cases where there is no state involvement. State involvement cases appeared to be treated less rigorously in areas such as: how interviews under caution are conducted; the nature and extent of pre-interview disclosure; and the way claims made by state agents about suspects being unfit for interview under caution were verified. We consider that these practices may seriously undermine the capability of the HET to review cases in order to determine whether the force used was or was not justified in state involvement cases, and to the identification and punishment of those responsible. They may also undermine the effectiveness of the PSNI and PPS to the extent that state involvement cases relating to the British Army are not routinely referred to these bodies."

Then, in response to the question, "Is the HET's approach to cases with state involvement compliant with European Convention of Human Rights and Fundamental Freedoms?", the Report observed:

"Taken together, our conclusions lead us to consider that the HET's approach to state involvement cases is inconsistent with the UK's obligations under Article 2 ECHR. The inconsistency in the way that state involvement and non-state involvement cases are dealt with undermines the effectiveness of the review process in Article 2 terms. In addition, the deployment of former RUC and PSNI officers in state involvement cases easily gives rise, to the view that the process lacks independence."

By the time of the suspension of the HET's review of cases with military involvement in 2013, its work on the Ballymurphy cases had not been fully completed.

The HET review of a case would normally culminate in the production of a Review Summary Report. In the papers disclosed to the Coroner, there are Review Summary Reports for some but not all of the deaths. Some of the reports are clearly at a more advanced stage than others.

Having entered the caveat arising from the Inspectorate's Report, I think it is nonetheless important to record the fact that the HET review of the cases did produce a significant repository of material. This material may assist the coronial investigation into the deaths. The HET disclosure material comprises 39 lever arch folders. The review in some instances unearthed new information relating to the deaths. The HET obtained contact details for a significant number of soldiers believed capable of assisting an investigation into the deaths. They obtained accounts from soldiers who had not previously given accounts in relation to the events at Ballymurphy.

The review also gave rise to lines of inquiry that had not been actively considered in the years since the deaths. The reports contain a more detailed analysis of the original investigative papers than had previously been conducted.

It is important therefore to record that, although the HET *procedures* for reviewing cases involving deaths at the hands of the military have been criticised, the *product* of their review merits careful consideration for the purpose of these inquest proceedings.

7. Other evidence gathering

At various times over the years since the deaths, accounts of the events at Ballymurphy have been recorded by others who have sought to gain an understanding of the circumstances of the deaths on behalf of the next of kin. For example, the Coroners Service is in possession of material that was handed over by the Bishop of Down and Connor to the families of the deceased in July 2010. The material includes documents that were discovered in the personal files of Canon Padraig Murphy. Canon Murphy was the parish priest of Corpus Christie Church at the relevant time. Those documents include statements taken, possibly at the request of Canon Murphy, from eyewitnesses to the events on the 9th of August 1971 that culminated in the death of Father Mullan. It is clear from the papers that some of those witnesses then made depositions for the purpose of the inquest into Father Mullan's death.

I mentioned another example earlier. Prior to the inquest into the death of Edward Doherty, a number of civilian witnesses gave their accounts of what had occurred at the time of the incident. The accounts were given to the solicitor acting for the next of kin in a pro forma questionnaire. It appears that one of those individuals then gave evidence at the original inquest in 1972.

In more recent years, interviews with potential civilian witnesses have been conducted by individuals and groups acting on behalf of the next of kin. The Court

will, for example, hear of accounts obtained in 1999 and also in or around 2009 to 2012. In some instances, statements were taken. In other instances, there are transcripts of interviews or notes of meetings that took place with the witnesses.

Before I move on from this topic, I would like to draw attention to the fact that there are some references in that material to other material that has not yet been obtained by the Coroners Service. For example, there are references to accounts given by witnesses on video in or around 1999. It goes without saying that, if anyone is in possession of material of that kind, the Coroner would wish to receive it for the purpose of the inquest.

In the course of the past year, further statements have been taken from civilians by the Coroner's Investigator. I will say more about that in due course. For now, I simply want to flag up the fact that the inquest will need to consider material that was not specifically obtained in the course of an investigation or for the purpose of an inquest.

8. Attorney General's directions

In 2011, the next of kin requested the Attorney General for Northern Ireland to exercise his power under section 14 of the Coroners Act (Northern Ireland) 1959 to direct new inquests into the deaths.

Section 14(1) reads as follows:

"Where the Attorney General has reason to believe that a deceased person has died in circumstances which in his opinion make the holding of an inquest advisable he may direct any coroner ... to conduct an inquest into the death of that person, and that coroner shall proceed to conduct an inquest in accordance with the provisions of this Act ..."

The Attorney General duly exercised the power of direction in respect of the death of Edward Doherty in May 2011, the deaths of Father Hugh Mullan and Francis Quinn in June 2011, the deaths of Joseph Corr, John Laverty and John McKerr in September 2011 and the remaining deaths in November 2011.

I do not propose to go through the reasons given by the Attorney General for exercising the power of direction in each case. Suffice to say that, where appropriate, the Attorney highlighted the ineffectiveness of the original investigations. He also commented on the limited nature of the material that was adduced at the original inquests.

Finally, he noted that an inquest will now be in a position to reach findings that may have the effect of allaying rumour and suspicion. This course of action had not been open to the juries at the original inquests. As I have indicated, the outcome of the original inquests was, in effect, limited to the recording of an open verdict. The Attorney General's directions provide the legal basis for the holding of this inquest.

9. Inquest proceedings – preliminary hearings

Following on from the directions, a preliminary hearing was held before the Coroner then assigned to the case on 3rd March 2014. Between then and now, there have been 24 preliminary hearings in the case. At a preliminary hearing on the 12th of May last year, the then Presiding Coroner Mr. Justice Colton announced that the inquest would commence on the 11th of September 2018. There have been preliminary hearings approximately on a monthly basis since then. There have also been regular meetings of legal representatives, the objective being to ensure that the inquest is now ready to commence. The start date was moved from September to November to allow for the ongoing work on taking statements from military witnesses to be progressed. I now want to say something more about that process.

10. Military Witnesses

I have mentioned the arrangement in place at the time of the deaths whereby statements were taken from military witnesses by the Royal Military Police, rather than by the RUC. I have also referred to the method of presenting the military accounts to an inquest. The statements, presented in the form of a deposition, were normally adduced through a witness from the Special Investigations Branch of the Royal Military Police.

I have also mentioned the fact that the military statements were anonymised. The statements presented to the Coroner's Court did not contain the name of the soldier who made the statement or the names of other soldiers. Instead, soldiers were allocated cipher numbers or, more accurately, cipher letters. In the original papers therefore, there are batches of statements from soldiers known as Soldier A, Soldier B etc.

At Tab 6 of the booklet, there is a table of ciphered and redacted military witnesses from whom there are statements and depositions in the original materials. This document is intended to provide a guide to the statements and depositions for the benefit of the Court and all properly interested persons. It contains a summary of the contents of the statements. It is not intended as a critical analysis of the statements but simply a guide to the material. The document may, of course, be subject to amendment as we proceed through the evidence.

At the time of the original inquests, the Coroner was made aware of the identity of ciphered soldiers. The Special Investigations Branch Officer who produced the statements in court handed a sealed envelope to the Coroner containing the names of the ciphered soldiers. The difficulty this inquest has encountered is that the cipher keys, that is the information that would enable names to be put to the anonymised statements, have been lost. This has resulted in a situation whereby many of the soldiers who made statements to the Royal Military Police cannot positively be identified.

I do not propose to go through the history of the cipher key issue in detail, but I do wish to make a number of brief observations about it.

First, it has been suggested by the Ministry of Defence that it was the practice of the RMP at the relevant time to destroy the information for security reasons. The MOD represented to the HET in or around 2007 that this was done in accordance with Standing Instructions in place at the relevant time. This explanation was also given to the Coroners Service in correspondence of 12th April 2017. As yet, however, no such Standing Instructions or other regulations governing the matter appear to have been located. The Coroner's attention has been drawn to a Chapter of a document titled the Provost Marshall Instructions. These Instructions govern the retention and disposal of RMP case papers. The instructions do not, however, appear to cover the Northern Ireland Operational Archive. Further, it is clear that the Instructions do *not* address the specific matter of retention or destruction of cipher keys, which has given rise to the difficulty in this case.

Secondly, the missing cipher issue was addressed in the affidavit and the oral evidence of a witness from the Directorate of Judicial Engagement Policy (or DJEP) at the Ministry of Defence. He said that former members of the Special Investigations Branch had been spoken to about the matter. They could not, however, recall the formal position as to the handling and possible destruction of cipher lists. In essence, the MOD's formal position was that, while it could not be asserted with full confidence, the cipher lists had been destroyed.

It should be noted, in passing, that the witness also confirmed that it had not been possible to locate the "nominal roll" for the battalions involved at the relevant time. That *might* have provided another route by which some of the ciphered soldiers could be identified.

Thirdly, I would emphasise that the search for the missing cipher keys or indeed the original statements, which presumably contained the names, must continue throughout the lifetime of this inquest. It has not been definitively established that the information is no longer in existence.

Fourthly, it is possible to identify some of the soldiers. As I have indicated, we know the identity of the Royal Military Police witnesses and the medical witnesses. They were not allocated cipher numbers at the time and their names appear on the unredacted statements. I have also mentioned that the identity of Soldier B, in the papers relating to death of Edward Doherty, is known. He has the cipher M3 in this inquest.

The Soldier B who made a statement in respect of the deaths of Father Mullan and Francis Quinn is the same person who made a statement as Soldier P in respect of the deaths of Joan Connolly, Noel Phillip, Joseph Murphy and Daniel Teggart. He was a Major in 2 Para B Company. His identity is known. He is M45 for the purpose of this inquest.

Soldier D, the Company Commander in 2 Para Support Company who made a statement in respect of the deaths of Father Hugh Mullan and Francis Quinn, is M12.

M3, M12 and M45 are making statements for the purpose of this inquest and will be called to give evidence.

The Coroner's representatives also believe that it may be possible to identify other ciphered soldiers through an assessment of the original material in conjunction with the accounts given to the HET. We will work with the other representatives to see if agreement can be reached on that assessment. The possible matching of identities to the original ciphers will be an ongoing forensic task as the inquest proceeds.

Fifthly, notwithstanding that the identity of soldiers who made original statements is not known, it is still possible for the statements to be received in evidence. I will say more about this shortly. It is important to emphasise, however, that the absence of the maker of a statement in Court to face questioning about its contents will be an important factor to be taken into account in assessing the weight to be attached to the statement. I have also drawn attention to the circumstances in which the statements were taken. That too may be a matter that will bear upon the assessment of the weight of this material. No doubt submissions will be made on those matters at the appropriate time in the inquest.

The final point that I wish to make is that, notwithstanding the acute difficulty caused by the loss of cipher keys, the Coroners Service has undertaken extensive work to obtain accounts from military witnesses for the purpose of the hearing.

I have mentioned the work conducted by the HET to trace soldiers who may have been present at Ballymurphy. The Coroners Service has had access to the documentation generated by that exercise. The Coroners Service has also had access to a spreadsheet compiled by the MOD of potential military witnesses. The Coroners Service also engaged in research of any other available sources that might yield information about the identity of individuals who were involved in these incidents.

As of June of this year, CSNI had identified around 800 soldiers as *potentially* able to assist the inquest. It had obtained contact details for 567 soldiers. 168 were confirmed as deceased. A number of those witnesses were identified, by means of a review of all the documentation available to CSNI, as having been at Ballymurphy or as being in a position to assist the Coroner. This group, which initially comprised 60 individuals, was described as the "core" or "target" group of military witnesses. The Coroner appointed the solicitors Fieldfisher to take statements from those witnesses. Questionnaires were issued to *all* of the other living military witnesses for whom contact details had been obtained. The objective of the questionnaires was to identify further witnesses who might be able to assist and from whom statements should be taken. The response rate to the questionnaires was in the region of 70%.

Then in July of this year, the solicitor to the Coroners Service was invited to view further MOD materials that might be capable of assisting the inquest. Those

materials included lists of soldiers who had been involved in the internment operation in Belfast in the early hours of the morning of 9th August 1971. The materials also included statements from those soldiers, relating to the arrests only and not to the events that occurred later that day. An examination of that material revealed 77 further potential witnesses who had not previously been identified. Further details have been requested from the MOD that will enable those witnesses to be traced. When contact information relating to those individuals has been obtained, they too will be issued with questionnaires.

In late August of this year, the MOD also furnished the Coroner with a further source of potential witness details. The source was described as Data Preservation Repository Records (or DPRR). These records contain no information about Ballymurphy. There is nothing in the records to indicate where the named soldiers were posted at any given time. There are details, such as name, service number and regiment, of thousands of soldiers who served in Northern Ireland in the 1970s. The initial figure was 4773. It was possible to narrow this down through the removal of duplicate entries, members of regiments who were not involved at Ballymurphy and individuals who had already been traced by CSNI. A further exercise is being conducted, through the examination of personnel files, to obtain confirmation of whether individuals were serving in Northern Ireland at the time of Ballymurphy.

To date, this exercise has resulted in the issue of over 300 (330) further questionnaires. As the results of the personnel file checks are provided to the Coroners Service, further questionnaires will be issued. It is anticipated that it may be necessary to issue a further 900 or more questionnaires, although this figure cannot be confirmed at this stage.

I have referred to witnesses from whom Fieldfisher have been asked to take statements. The next of kin were concerned that this pool of witnesses may not be sufficiently wide to capture all former soldiers who would be in a position to assist the inquest. For example, they said that other soldiers who were members of the regiments involved at Ballymurphy at the relevant time should be considered for inclusion in the group of soldiers from whom statements would be taken.

In response to this, the Coroners Service produced grids setting out details of soldiers who were in the key regiments at the relevant time. The key regiments were identified as 2 Para B Company, 2 Para Support, 2 Queen's and 1 Para C Company (with a focus on the seventh to the ninth platoon).

The Coroner's staff and legal representatives and the legal representatives of the next of kin then worked together to identify further witnesses from whom statements should be taken. Some individuals on the grids could be excluded from consideration, for example where it was demonstrated through a check of their personnel file that they were not in Northern Ireland at the relevant time. Ultimately, as a result of this focused exercise, it was agreed to ask Fieldfisher to seek statements from a further 47 soldiers.

The "core" or "target" group from who statements would be sought was not a fixed group. This was an organic process designed to obtain evidence from military witnesses who were present at Ballymurphy or could assist the inquest.

The group was augmented by reference to the questionnaire responses. It was also augmented as a result of an ongoing review of the materials available to the Coroner and any other information provided to the Coroner. The group initially comprised 60, but now stands at 80. When one adds to that the 47 soldiers arising from the exercise based on the key regiment grids, the result is that Fieldfisher has been asked to take statements from a total of 127 military witnesses.

It may be that further potential military witnesses will be identified as the inquest proceeds. The ongoing receipt of questionnaire responses and other information might result in further statements being sought.

Details of the witnesses who fall within the "core" or "target" group are provided in an index at Tab 7 of the booklet. It can be seen that the witnesses relate primarily to Incidents 1, 2 and 4. A report on the current state of play as regards the taking of statements is provided at Tab 8. To date, 29 new statements resulting from this exercise have been disclosed. The exercise is a continuing one. I am not going to rehearse the detail for the purpose of the opening. All representatives will have the opportunity of digesting the information. The Coroner's representatives and staff will continue to liaise with them in respect of this matter as the inquest proceeds.

Decisions will also have to be taken as to which of these military witnesses will be called to give evidence after the Christmas vacation. The representatives of all properly interested persons will be consulted about that matter. It is hoped to have a provisional witness schedule for the post-Christmas hearings ready by Friday 7th December 2018.

11. Civilian eyewitnesses

Moving on from the military witnesses, the inquest will also hear from civilian witnesses to the events that resulted in the deaths. I have referred to depositions and statements of civilians that appear in the original papers. I have also referred to the gathering of evidence by other individuals and by other groups on behalf of the next of kin at various points in time over the years since 1971. In April 2016, Mr. Ó'Muirigh who represents many of the families, provided the Coroners Service with a folder containing a collection of the accounts given by the civilian witnesses. This included the original statements and depositions and also the more recent accounts. That collection of material has been of great assistance in organising the civilian evidence for hearing.

In addition to this, the Coroner's Investigator has taken further statements where necessary from civilian witnesses. The next of kin's solicitors have assisted in making arrangements for those statements to be taken. In some cases, witnesses have simply confirmed that they are satisfied with their previous accounts. Some

have provided clarification of their previous accounts. Others have provided additional information. To date, 32 new statements resulting from this exercise have been disclosed.

As with the taking of statements from military witnesses, the exercise is a continuing one. The most up to date version of the civilian witness grid, which contains details of witnesses who have been traced and from whom statements have been taken, is provided at Tab 9 of the booklet.

I have referred to the efforts made to obtain further accounts that may assist with the coronial investigation into the deaths. The preparation for the inquest has required constant ongoing liaison between the Coroners Service and the representatives of the next of kin, the PSNI's Legacy Support Unit and also those working on behalf of the MOD in preparation for the inquests. On behalf of the Coroner's legal representatives, I wish to thank all of those who have assisted the Coroners Service in preparation for the hearing.

The Coroner's legal representatives wish to express particular gratitude to those working within the Coroners Service who have made it possible for the inquest to commence at this time. The inquest into the deaths at Ballymurphy is on a considerably larger scale than any other inquest to have been heard in this jurisdiction. The demands imposed on the Coroner's staff, particularly in the context of the exercise to trace military witnesses and obtain further military accounts, have been extensive. They have conducted this work diligently, tirelessly and patiently. The Coroner's legal representatives wish to acknowledge that their efforts have been instrumental in enabling the inquest to be opened today.

12. Other witnesses

The witnesses to be heard are not confined to military and civilian eyewitnesses. The papers contain depositions and statements from family members, doctors who treated the deceased or pronounced life extinct, ambulance drivers, pathologists, forensic scientists, police officers and others. At Tab 10, there is an updated version of the grid setting out details of witnesses other than civilian eyewitnesses and military witnesses. Many of these witnesses are deceased. There are some others from whom the Court will not require to hear oral evidence. I will explain shortly the manner in which evidence will be heard. I will also introduce the schedule for the hearings. It is anticipated that the evidence of most of the witnesses who appear in this grid will be dealt with between now and the Christmas vacation.

13. Forensic and pathology

When I provided an overview of the five incidents, I referred to some details contained within the reports from the autopsies that were conducted following the deaths in 1971. The Coroner has also obtained a review in 2018 of the pathology evidence relating to the deaths. The Consultant Forensic Pathologist, Dr. Benjamin Swift has produced a report in respect of each of the deaths.

The Coroner has also obtained a new review of the forensic evidence relating to each death. There are reports from Forensic Science Northern Ireland relating to the deaths of Father Mullan, Francis Quinn, Joan Connolly, Noel Phillips, Joseph Murphy and Daniel Teggart. There are reports from Key Forensic Services Limited relating to the deaths of Edward Doherty, Joseph Corr, John Laverty and John McKerr.

The next of kin and the Ministry of Defence are also obtaining expert reports relating to the deaths. This new evidence will be considered in conjunction with the original evidence in the course of the hearings.

14. UVF Issue

Before moving on from the area of witnesses and potential witnesses, I want to address another matter that has arisen in the course of preparation for the hearings. On the 4th of May of this year, the Coroners Service received correspondence from solicitors representing a person described as an interlocutor. The interlocutor was said to have received information concerning the possible involvement of the UVF in a number of the shootings at Ballymurphy.

The Coroner's Investigator subsequently made contact with the interlocutor and took a statement from him. The statement is dated the 28th of May 2018. The Interlocutor is referred to as Witness X in these proceedings. The interlocutor confirmed that he had spoken to persons to whom he referred as "veterans" from the Ulster Volunteer Force. The gist of the information that he provided was that an identified UVF sniper, now deceased, had been active in the vicinity of the deaths at the relevant time and had caused some of the deaths. There was no information as to which of the deaths were said to have been caused by that person. The interlocutor said that he had been informed that a Mauser rifle had been used by the sniper.

An application was made on behalf of the interlocutor for properly interested person status. The Court received written submissions in respect of the matter. Oral submissions were also made at a preliminary hearing on the 27th of June of this year. At a later preliminary hearing on the 27th of July, the Coroner noted that Witness X had indicated in the statement that further information about the possible involvement of the UVF might be available from the persons to whom Witness X had spoken. The Coroner therefore asked for further information to be sought

before any final determination of the application for properly interested person status would be made.

Following on from that, the Coroner's representatives formulated a series of questions for the interlocutor. The questions were provided to the interlocutor's solicitor on the 22nd of August. The Coroner is in receipt of a response to the questions dated the 2nd of November 2018. This document is currently with the Legacy Support Unit for redaction. It will be disclosed to properly interested persons as soon as possible.

The PSNI Legacy Information Branch has also given consideration to this matter. It has provided reports to the Coroner relating to its ongoing inquiries into the matter. The most recent report was received on Thursday of last week. It was provided to properly interested persons.

I am not going to say anything further about the interlocutor issue at this stage. It would be preferable for properly interested persons to have had sight of all the relevant documentation before any further consideration of the issue. Properly interested persons may wish to make further submissions if necessary. The matter will be kept under close review. The scope document specifically provides that the inquest will keep under review the question of whether the deaths were attributable to the actions of persons other than the military. I will be introducing the scope document shortly.

15. Evidence and procedure

I now want to deal briefly with six procedural matters for the benefit of those in attendance at the inquest. These relate to:

- a. the manner in which evidence will be given;
- b. anonymity and screening;
- c. the fact that the inquest is being heard without a jury;
- d. Rules 15 and 16 regarding the matters to which the inquest proceedings are directed;
- e. the findings that the Coroner may reach; and
- f. the standard of proof.

a. Manner in which evidence given

The normal expectation is that a witness who has relevant evidence to give will be called to give oral evidence to the inquest. There is, however, provision in the Coroner Rules for statements to be read and admitted in evidence without the witness attending. Rule 17 provides that a "document may be admitted in evidence at an inquest if the coroner considers that the attendance as a witness by the maker of the document is unnecessary and the document is produced from a source considered reliable by the coroner." In this case, as I have indicated, there are many

witnesses who are deceased. There are other witnesses who may be granted excusal on medical grounds. The evidence of those witnesses will be admitted under the Rule. Other evidence that is necessary but not contentious can be dealt with in this way.

More generally, the strict rules of evidence do not apply in inquest proceedings. It is therefore possible for a Coroner to receive in evidence material that would be excluded in civil or criminal proceedings. The Court will, however, naturally be cautious about the weight to be attached to evidence that would normally fall to be excluded in other legal proceedings.

b. Anonymity and screening

In this case, it has been indicated that there will be applications for anonymity and screening by military witnesses. Those applications will be dealt with by the Coroner as the inquest proceeds. As I have indicated, the majority of military witnesses will be called after the Christmas vacation. The application by the witness M3, who is a witness in the hearing relating to the death of Edward Doherty, is listed to be heard next week.

c. Coroner sitting without jury

This inquest will be heard by a Coroner sitting without a jury. The governing provision is section 18 of the Coroners Act (Northern Ireland) 1959. Section 18(1) provides for certain categories of case in which a jury must be sworn. This case does not fall within that provision. Section 18(2) confers a discretion on the Coroner to have a jury summoned in cases falling outside the mandatory categories, where it would be desirable to do so. The Coroner has determined, with the agreement of properly interested persons, that a jury will not be summoned to hear this case.

d. Matters to which inquest proceedings directed (Rules 15 and 16)

Rule 15 of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 governs the matters to which proceedings at an inquest shall be directed. The Rule provides as follows:

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

- (a) who the deceased was;
- (b) how, when and where the deceased came by [his or her] death;
- (c) the particulars for the time being required by the Births and Deaths Registration (Northern Ireland) Order 1976 to be registered concerning the death.”

Rule 16 goes on to provide that “neither the coroner nor the jury shall express any opinion on questions of criminal or civil liability or on any matters other than those referred to in the last foregoing Rule.”

e. Findings (Rule 22)

Rule 16 leads on to a consideration of the fifth procedural matter. This concerns the findings. Having heard the evidence, it will fall to the Coroner to record the particulars of the Deceased, the cause of death and the findings on the Coroner’s Certificate to the Registrar of Deaths (that is, Form 21) and also on the “Verdict on Inquest” form (Form 22). A draft copy of the forms relating to the deaths, with only the basic registration details inserted at this stage, will be made available to the Court and to the representatives of properly interested persons.

Rule 22(1) provides: “After hearing the evidence the coroner ... shall give a verdict in writing, which verdict shall, so far as such particulars have been proved, be confined to a statement of the matters specified in Rule 15.” In this jurisdiction we do not have the short form verdict as used in England (such as, natural causes/ lawful killing/ unlawful killing/ accident or misadventure/ open verdict). Instead, in this jurisdiction, the Coroner is invited to record her findings in narrative format on the relevant form.

It may be anticipated that the findings will relate specifically to the various matters raised in the definition of scope. I will address those matters shortly. It will also be open to the Court, if appropriate, to record findings concerning any other factor or factors that the Court concludes may have caused or contributed to the deaths.

f. Standard of proof

Finally as regards procedure, the standard of proof to which the Coroner must be satisfied in order to make any finding is the civil standard of “the balance of probabilities”.

16. Article 2 ECHR

As I have mentioned, Rules 16 and 17 govern the matters to be considered in evidence at the inquest and the findings that can be made by the Coroner. It is also widely acknowledged that one of the functions of an inquest is to “allay rumour and suspicion”.

Further, in a case such as this, where it is alleged that the deaths resulted from the unlawful use of force by the army, Article 2 of the European Convention on Human Rights imposes exacting procedural requirements on an investigation into the deaths.

In such cases, the inquest must extend beyond simply an investigation into the immediate cause of the deaths and must consider also the broad circumstances in which the death occurred. The reach of the inquiry must extend to the planning and control of the military operation that resulted in the deaths. It is incumbent on the State to ensure that operations are planned and controlled in such a way as to minimise the need to resort to lethal force. Importantly, the inquest must also be capable of leading to a determination of whether the use of lethal force was justified.

17. Scope

The requirements of the Rules to which I have referred, read in conjunction with Article 2 ECHR, have informed the scope of the inquest. The scope of the inquest is set out in a document at Tab 5 of the bundle. This document was initially drafted in June 2014. It has been subject to some revision since then with input from properly interested persons. The definition of scope is subject to possible further revision as the inquest proceeds. The document reads as follows:

- “1. This inquest will examine ten deaths that occurred following shooting in Ballymurphy on the 9th, 10th and 11th August 1971, namely:
 - i. The deaths of Francis Quinn and Father Hugh Mullan on 9th August 1971.
 - ii. The deaths of Noel Phillips, Joan Connolly and Daniel Teggart on the 9th August 1971 and subsequent death of Joseph Murphy on 22nd August 1971 (Mr. Murphy having been shot on 9th August 1971).
 - iii. The death of Edward Doherty on 10th August 1971.
 - iv. The deaths of John Laverty on 11th August 1971 and of Joseph Corr on 27th August 1971 (Mr. Corr having been shot on 11th August 1971).
 - v. The death of John James McKerr on 20th August 1971 (Mr. McKerr having been shot on 11th August 1971).
2. The inquest will examine the deaths individually and, so far as is consistent with the objective of determining how the deceased came about their deaths, collectively. The above is suggested as the order in which the deaths should properly be considered and should not be regarded as according greater or lesser priority to any death or any incident.
3. The inquest proceedings will consider the four basic factual questions, as required by Rule 15 of Rule 22(1) of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963, concerning: (a) the identity of the deceased; (b) the place of death; (c) the time of death; and (d) how the deceased came by their deaths.

4. Further, related to the 'how' question, the Coroner will examine in evidence the military operation(s) that culminated in the deaths with reference in particular to the following matters:
 - i. the purpose of the operation(s);
 - ii. the planning and control of the operation(s) on the part of the relevant authorities, including the management and deployment of any intelligence available to those authorities at the relevant time;
 - iii. the actions of those involved in the operation(s), at all stages of the operation(s);
 - iv. the training and experience of those involved in the operation(s), at all stages of the operation(s);
 - v. the state of knowledge of those involved, at all stages of the operation(s);
 - vi. whether in the planning and control of the operation or in the conduct of the operation, those involved sanctioned or engaged in the deliberate use of lethal force that was unjustified by reference to Article 2 of the ECHR and/or domestic law and whether, in any event, state authorities (including the military and the RUC) tolerated the deployment of unnecessary or unreasonable force by soldiers;
 - vii. the nature and degree of force used;
 - viii. issues concerning access to emergency medical care, including: the actions of the military and any other relevant personnel in assessing, planning or delivering emergency medical care or arranging transfer for provision of such care; and the training and experience of those involved in such care;
 - ix. any alleged acts or omissions on the part of those involved in the operation in the aftermath of the shootings, insofar as such alleged acts or omissions are relevant to the consideration of how the deceased came by their deaths;
 - x. the RUC/ RMP agreement and post-incident procedures that were in existence at the time of the shootings, the effect of that agreement and those procedures on the investigation into the deaths and the extent, if any, to which the agreement and procedures bear upon the issues raised at 4(vi) above (including the question of whether the agreement and procedures impacted on any decision at any level to have recourse to lethal force).

5. The inquest will consider specifically whether the deployment of the military on the dates on which the shootings occurred was planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force and will consider whether the actual use of force was justified in the circumstances of each death.
6. In considering the planning and control of the operation(s), the inquest will examine:
 - i. decisions taken at all levels of authority that touched on the nature and degree of force to be used in operations of this kind at the relevant time; and
 - ii. such guidance as existed at the relevant time relating to the use of force in such operations.
7. The inquest will also examine, insofar as is necessary to address the above matters, such evidence as exists concerning the circumstances in which the deceased came to be at the locus of death at the relevant time.
8. The inquest will also examine, insofar as is necessary to address the above matters, the extent, if any, of public disorder and/ or paramilitary activity reported in the vicinity of each of the deaths on 9th - 11th August 1971.
9. The inquest will keep under consideration the question of whether the deaths were attributable to causes other than the use of force by members of the military, having regard to recent suggestions that a member of the UVF discharged rounds at the location of the shootings at the time of the incidents that culminated in the deaths.

The above definition of scope may be subject to further revision as appropriate prior to and in the course of the inquest proceedings.”

There is also an additional paragraph that reads:

“The next of kin have invited the Coroner to examine whether those involved at any level in these incidents were engaged in a “shoot to kill” operation. The Coroner is satisfied that this question is, in legal terms, addressed by paragraph 4(vi) above. The Coroner would emphasise that the preliminary definition of scope should not be narrowly construed. For the avoidance of doubt, the Coroner directs that the relevant authorities must disclose all relevant or potentially relevant material touching on the circumstances in which the deceased met their deaths, including any material relevant to the question raised by the next of kin as to whether those involved at any level were engaged in what the next of kin have termed a “shoot to kill” operation.”

18. Use of force

The issue of whether the use of force by the security forces was justified will require consideration of the legal standards that govern the use of force. All properly interested persons will have the opportunity in due course of addressing the Court on those standards.

In the opening, I want to make very brief reference to the findings of Mr. Justice Horner in the inquest in 2016 into the death of Pearse Jordan: [2016] NI Coroner 1. Mr. Justice Horner summarised the governing legal provisions on the use of force at paragraphs 173 to 192. The death in that case resulted from a shooting by a police officer and not the military. I would suggest, however, that the Court's summary of the governing provisions may assist in these proceedings. I am not going to read the entire passage, but I will draw attention to some of the salient points.

Mr. Justice Horner drew attention firstly to the actual terms of Article 2 ECHR. Article 2 provides:

- "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
 - (a) in the defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection."

As for the domestic legal standards, Mr. Justice Horner went on to indicate that the common law permits the use of reasonable force in self-defence in prescribed circumstances. In addition to that, the law governing the use of force in the prevention of crime and lawful arrest at the relevant time was found in Section 3 of the Criminal Law Act (Northern Ireland) 1967. That provision was also applicable at the time of the deaths at Ballymurphy. Section 3 provides:

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

Mr. Justice Horner observed that this applied to the use of force to prevent, for example, the shooting of fellow officers. He then quoted from *Beckford v The Queen* [1988] AC 130, a Privy Council case in which Lord Griffiths had said (at page 145):

“... The test to be applied for self-defence is that a person may use such force as is reasonable in the circumstances as he honestly believes them to be in the defence of himself or another.”

Mr. Justice Horner then noted the recent judgment in 2016 of the European Court of Human Rights in *Armani Da Silva v UK* (Application no. 5878/08). In that case, the European Court had addressed question of whether the domestic UK law governing self-defence conformed to the requirements of Article 2 ECHR. Importantly, the Court held, in summary, that the domestic law governing the use of force in self-defence was compliant with Article 2.

Another document that will need to be considered, in conjunction with the Article 2 legal standard and the domestic law on the use of force, is the Yellow Card. The Yellow Card was a set of instructions to the military on the circumstances in which it would be appropriate to open fire. The Yellow Card was not law, but compliance or non-compliance with the Yellow Card is a matter to which the Court can properly have regard in assessing the reasonableness or otherwise of a soldier’s actions.

Several versions of this document were issued throughout the period that the military was deployed in Northern Ireland. The version that appears to have been in existence at the time of the deaths at Ballymurphy is dated January 1971.

The Card was formally titled, “HQ Northern Ireland Instructions for Opening Fire in Northern Ireland”. It was issued by the Director of Operations. It provided general instructions on the resort to force. These included that the use of force should be the “minimum necessary” to enable soldiers to carry out their duties. The Card gave instructions on issuing a warning before firing. The Card also included specific instructions on when a soldier may fire against a person with a firearm, or a petrol bomber, or a person attacking property. I am not going to go through the Card in detail for the purposes of the opening. I simply want to draw attention to the document at this stage. It can be anticipated that the Card will feature in evidence when military witnesses are asked about the resort to force in the incidents at Ballymurphy.

Before I move on from the legal standards governing the use of force, I want to draw attention to two specific passages in the *Jordan* findings. Having identified the relevant domestic and European provisions, Mr. Justice Horner then summarised the key question that the Coroner had to ask when considering whether the use of force was justified. Now His Lordship was addressing a different scenario, involving the use of force by a police officer known as Sergeant A. He refers to the RUC Code of Conduct, which is obviously not applicable to this case. As I have said, the instructions issued to soldiers were contained in a document known as the Yellow Card.

It seems to me, however, that Mr. Justice Horner's summary of the task facing the Coroner could usefully be adapted for the purposes of this inquest. At paragraph 187, he summed up the test as follows:

[187] Accordingly, the task for this inquest when conducting an Article 2 compliant inquest must be to ask whether Sergeant A had an honest and genuine belief that it was necessary for him to open fire. Whether that belief was subjectively reasonable, having regard to the circumstances pertaining at the time, is relevant to the question of whether it was honestly held. I should not examine A's belief from the position of a detached observer but from a subjective position consistent with the circumstances in which he found himself and which will necessarily also involve taking into account his training, experience and his knowledge and awareness of the RUC Code of Conduct. I have to consider whether his decision to open fire was "absolutely necessary". To put it another way, whether in all the circumstances it was proportionate, that is, "reasonable, having regard to what the person honestly and genuinely believed".

It seems to me that this passage - suitably adapted - captures the essential aspects of the test that the Court will have to apply in determining whether, in a given situation, the resort to force by a soldier was justified.

Finally, at paragraph 58 of the judgment, Horner J said that in circumstances such as those under consideration in the case, where lethal force has been used by an officer of the State, the onus of proving that Article 2 had been complied with lay on the State. It was for the State authorities to provide a satisfactory and convincing explanation for the use of lethal force.

As I have indicated, these are issues on which all properly interested persons will have the opportunity to make further submissions at a later stage in the inquest.

19. Folders for hearing

At Tab 4, there is an index to the various folders that will be used in the hearing. This is an important document. When it comes to questioning witnesses and making submissions, it will be necessary to ensure that precise references are given to documents in the papers. The index will need to be updated on receipt of further materials. If there are any materials that do not appear on the index, the Coroner's representatives would be grateful if that could be brought to the attention of the Coroners Service. Likewise, if properly interested persons are missing any of the materials, they should contact the Coroners Service about that.

20. Schedule for hearing

At Tab 3, there is a draft schedule for the full hearings. The Court will see that the schedule extends to the end of March 2019. The plan is that the Court will sit from Monday to Thursday, with ongoing preparatory work and other matters that may need attention being dealt with on Friday.

It is intended to hear preliminary evidence relating to each death between now and the Christmas vacation. The evidence of military witnesses and civilian eyewitnesses will be heard after Christmas. The exceptions to that are the deaths of Mr. Doherty and Mr. McKerr. It is hoped to hear all of the evidence relating to those deaths before Christmas, although further evidence relating to those deaths may be heard if necessary after the Christmas vacation.

A more detailed schedule for the hearings up to Christmas is at Tab 2 of the booklet. The formal evidence in the case will begin next week. I want to flag up that quite a large portion of the evidence to be dealt with in the first couple of weeks will be by way of Rule 17. That means that the evidence will be read rather than the court hearing oral evidence from the witness. In many instances, this is because the witnesses are deceased. In other instances, the evidence may not be of a contentious nature and the attendance of the witness is not required. A weekly schedule will be published as the inquest proceeds. If evidence is being heard by way of Rule 17, that will be indicated on the schedule.

21. Conclusion/ next of kin statements

I began this opening by offering condolences to the next of kin and the wider families on behalf of the Coroner's representatives. For the remainder of this week, the Court will hear personal statements by family members concerning the loss of their loved ones. Eight of the families will make their statements this week. Two of the families are scheduled to make their statements next Thursday the 22nd of November.

That completes the opening.